

September 2019

Mandatory split payment mechanism from 1st November 2019

According to the modified VAT Law, starting from 1st November 2019, the obligation to use split payment mechanism for selected transactions is coming into force. In comparison with the draft law, final regulations were significantly amended. Below we present the most important information on the new obligation.

Basic assumptions

Split payment mechanism has been applied since 1st July 2018, however – it applies on a voluntarily basis. It is the buyer who decides whether he will pay using split payment mechanism, so the net amount will be transferred to the regular bank account, whereas the VAT amount will be transferred to the so-called "VAT account".

Starting from 1st November 2019, this mechanism will be obligatory for selected categories of supplies of goods and services.

As a rule, it will apply to domestic sales that are currently accounted for based on the reverse charge rule (e.g. delivery of steel bars, mobile phones, waste, secondary raw materials) and the sales which are covered by the joint and several liability of the buyer (such as deliveries of fuel, steel pipes). Also, the mandatory split payment will cover the supply of construction services.

In addition, the mandatory split payment will be applied to new categories of goods, including parts and accessories for motor vehicles, coal and coal products, or television sets.

Only for payments for invoice above threshold of PLN 15,000

The mandatory split payment will cover payments resulting from invoices for selected goods and services (mentioned in Appendix no. 15 to the VAT Law) exceeding the threshold of PLN 15,000 gross (or equivalent of this amount).

Regulations governing the joint and several liability of the buyer will also be amended.

VAT sanction for the lack of split payment

The invoice with value exceeding PLN 15,000 gross, documenting sales covered by the mandatory split payment, will have to include an annotation "*mechanizm podzielonej płatności*" ("split payment mechanism" in Polish).

The lack of such reference on the invoice will result in severe consequences – the tax authorities will impose an additional tax liability (VAT sanction) on the seller in the amount of 30 percent of the VAT amount resulting from that invoice.

What is more, the 30 percent sanction will also be introduced for the buyer, who, despite the obligation to make a payment in the split payment mechanism, will pay this amount in a different way.

At the same time, the above sanctions will not be applied in case: (i) in spite of lack of annotation "split payment mechanism" on invoice, the purchaser pays for invoice using split payment mechanism; (ii) despite lack of making payment in split payment mechanism, the seller accounts for whole VAT amount resulting from invoice.

The payment made without the obligatory split payment mechanism will not constitute a tax cost for PIT and CIT purposes. This omission will be also covered by penal liability under the Fiscal Penal Code.

Single "payment message" for multiple invoices

The new regulations introduce the possibility of making payment for more than one invoice via a single payment message.

However, this possibility will be restricted significantly. Most of all, the payment message will have to cover all invoices received by the taxpayer in a given period from a single supplier.

Other significant changes

The following changes should be taken into account as well:

- accepting the possibility of regulating other public duties (e.g. CIT, PIT, excise and customs duty) using money kept on the VAT account;
- imposing the obligation to open a Polish bank account (or personal account in SKOK) for each taxpayer applying the obligatory split payment (including foreign taxpayers).

The new provisions on split payment shall become effective as of 1st November 2019 (excluding regulations limiting tax costs in CIT and PIT, that would take effect from 1st January 2020).

The new obligation will itself constitute a serious challenge for taxpayers and it will involve necessity to introduce respective changes in tax settlements and accounting systems.

What is more, several new regulations are controversial. For instance, the interpretation of the following topics is ambiguous: correcting invoices, payments in currencies other than PLN, netting settlements.

Due to the short period of time for adaptation to the changes, we encourage you to contact us.

Contact

Tomasz Beldyga

Partner

Tel. : +48 22 528 11 98

Fax: +48 22 528 11 59

tbeldyga@kpmg.pl

Piotr Żurowski

Partner

Tel. : +48 22 528 10 13

Fax: +48 22 528 11 59

pzurowski@kpmg.pl

Agnieszka Laskowska

Director

Tel. : +48 22 528 13 78

Fax: +48 22 528 11 59

alaskowska@kpmg.pl

Agnieszka

Smolińska-Wiśnioch

Director

Tel. : +48 22 528 12 64

Fax: +48 22 528 11 59

asmolinska@kpmg.pl



KPMG Offices

Warszawa

ul. Inflancka 4a

00-189 Warszawa

Tel. : +48 22 528 11 00

Fax: +48 22 528 10 09

kpmg@kpmg.pl

Gdańsk

al. Zwycięstwa 13a

80-219 Gdańsk

Tel. : +48 58 772 95 00

Fax: +48 58 772 95 01

gdansk@kpmg.pl

Kraków

ul. Opolska 114

31-323 Kraków

Tel. : +48 12 424 94 00

Fax: +48 12 424 94 01

krakow@kpmg.pl

Katowice

ul. Francuska 36

40-028 Katowice

Tel. : +48 32 778 88 00

Fax: +48 32 778 88 10

katowice@kpmg.pl

Poznań

ul. Roosevelta 22

60-829 Poznań

Tel. : +48 61 845 46 00

Fax: +48 61 845 46 01

poznan@kpmg.pl

Łódź

ul. Składowa 35

90-127 Łódź

Tel. : +48 42 232 77 00

Fax: +48 42 232 77 01

lodz@kpmg.pl

Wrocław

ul. Szczytnicka 11

50-382 Wrocław

Tel. : +48 71 370 49 00

Fax: +48 71 370 49 01

wroclaw@kpmg.pl

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future.

No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2019 KPMG Tax M.Michna sp.k., a Polish limited partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.