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Draft law introducing obligatory mechanism of split payment

On 16th May 2019 a draft law introducing the obligation to use split payment mechanism for selected transactions was announced. The obligatory split payment may take effect from 1st September 2019. Below we present selected changes.

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 they 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 September 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 obligatory split payment is going to be applied to new categories of goods, including parts and accessories for motor vehicles, coal and coal products, or television sets.

Only for transactions above threshold of 15.000 PLN

The Ministry of Finance proposes that the obligatory split payment covers payments resulting from invoices documenting transactions exceeding the threshold of 15.000 PLN (or equivalent of this amount). Transactions below this threshold would be subject to settlement in accordance with general rules (with respect to such transactions the buyer could however apply split payment voluntarily).

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

100 percent VAT sanction for the lack of applying split payment

The VAT invoice 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 authority will impose an additional tax liability (VAT sanction) on the seller, in the amount of 100 percent of the VAT amount resulting from that invoice.

What is more, the 100 percent sanction is also to 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.

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 Ministry of Finance plans to 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 planned changes should be taken into account as well:

- accepting the possibility of regulating other public receivables (CIT, PIT, excise and customs duty, ZUS) 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 September 2019 (excluding regulations limiting tax costs in CIT and PIT, that would take effect from 1st January 2020).

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

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