

January 2020

Draft amendment to the regulations on the so-called White List of VAT taxpayers

On 27 January 2020, the Ministry of Finance published a draft amendment to the PIT/CIT/VAT Acts and certain other acts. According to the draft amendment, a taxpayer who employs the split payment mechanism will not be required to verify the contractor's account number against the VAT Taxpayer Register (the so-called White List) nor to inform the tax office that the payment was made to an account not listed on the White List.

Planned changes

As per the planned changes, making a payment with a use of the split payment mechanism will protect the taxpayer against sanctions for making a payment to an account other than indicated in the White List.

Pursuant to the regulations applicable as of 1 January 2020, if a payment exceeding PLN 15,000 is not made to the contractor's bank account disclosed in the White List and some additional requirements are met, the purchaser:

- may not include the expense as tax-deductible costs for PIT and CIT purposes, and
- will be jointly and severally liable with the seller for unsettled VAT on the transaction.

The taxpayers may avoid the aforementioned sanctions if they inform the tax office competent for the seller on the payment made (via the ZAW-NR form).

The information must be provided within a deadline of 3 days; however, the draft amendment provides for extending it to **7 days**.

Split payment to exclude sanctions on tax-deductible costs

Pursuant to the amendment, a taxpayer who makes a payment using the split payment mechanism will not have to check the supplier's bank account against the White List. In case of making a split payment transfer to bank account not actually whitelisted, the relevant tax office will not have to be informed of this fact. Making a payment in the split payment mechanism will exclude both sanctions. This means that the taxpayer will be allowed to include the expense in tax-deductible costs and will be exempted from joint and several liability for the VAT unsettled by the seller.

Currently, using the split payment mechanism makes it possible to avoid solely the latter.

Other cases of sanction exclusion

Following the implementation of the amendment, payments made to assignment accounts and accounts maintained by entities as part of their own general administration costs will also become excluded from sanctions. These types of accounts are used by banks and credit unions for settlements related to the purchase of goods and/or services, assignment of claims as well as financial and factoring services.

The taxpayers may avoid sanctions for making a payment to this type of account only when the given bank or credit union inform them that they are making a payment to an assignment or general administration account.

Moreover, the sanctions will be explicitly excluded in payments due as per invoices documenting intra-Community acquisitions, import of goods, import of services and/or settlement of supplies by the purchaser.

Additional facilitations for taxpayers

The draft amendment provides for the possibility to submit the ZAW-NR form to the taxpayer's tax office instead of the tax office competent for the invoice issuer, as it is currently required.

The new provisions are also to clearly state that if the taxpayers make more than one payment to a bank account not included in the White List, they shall submit only one ZAW-NR notification, upon making the first payment to the account.

The draft was submitted for the governmental Legal Committee's assessment.

The new provisions are planned to enter into force on **1 April 2020**, however, some of them should retroactively take effect on 1 January 2020.

If you would like to learn more about the issue, please do not hesitate to contact us.

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