

Changes in value added tax regulations finally adopted

On 7 November 2008, the Lower House of the Parliament (Sejm) accepted all changes to the amendments to the VAT Act proposed by the Senate. As a result, the parliamentary works are now complete and the amendments have been submitted to the President for signature.

Most of the changes introduced will come into force on 1 December 2008.

Shorter time limits for VAT refunds

The basic time limit for refunds of input VAT surplus will shorten to 60 days.

At the same time, taxpayers will be entitled to obtain a refund within 25 days if the input VAT results from invoices and customs documents fully paid or from transactions where the VAT is settled by the customer (intra-Community acquisition of goods, import of services, domestic supply of goods settled by the customer, import of goods settled in the VAT return).

The extended, 180-day time frame for refunds will remain only for taxpayers who did not carry out any taxable activities during a settlement period. Those taxpayers will be entitled to a refund within 60 days after submission of a security.

Abolition of the guarantee deposit procedure

The amendment will also bring an end to the deposit guarantee procedure, whose compatibility with EU regulations was questioned by the European Court of Justice. An obligation to provide an alternative form of security (such as a bank or insurance guarantee, or

a bill of exchange) in an amount equal to that of the expected VAT refund will apply only to taxpayers who did not perform any taxable activities within a settlement period and who request a refund within 60 days, as well as to taxpayers requesting a refund during the tax inspection or examination procedures performed by the tax authorities.

An end to the 30 per cent sanction

An additional tax liability (30 per cent penalty) will not be imposed in the case of tax proceedings commenced after 1 December 2008.

Simplified VAT settlements for call off stock

Foreign companies which deliver goods to warehouses of Polish purchasers and which supply these goods at the moment when the goods are pulled from the warehouse to the production line by the purchaser, will not be obliged to register for VAT in Poland. The obligation to settle VAT with respect to intra-Community acquisitions will rest with the Polish buyer of the goods.

Simplification of the conditions for taking advantage of bad debts relief

From 1 December 2008, in order to benefit from the bad debt relief, the debt will need to have remained unpaid for 180 days. Furthermore, a purchaser who does not settle an invoiced amount will be obliged to correct the VAT return in which the VAT relating to the unpaid invoice was deducted (and may also be potentially required to pay interest on this amount).

Sale of an "organised part" of business

The sale of an "organised part of business" will be considered a transaction out of scope of VAT (currently such an exclusion applies only to the sale of a business or a branch which prepares its own balance sheet).

The definition of an organised part of business in the amendment is consistent with the definition contained within income tax regulations. An organised part of business should be understood as an organisationally and financially distinct set of tangible and intangible assets, including liabilities, within an existing enterprise, dedicated to the realisation of specific business targets, which at the same time could act as a separate entity realising these targets on its own.

Settlement of VAT due with regard to imported goods

The new regulations introduce the possibility of settling VAT due on the import of goods in a cash-flow neutral manner (similarly as with an intra-Community acquisition of goods). However, only a limited group of taxpayers will be able to take advantage of this type of settlement as it will apply only to those who use the simplified procedure for the import of goods and whose settlement period is a calendar month.

Right to file quarterly VAT returns

The possibility of filing quarterly returns will apply to all taxpayers (currently only small businesses can do this). A condition will be advance notification of the authorities of this intention in writing. Tax will continue to be due monthly, although the payments relating to the first two months of the quarter will be treated as prepayments and will be equal to one third of the VAT liability for the previous quarter (the exception to this rule will be small taxpayers, which will be able to make quarterly payments).

Increase in the time limit for deduction of VAT

Currently, taxpayers are able to deduct VAT in one of two settlement periods - in the period when the invoice was received (payment became due) or in the following period.

From 1 December 2008, input VAT will be deductible in the settlement for the period when the invoice was received (or the payment became due) or in settlement for one of the two following periods.

Right to correct VAT return after a tax inspection

As a result of changes to the Tax Ordinance, taxpayers will be entitled

to correct VAT returns after a tax inspection (so far such right was limited only to situations where inspections were performed by fiscal inspection office (UKS)).

Should you be interested in further information concerning these amendments, please contact us.

Contact

Warsaw Office

ul. Chłodna 51
00-867 Warszawa
Tel.: +48 (22) 528 11 65-71
Fax: +48 (22) 528 11 59
tax@kpmg.pl

Tomasz Grunwald

Partner

Tomasz Bęldyga

Director

Piotr Żurowski

Director

Kraków Office

al. Armii Krajowej 18
30-150 Kraków
Tel.: +48 (12) 424 94 00
Fax: +48 (12) 424 94 01
tax.krakow@kpmg.pl

Mirosław Michna

Partner

Poznań Office

ul. Roosevelta 18
60-829 Poznań
Tel.: +48 (61) 845 46 00
Fax: +48 (61) 845 46 01
tax.poznan@kpmg.pl

Andrzej Bernatek

Partner

Renata Pięta-Mintus

Director

Wrocław Office

ul. Bema 2
50-265 Wrocław
Tel.: +48 (71) 370 49 00
Fax: +48 (71) 370 49 01
tax.wroclaw@kpmg.pl

Sylwester Grochowina

Partner

Gdańsk Office

ul. Piwna 28-31
80-831 Gdańsk
Tel.: +48 (58) 321 96 00
Fax: +48 (58) 321 96 01
tax.gdansk@kpmg.pl

Aleksander Dąbrowski

Senior Manager

Katowice Office

ul. Powstańców 43
40-024 Katowice
Tel.: +48 (32) 200 65 05
Fax: +48 (32) 200 65 10
tax.katowice@kpmg.pl

Paweł Barański

Director

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 endeavour 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 upon such information without appropriate professional advice after a thorough examination of the particular situation.

KPMG and the KPMG logo are registered trademarks of KPMG International, a Swiss cooperative.

© 2008 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, a Swiss cooperative. All rights reserved.