

# TAX HOT TOPICS

1 September 2017

## Introduction of the VAT split payment mechanism

*Government Ordinance no. 23/2017 published in the Official Gazette no. 706 of 31.08.2017*

- ❖ Ordinance no. 23/2017 (“*the Ordinance*”) introduces at the level of taxable persons registered for VAT purposes in Romania as per art. 316 of the Fiscal Code the obligation to open at least one VAT account in Romania to be used solely for the collection and payment of VAT.
- ❖ The application of the VAT split payment mechanism will be optional during 1 October 2017 - 31 December 2017 and compulsory starting 1 January 2018.
- ❖ According to the provisions of the Ordinance, the taxable persons may request to have their VAT account opened either with credit institutions or with units of the Treasury State under the rules provided by the Ordinance.
- ❖ The VAT accounts will be, under certain conditions, automatically opened with the Treasury State units within the competent tax authority in charge with the administration of the persons registered for VAT purposes or with credit institutions for their own clients; however, additional clarifications are required in this respect.
- ❖ A taxable persons registered for VAT purposes has the following obligations with respect to the application of the VAT split payment mechanism:
  - ❖ to pay the VAT related to acquisition of goods/services to the VAT account of the supplier and to perform such payments from its own VAT account;
  - ❖ to communicate its own VAT account to its suppliers and clients;
  - ❖ to wire the following amounts in its own VAT account, within 7 days from their receipt:
    - the VAT related to the payments received by credit/ debit cards or cash substitutes;
    - the difference between the VAT collected and the VAT paid in cash during a day;
    - other VAT amounts expressly mentioned in the Ordinance.
- ❖ Erroneous payments performed in connection with the VAT amounts that needed to be made from/to the VAT

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account of the taxable person/of its suppliers shall be corrected within 7 days.

- ❖ Failure to comply with the obligation to wire/ transfer in the VAT account the above mentioned payments within the agreed term and/ or to perform the correction of the payments performed in connection with its own VAT account or the suppliers' VAT account within the 7 days term is deemed as contravention and is sanctioned as follows:
  - ❖ if the correction is performed within 30 days, then a daily penalty of 0,06% applies;
  - ❖ after exceeding the 30 days payment term, a fine of 10% or 50% on the erroneously transferred VAT amount, depending on the nature of the error.
- ❖ The possibility to debit the VAT account is strictly limited to the cases expressly provided by the Ordinance and, for some of these cases, a prior approval from NAFA

(the National Agency for Fiscal Administration) is required. In case the VAT account is debited without NAFA's approval, sanctions consisting in penalties of 0,06%/day or fine of 50% on the erroneously debited amount, depending on the number of days elapsed since the date of payment until the date when the amount is returned to the account.

- ❖ Taxable persons registered for VAT purposes who choose to apply the VAT split payment mechanism between 1 October – 31 December 2017 may benefit from the following tax incentives under certain conditions:
  - ❖ 5% reduction of the corporate income tax or the tax on the income of microenterprises, due for the fourth quarter of 2017;
  - ❖ annulment of the late payment penalties related to the VAT liabilities outstanding as at 30 September 2017, inclusively.

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