

TAX HOT TOPICS

29 December 2017

Main amendments brought to the VAT split payment mechanism

Law no. 275/2017 published in the Official Gazette no. 1036 of 28.12.2017

- ❖ The Law approves Ordinance no. 23/2017 regarding the VAT split payment mechanism with amendments and completions, the main provisions being listed hereinafter.
- ❖ Thus, taxable persons and public institutions registered for VAT purposes as per art. 316 of the Fiscal Code have to open and use at least one VAT account, if at least one of the following conditions is met:
 - ❖ they register outstanding VAT liabilities as of 31st December 2017 exceeding the thresholds provided by the Law and which are still outstanding as at 31st January 2018. The registration in the system will be performed as of 1st March 2018;
 - ❖ they register outstanding VAT liabilities as of 1st January 2018 exceeding thresholds provided by the Law and which are still outstanding within 60 working days since their due date. The registration in the system will be performed starting the 1st of the second month following the term of 60 working days of the due date.
- ❖ they fall under the provisions of the law regarding the procedures of preventing insolvency and of insolvency. These taxpayers will be registered in the system starting 1st March 2018 if this condition is met as at 31st December 2017 and, if the insolvency procedures will be later on initiated, the registration in the system will be performed starting the 1st of the month following the one in which they fell under the legislation on insolvency.
- ❖ The thresholds provided by the Law when defining outstanding tax liabilities within the meaning of the VAT split payment mechanism („*the mechanism*”) are as follows:
 - ❖ RON 15,000 for large taxpayers;
 - ❖ RON 10,000 for medium taxpayers;
 - ❖ RON 5,000 for the rest of taxpayers (including non-resident taxpayers registered for VAT purposes in Romania).
- ❖ The removal from the mechanism may be performed under the following rules:

- ❖ Taxable persons who opted for the application of the mechanism may request the removal from the system by the end of the year, but not earlier than one year as of the date of their registration in the Registry of persons applying the VAT split payment mechanism.
- ❖ Taxable persons obliged to apply the mechanism by exceeding the thresholds provided for outstanding tax liabilities may request the removal from the system after a period of minimum 6 months as of the date the related conditions are not fulfilled anymore.
- ❖ Taxable persons falling under the provisions of the law regarding the procedures of preventing insolvency and of insolvency may request the removal from the system after their exit from these provisions.
- ❖ Taxable persons registered for VAT purposes, except for public institutions, will have to split the VAT paid towards their suppliers applying the system.
- ❖ However, the obligation of VAT split payments will not arise at the level of taxable individuals and persons not established in Romania from a VAT perspective which are not registered for VAT purposes in Romania and which are not obliged to register.
- ❖ Also, changes have been brought consisting in the increase, from 7 to 30 working days, of the term in which the following amounts shall be wired in the VAT account:
 - ❖ 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;
 - ❖ VAT which has not been paid to the VAT account by other beneficiaries which would have not had the obligation to split the VAT amount due;
 - ❖ other amounts specifically provided by the Ordinance.
- ❖ Optionally, the VAT amount which has not been paid to the VAT account by taxpayers having the obligation to do as such may be wired in the VAT account.
- ❖ Regarding the contraventions provided by the Ordinance regarding the VAT split payment mechanism, it is clearly mentioned that the deadlines provided within are working days and not calendaristic days.
- ❖ The erroneous VAT payment performed to a bank account of the supplier, other than the VAT account, will trigger a daily penalty of 0.06% per amount erroneously paid, computed starting the day in which the payment is performed and up to the day of its correction under one of the following methods:
 - ❖ payment in the VAT account of the supplier;

TAX HOT TOPICS

- ❖ showing the proof that the amount was wired in the VAT account by the supplier.
- ❖ Taxable persons who choose to apply the VAT split payment mechanism after 1st January 2018 benefit from a 5% reduction of the corporate income tax or the tax on the income of microenterprises for the period in which they apply for the system.
- ❖ This incentive is also granted to taxable persons who opted to apply the VAT split payment mechanism during 1st October 2017 – 31st December 2017 and who continue to apply this system in 2018.

For details you can contact any member of TaxHouse team or you can send us a message at the email address office@taxhouse.ro.