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MOST LIKELY AS OF 1 JANUARY 2018 CHANGES WILL COME INTO FORCE PUTTING AN END TO TAXPAYERS' FREEDOM TO PROCEED WITH VAT SPECIFIED ON AN ISSUED INVOICE AS THEY WILL. THIS IS DUE TO PLANS TO INTRODUCE A VAT SPLIT PAYMENT MODEL. THE INTRODUCTION OF THE NEW LEGISLATION WILL ALSO LEAD TO OTHER CHANGES WITH REGARD TO VAT, SO IT WOULD BE ADVISABLE TO BEGIN PREPARING FOR THE ENACTMENT OF THE NEW LEGISLATION NOW

At the moment, a taxpayer is free to do as it wishes with VAT from the moment it enters a business's account to the moment it is paid into the tax office's account. This mechanism has often led to VAT abuses, leading the Minister of Finance to change the way in which VAT is currently settled between parties to a transaction.

1. WHAT IS GOING TO CHANGE

Under the proposal, the buyer will be able to divide payment into two. The net amount will be transferred to the other party's currently existing account, and the VAT will go to a specially designated account of the supplier. The supplier will be able to do as it wishes with the net VAT, but will have limited options with regard to the funds on the VAT account, which means that:

- it will be able to transfer funds from the VAT account to another VAT account,
- it will be able to pay VAT to its own supplier, and
- it will be able to pay its VAT liabilities to a tax office (the tax office's consent will be required if it is to be used for other purposes).

2. A SINGLE PAYMENT - TWO ACCOUNTS

In practice, transfer of split payment will mean that the buyer makes a single transfer but payment is split between separate accounts by the bank (it is the buyer and not the supplier who decides to employ the new payment system).

3. ADVANTAGES FOR TAXPAYERS

Using the split payment model will mean specific advantages for the buyer. One example is that the buyer will not be subject to provisions on additional VAT penalties where the input VAT is given on an invoice paid using the special account. Meanwhile, a seller who pays tax using the VAT account and pays ahead of the deadline will be able to reduce the VAT paid to the tax office according to a special algorithm specified in the act.

4. POSSIBILITY OF SEIZURE OF FUNDS AT TIMES

Apart from the advantages described above, some aspects of the changes remain unclear, and tax authorities can take advantage of this. For example, it is not clear at the moment to what extent the tax authorities will be able to intervene with regard to the VAT account. Officially, tax authorities will not have any access to the funds that accumulate on the VAT account, but on the other hand the new legislation will provide for a number of options for a tax office to de facto freeze funds on the VAT account, for example funds on the VAT account will be transferred automatically to cover tax arrears in cases in which a taxpayer has tax arrears at the moment it ceases business activity.

5. POSSIBILITY OF EXTRA MONITORING

Other dangers arise when paying invoices using the VAT account, as taxpayers will not have full access to the funds accumulated on the special account. Although in theory it will be possible to file an application with a tax office for funds to be used for purposes other than those provided for in the act, it is unlikely that this consent will be given very often (while this will frequently mean that a tax inspection is conducted beforehand).

6. ADVERSE IMPACT ON CASH FLOW

Moreover, the tax authorities will also be able to decide the portion of the funds on the VAT account that a taxpayer is free to proceed with as it wishes. In view of the fact that the tax authorities can even take up to 90 days to give consent, for taxpayers this will mean three months of uncertainty as to their current cash level, which will definitely cause a business cash flow problems.

7. EXTRA RECORDS

The new legislation will also give rise to further complications with regard to taxpayers' record-keeping obligations. In practice this will mean that there will be cases in which some business counterparties will pay tax using the VAT account, and some in the conventional way. For a supplier this will mean that some of the output VAT will accumulate on the special VAT account, and some on a clearing account, resulting in the need to maintain VAT records for both. This becomes even more complicated when taxpayers assess and pay their taxes proportionally. This is because in this case, in addition to the two types of VAT records, records of taxable and non-taxable transactions might have to be kept as well.

8. WHAT ACTION SHOULD BE TAKEN

Although at first glance the changes described above might appear beneficial to taxpayers, they will inevitably affect a business's accounting procedures and record-keeping. They will also mean that businesses have no choice but to establish relations with business counterparties in advance and jointly decide whether the payment procedure will follow the new model or the procedure existing before the changes were introduced, in order to avoid disputes and misunderstandings in business relations. The number of factors (both with respect to the law and in financial and business terms) that affect the ultimate business decision reached as to employing the mutual payment model from 1 January onwards will mean that even before that day comes the issue will have to be dealt with comprehensively with the assistance of lawyers and tax advisers.

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