

NEWSLETTER no. 1/2018

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ROMANIA

The amended VAT split payment system

REFERENCES: LAW 275/2017; GO 23/2017

In the Official Gazette no. 1036/28.12.2017 it was published the Law no. 275 for approving the GO 23/2017 regarding the VAT split payment system. We present below the main provisions of this law and the most important changes brought to the initial form established through GO 23/1017 (which was previously detailed in our Newsletter no. 9/2017).

<p>PERSONS REQUIRED TO APPLY THE VAT SPLIT PAYMENT SYSTEM</p>	<p>As opposed to the initial form, the list of entities that have to apply the Split VAT system was significantly reduced to the following:</p> <ul style="list-style-type: none"> • the persons that as of December 31st 2017 have overdue VAT in amounts that exceed RON 15,000 (for large taxpayers), RON 10,000 (for medium taxpayers) and RON 5,000 for the others and these amounts will not be paid until January 31st 2018; • the persons that starting 2018 will register unpaid VAT exceeding the above limits, if such amounts will not be paid in 60 working days after the payment deadline; • are applying the insolvency prevention or insolvency procedure; • they opt voluntarily to apply the Split VAT system (for at least 1 year).
<p>HOW IT WORKS</p>	<p>The taxable persons that are in one of the situations above will have to open at least one VAT bank account that must be used only in certain conditions (detailed below). These persons must receive/make 2 payments for each invoice: the value of the invoice will be received in/made from the company's current bank account and the VAT in/from the VAT bank account.</p> <p>Attention! The system impacts also the entities which do not have to apply the Split VAT system, because any taxable person must make split payments to the suppliers who apply the system. As an exception, the entities that are not registered for VAT purposes are no longer required to split the payments made to a supplier that applies the system (a change over the initial form in GO 23/2017).</p>
<p>SCOPE</p>	<p>The split VAT payment applies to all the taxable supplies of goods/services for which the place of supply is considered to be in Romania from a VAT perspective. The system applies to invoices issued after the supplier is registered in the system and thus the beneficiaries must make split payments only for these invoices.</p> <p>The transactions for which the beneficiary is liable to pay the tax (reverse charge), the transactions subject to special regimes, which by default do not have VAT on the invoice, as well as the invoices paid in kind, by offsetting, paid in cash or using a debit/credit card, are exempted.</p>
<p>PAYMENTS RECEIVED IN THE VAT ACCOUNT</p>	<p>The VAT account will be credited mainly with:</p> <ul style="list-style-type: none"> • VAT received from customers for deliveries of goods/services (including VAT on advances); • Amounts received as a result of taxable base adjustments (credit note invoices) or due to corrections or certain payment errors; • Amounts transferred from the current account from the same bank;

	<ul style="list-style-type: none"> In what concerns the payments received in cash/card, the taxpayers applying the system are obliged to transfer in their own VAT account the amounts representing VAT from such transactions, within 30 working days (as opposed to 7 days in GO 23). The deduction of the VAT from the payments performed in the same day is allowed.
PAYMENTS PERFORMED FROM THE VAT ACCOUNT	<p>The VAT account will be charged mainly with:</p> <ul style="list-style-type: none"> VAT paid in the supplier's VAT account related to the acquisitions of goods/services (including VAT on advances); VAT paid to the State Budget; Amounts resulted due to taxable base adjustments (credit note invoices) or due to the correction of certain payment errors, Amounts representing VAT paid cash/card from the current account; Amounts transferred in the current account opened at the same bank, up to the amount previously transferred from that account; Cash withdrawal from the VAT account is forbidden. <p>ANAF's approval is no longer required for charging the VAT account, but the penalties for incorrect use of the amounts are significant.</p>
FACILITIES FOR OPTIONAL APPLICATION	<p>The taxpayers who will opt for applying the VAT Split payment system will benefit from a 5% decrease in the corporate income tax/microenterprise income tax due in the period in which they applied the system.</p>
PENALTIES	<p>The main penalties are:</p> <ul style="list-style-type: none"> For the payments made by VAT taxpayers in a different account than a VAT account of the supplier applying the Split VAT system, a penalty of 0.06% per day is applicable to the wrongly paid VAT amount, provided that it is not rectified in 7 working days. For the payments made from the VAT account, other than the ones provided by the law, the penalty is of 50% of the VAT amount paid if such payments are not rectified in 30 days. Not providing the clients with details regarding the VAT account number it is sanctioned with fines between RON 2.000 and RON 4.000. The law also provides other penalties and fines for transactions made without complying with the provisions of the law, these varying from 0.06%/day to 10% or even 50% of the amount.
WARNINGS	<ul style="list-style-type: none"> Even the entities that do not apply the Split VAT may be penalized and thus are impacted by the new system. Even if the persons that apply the system do not provide this information to the beneficiaries, along with the VAT bank account, the beneficiaries are still required to check their suppliers and split the payments made to them. As such suppliers may opt voluntarily at any time to apply the system, our recommendation is to check at the moment of each payment if the supplier is applying the system, in the special registry on ANAF's website (https://www.anaf.ro/RegPlataDefalcataTVA/). If the supplier applies the system, but did not provide you with any VAT account, you should check for the VAT Treasury account that was automatically opened in its name and the related VAT should be paid in that respective account (https://www.anaf.ro/ContIBANTVA/).

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