

News Flash

November 9th, 2015



**Amendment to the Act on
Value Added Tax in Slovakia as of
1 January 2016**

The most important changes introduced by the amendment to the act on value added tax valid as of 2016

On October 1, 2015 the amendment to the act on value added tax was approved by National Council of the Slovak Republic. The new-introduced changes will be valid as of 1.1.2016. Read our overview of the most significant changes you should be aware if doing business in Slovakia.

Separate VAT regime based on payments

From 1 January 2016 a separate legislation regulating VAT application upon credited payment becomes effective. **Its application is voluntary; it can be used by taxpayers registered under Article 4 of Act on VAT, if their annual turnover is below EUR 100 000** and no bankruptcy have been declared upon them and they entered into no liquidation. The taxpayers who decide to apply this separate legislation will be obliged to inform tax administrator of this fact.

The essence of a separate regime is that tax liability on supplied goods and services arises at the moment when purchaser's payment for supply is credited. At the same time, application of the entitlement to tax deduction will be connected with the same principle (i.e. VAT deduction from received supplies will be possible no sooner than in the taxable period, in which the supplier was paid for the supply).

If a taxpayer applying a separate regime is in the position of a supplier, it will influence his purchasers – taxpayers as well. The entitlement to deduct tax from received supplies will be bound to payment to a supplier.

Application of a separate regime by a taxpayer must be clearly marked on an invoice as follows *“tax is applied upon receiving payment”*. In the event that this fact is not marked on an invoice, tax liability arises at the moment of supply of goods or service (a taxpayer may not correct original invoice by adding this missing reference). At the same time, it will be grounds for penalty by a tax administrator.

If a taxpayer applies a separate legislation and fails to comply with the conditions of its application, and/or he/she fails to mark application of a separate regime on an invoice, he/she is exposed to a risk **of penalty up to EUR 10 000.**

The informative list of taxpayers applying the separate VAT regime will be published and regularly updated on the web page of the Financial Directorate of the Slovak Republic.

Introduction of so-called inland reverse charge in provision of construction works

From 1 January 2016, the amendment introduces **reverse charge in provision of construction works** from a taxpayer – supplier of construction works into a taxpayer – receiver of construction works.

Reverse charge **will apply to supply of construction works as well as supply of building or a part thereof** based on a Contract for Work or similar contract and it will also apply **to supplies of goods**, that are supplied by a supplier **along with assembly or installation, if such assembly or installation falls within F product classification** under Commission Regulation (EU) No. 1209/2014.

Enlarging reverse charge on supplies of goods by foreign person

From 1 January 2016, **reverse charge is enlarged to all inland supplies of goods** by a taxable person who is not established in the territory of the SR except for mail-order sale.

Re-importation of goods in the form of processed product

The amendment regulates that **value of processing operations will not be included in tax base with re-imported goods** in the form of processed product, if the importer be a person obliged to pay tax on services – processing operations. Dual taxation of service value will thus be avoided.

Changing reference on invoice in trilateral deal

Under new legislation, when the first purchaser invoices to the second purchaser **a new reference “reverse charge”** will be stated instead of current reference “*trilateral deal*”. Businesses engaged in such operations should thus ensure correction of issued invoices.

Reporting simplified invoices in control statement

New amendment further introduces changed reporting of simplified invoices (e.g. ERP document) in a control statement; this becomes effective with delay **from 1 April 2016**.

If in a taxable period **total amount deductible from simplified invoices is EUR 3 000 and more**, a taxpayer will be obliged to specify, in a control statement, total amount of tax bases, total amount of tax, and total amount of deductible tax broke down by individual suppliers of goods and services and specify their IČ DPH (VAT Tax Reg. No.).

Introduction of reduced VAT rate for selected list of food

From 1 January 2016, the amendment introduces reduced VAT rate (10%) for selected list of food, such as fish, some types of fresh meat, milk, butter, bread etc.

Mitigating conditions for early refund of excessive deduction

The amendment mitigates conditions for refund of excessive deduction in shortened 30-days period upon the lapse of the period to submit tax

return, in fact, **tax arrears** (of taxes, custom duty, and mandatory contributions) **up to EUR 1 000 will not be taken into consideration for these purposes, they (tax arrears) will only be taken into consideration for the last 6 calendar months** (not 12 months).

Mitigated conditions can be applied by a taxpayer in a monthly taxable period **as early as with an excessive deduction for taxable period December 2015**.

Changes in so-called voluntary registration

From 1 January 2016, failure to pay VAT guarantee will not be grounds for refusal of registration application, instead it (the guarantee) will be recovered as tax arrears.

In order to support start-up business, from 1 January 2016, **the obligation to submit VAT guarantee shall be omitted as** VAT registration applicant is a taxable person who **only prepares for business activities**.

The applications for registration submitted until 31 December 2015 will however be subject to current legislation.

VAT deduction at registration

Taking into account the practice of the European Court of Justice, taxable persons can apply an extended tax deduction with regards to **VAT registration related with the services and goods the person purchased before he/she received IČ DPH (VAT Reg. No.)**.

The condition of such tax deduction is that a taxpayer **uses** purchased goods and services to **conduct his/her taxable supplies as a taxpayer**.

Defining criteria that determine use of goods and services for business and other purposes

The amendment supplements criteria determining use of goods and services for business and other than business purposes. The use is determined based on such criterion (criteria) that **efficiently** reflect use of goods and services.

As for real estates, legislation takes into account the area of real estate used for business purposes as well as other than business purposes, period of its use for business purposes and other purpose or other objective criterion.

As for tangible assets and services, legislation takes into account the amount of income from business activities and income from other than business activities, period of its use for business purposes and for other than business purpose or other objective criterion.

Exemption from tax in sale of investment assets

Exemption from tax with subsequent sale of investment assets under the VAT Act, in acquisition of which no title to VAT deduction arose, will depend on the fact whether there is (is not) possibility to correct deducted tax with particular investment assets in the calendar year of supply.

Earlier tax refund to taxable person from third state

A foreign person from a third state will be allowed to apply for Slovak VAT refund **also on**

a semi-yearly basis (calendar half-year), if the amount of VAT applied reaches at minimum to **EUR 1 000** for the first calendar half-year and at minimum **EUR 50** for the second calendar half-year.

Under the current rules, applications were submitted annually (for a calendar year).

Additional reduction of tax base after submitting application for tax refund

The amendment explicitly sets for that **subsequent reduction of tax base**, in the case of supplies in which tax refund is applied, **must be communicated to a tax administrator** after submitting an application for tax refund. **Tax difference resulting from reduced price must be returned in defined period.**

This applies to the applicants from third states as well as applicants from other member states.

An applicant from other member state has notification obligation unless he/she submits tax refund application for the period in which he/she received proof of adjusted tax base. If he/she submits application for such period, then the proof of tax base adjustment is attached to the application.

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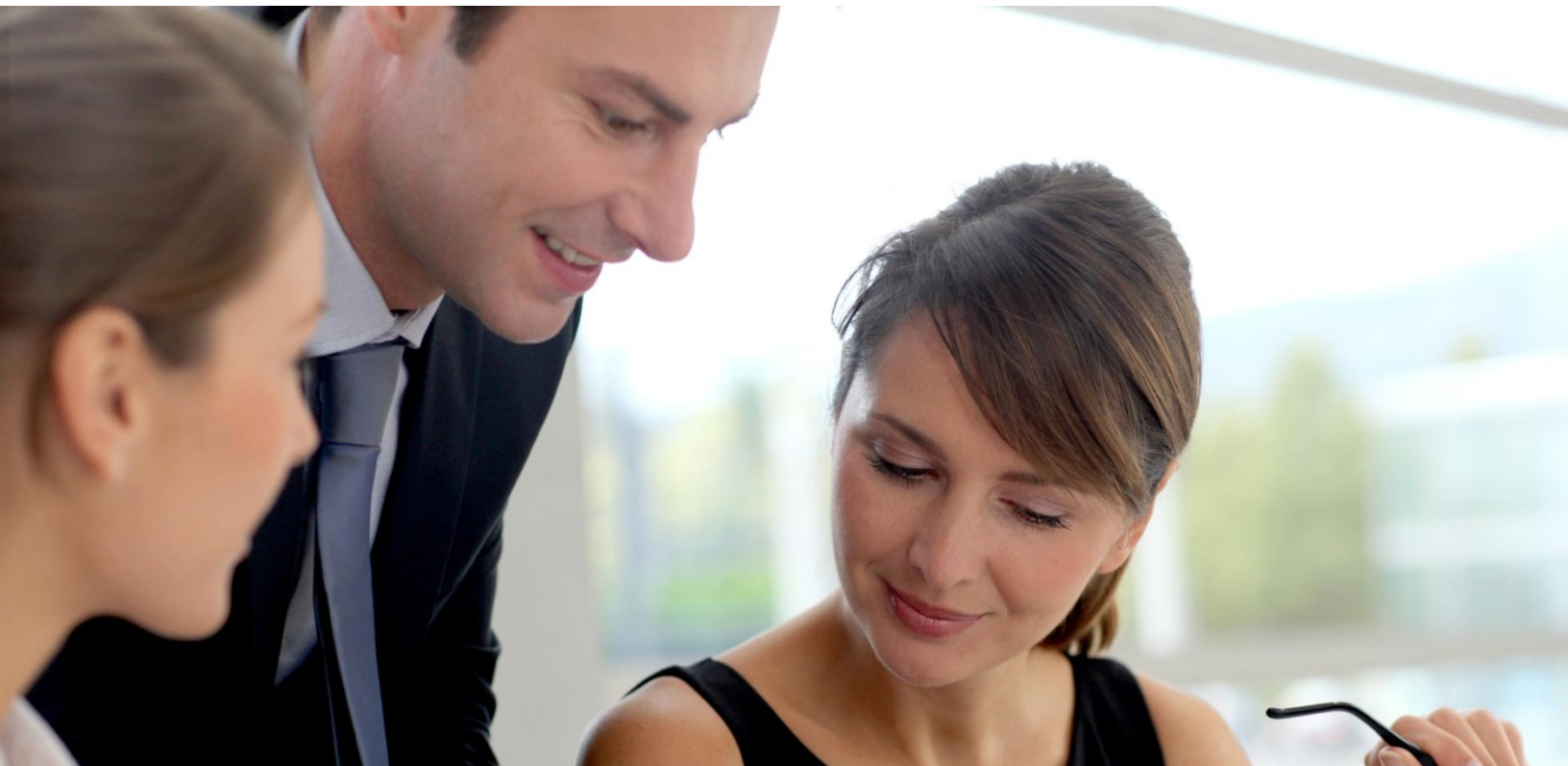
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