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News Flash

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**Changes in the Value Added Tax Act
from January 1, 2021 in Slovakia**



Changes in the Value Added Tax Act from January 1, 2021

On November 5, 2020, the National Council of the Slovak republic approved a government bill that will amend Value Added Tax Act **from January 1, 2021**. Some of the adopted changes concerning e-commerce and the application of optional special schemes for the provision of services and the sale of goods at a distance shall be postponed **from July 1, 2021**. Below we prepared a brief **overview of the most significant changes resulting from the adopted amendment**.

In order for the changes to enter into force, they must be signed by the President and published in the Collection of Laws of the Slovak republic.

The possibility to decrease a tax base if a supplier's receivable becomes uncollectible

According to the law of the European Court of Justice, the right of a taxpayer to reduce the tax base cannot be completely left out if his customer or a third party has not paid for the supply of goods or services. For this reason, **from January 1, 2020**, a possibility to correct a tax base when supplying goods or services is introduced directly into the act, if the taxpayer or the supplier didn't receive a payment or if his receivable became uncollectible. **This will apply to the supply of goods and services in the domestic country, at a price at which the tax was applied by the taxpayer.**

The act defines **the conditions when it will be possible to consider a receivable as uncollectible for a given purpose**. For example, it may concern cases such as receivables recovered in execution proceedings, receivables from customers in bankruptcy proceedings, in the process of discharge from debt or in a case of the customer's extinction or death.

Since the claim for the receivables in various enforcement proceedings is financially and administratively demanding for many taxpayers, a special reason for the treatment of a receivable to be uncollectible for this purpose is introduced for the **receivables of a small value**. The receivable or its part with a value not exceeding **EUR 300** including the tax becomes uncollectible after 12 months from the due date of the receivable, if the taxpayer can prove that he took the steps to collect the receivable within his regular business activities.

In certain cases, the taxpayer **might not be able to correct the tax base** even though the receivable could be classified as uncollectible. This may apply to e.g. supply of goods and services to persons with a special relationship to the taxpayer, i.e. persons with close business, employment and family ties with the taxpayer, who have a high probability of jointly coordinated business proceedings. Another reason for excluding the correction of the tax base is the existence of other facts based on which, despite the formal fulfilment of the law conditions, the supplier of goods and services could know that the customer will not pay at the time of the delivery of goods and services.

The period within which the taxpayer can correct the tax base in case of total or partial non-payment of the consideration is **3 years**. The expiry of the period for the tax base correction shall be interrupted in specific cases, as the existence of uncollectability of a receivable is conditioned by the occurrence of precisely defined facts which are preceded by time-consuming proceedings or other circumstances.

The amendment allows **a correction of the tax base for uncollectible receivables that arose before the effective date of the act.**

If any payment is received after the adjustment of the tax base in connection with an uncollectible receivable, the taxpayer is obliged to make a correction of the reduced tax base in the amount corresponding to the tax base and the tax calculated from the received payment.

The recognition of a tax base adjustment at the supplier **is conditioned by the preparation and distribution of the correction document.**

At the same time, **the customer who didn't pay for the supply and who exercised the right to tax deduction, will be obliged to correct the deducted tax.**

The possibility of a tax base correction applies as well to cases when a taxpayer supplies goods and services for which the tax base is specifically determined (sale of tourism services, supply of used goods, antiques, collectibles and artworks) and when a customer or a third party doesn't pay the taxpayer or pays only partially.

Export of goods

From January 1, 2020, an option is given to the taxpayer to prove the dispatch or transport of the goods which he supplies to the destination in the territory of third countries, in cases when:

- under customs legislation, the taxpayer may lodge an oral customs declaration for the export customs procedures, or
- in a case of an act treated under the customs legislation as a customs declaration for the export customs procedures,

also by other evidence. According to the customs regulations, the evidence may be for example, a proof of payment, a copy of the delivery note confirmed by the recipient and others.

Provision of services and distance sale of goods (e-commerce)

The currently valid rules governing *the distance sale* of goods determine the place of delivery of goods in the member state, in which the dispatch or transport of the goods ends, only if the value of the supplies to this member state exceeds the value laid down by Directive 2006/112/EC as amended (SR applies a limit of EUR 35.000), or when a supplier chooses this member state before the value of his supplies reaches the specified value.

From July 1, 2021, the term "*distance sale*" shall be replaced by the term "intra-Community distance sale of goods" and by term "distance sale of goods imported from third countries".

Intra-Community distance sale of goods

The place of the delivery of goods shall be the member state in which the dispatch and transport of goods for the customer ends (so-called the member state of consumption).

The threshold **EUR 10.000** for the application of the exemption:

To support micro-companies trading in the territory of the European Union, a single threshold of EUR 10.000 has been set for all member states. Whereas, in addition to the distance sale of goods, this threshold shall also apply to the supply of telecommunication services, radio and TV broadcasting services and electronically supplied services if they are provided to a non-taxable person.

In a case when the entrepreneur has his registered office, a place of business or a residence in only one member state and the total value of the goods sold at distance, and of the above-mentioned digital services provided to another member state other than the one in which the entrepreneur is established doesn't exceed the value of EUR 10.000 in the current or previous calendar year, excluding the tax, the entrepreneur shall be entitled to taxation of the supply of such service by the tax of the member state, in which he has a registered office. When selling goods at distance to another member state, the entrepreneur is entitled to pay the tax of the member state in which the transport of the goods begins (usually it is a supply of goods from the member state where the supplier is established).

In a case when the entrepreneur meets all conditions for taxation of distance sale of goods in the member state where the transport of the goods begins, he may choose administratively more demanding taxation of goods in the member state of the termination of the transport of the goods to the customer and taxation of the services in the member state of the establishment of the customer. However, it is necessary to do so for at least two calendar years.

Distance sale of goods imported from third countries

The place of the delivery shall be determined based on the facts whether the member state of the import is identical to the member state of the dispatch or transport termination. If this is not the case, the place of the delivery of the goods is the member state in which the dispatch or transport to the buyer ends (so-called member state of consumption).

In case when the goods are sold at distance and are imported to the same member state as the member state of the dispatch and transport termination, the place of the delivery of the goods is in this member state only in a case, when the supplier applies a special scheme for such sale of goods ("one stop shop") according to § 68c. If the supplier doesn't apply the mentioned special scheme to such deliveries, the place of the delivery shall be determined according to the basic principle and the tax shall be levied exclusively on the import of goods.

The taxable person who facilitates the supply of goods in the territory of EU/ new

fiction of supply of goods from July 1, 2021

If a taxable person **facilitates** the supply of goods in the territory of EU **made by a taxable person not established in the EU** through electronic interface, he shall be deemed in accordance with the amendment as a person who received these goods from the supplier and who supplied them to the buyer himself. By introducing **the legal fiction in the sale of goods to the final consumer via the online platform**, this from economic point of view one transaction shall be considered, for the VAT purposes, as two transactions. Separately shall be determined the place of the delivery of goods for the first supply to the platform operator and separately for the second supply to the customer by the platform operator. The transport will be assigned to the supply of goods by the taxable person to the final customer and at the same time, the supply of goods by the original supplier to this taxable person in the EU shall be exempt from VAT with the right to deduct the tax. The taxable person who facilitates the sale of goods at distance via the platform is obliged to keep the records necessary to verify the amount of tax.

If the taxable person facilitates the distance selling of goods **imported from the territory of third countries** in consignments with their intrinsic value not exceeding **EUR 150** through the use of an electronic communication interface, the fiction that the taxable person has received and delivered the goods shall also apply.

Import of consignments whose value doesn't exceed EUR 22

From July 1, 2021, the exemption from tax on the imports of consignments with a value not exceeding EUR 22 is abolished, as according to the explanatory memorandum to the amendment, this exemption distorts competition between suppliers established inside and outside the EU.

Optional special schemes “one-stop-shop” (OSS)

Optional special scheme currently applicable to digital services (such as telecommunication services, radio and TV broadcasting services and electronically supplied services), which are provided by a taxable person established outside the EU to final consumers, will be possible from July 1, 2021, to use also for other services provided by that person to non-taxable persons established in the EU member states whose place of the delivery is in the concerned member state of the consumption.

The optional one-stop-shop scheme **will be possible from July 1, 2021 also for other services provided to non-taxable persons whose place of the delivery is in the member state of the consumption, as well as for the intra-Community distance sale of goods and certain domestic supplies of goods. The possibility to apply OSS to certain distance sales of goods imported from third countries shall be also introduced.**

The persons applying the special schemes of the OSS shall submit **only single tax return** in a single member state of the EU for all deliveries in the whole EU. The tax return submitted in the member state of identification is a special tax return, a model of which is laid down in

Commission Implementing Regulation (EU) No. 2020/194. Foreign persons who will apply a special scheme will have the obligation to register pursuant to § 6 of the VAT Act abolished. Likewise, Slovak taxpayers supplying goods at distance will not be obliged to register in other EU member states and will submit a single tax return in the domestic country for all supplies to other member states.

Special schemes are optional and **from July 1, 2021, will be applicable to:**

- *Provision of services by taxable persons not established in the EU to non-taxable persons established in the EU - § 68a*

This is the mentioned extension of the existing special scheme of the so-called Mini One Stop Shop (MOSS) system for digital services also for other services.

- *Intra-Community distance sale of goods and provision of services by taxable persons established in the EU, but not in the member state of the consumption to the non-taxable persons and specific so-called domestic sales of goods - § 68b*

By changing the place of delivery of goods when selling goods at distance in the EU, the new special scheme provides the suppliers an option to use the One Stop Shop system (OSS). The OSS system also expands from the current Mini One Stop Shop (MOSS) system for digital services to other services (e.g. vehicle rent).

This special scheme of OSS may also be used by a taxable person (established in the EU or in third country) who through online platform (electronic

interface) facilitates either the distance sale of goods or performs domestic supply of goods. This follows the above-mentioned established fiction in the sale of goods to the final customer via online platform.

- *Distance sale of goods imported from third countries - § 68c*

When selling goods at distance imported from third territories or third countries **that are not subject to the excise duty, the intrinsic value of which doesn't exceed EUR 150** (i.e. in cases when the deliveries are exempt from the import custom duty), it will be possible to apply a new optional special scheme through which the taxable persons will be able to fulfil their obligations concerning the submitting of a tax return and the payment of the tax only in a single member state, so-called member state of identification.

In case when the new special scheme **§ 68c is not applied** to the import of such goods of which the transport ends in the domestic country, it will be possible for a person who on behalf of the person for whom the goods are intended and who presents these goods to the customs authorities (e.g. post office, carrier), to use the special scheme **§ 68cb for the declaration and payment of the import VAT**. When applying this scheme, import VAT will not be collected by the customs authorities from the customer whom the goods are supplied from a third country, but the return and payment of the VAT for the customer will be carried out by a post office or the carrier of goods.

If you are interested in our services concerning the adopted changes, we will gladly help you.

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