



Changes in the Slovak Value Added Tax Act No. 222/2004 Coll. (hereinafter "VAT Act") effective from 1 January 2023 and 1 January 2024

On 6 December 2022 The National Council of the Slovak Republic (hereinafter „NC SR“) approved the Amendment to the VAT Act, which will introduce several new obligations for taxpayers. The Amendment to the VAT Act in the proposed wording takes effect from 1 January 2023, in the case of some provisions from 1 January 2024.

The main goal of the proposed Amendment to the VAT Act is the implementation of Council Directive (EU) 2020/284, which introduces harmonized rules to combat tax fraud in the field of cross-border electronic commerce (e-commerce), and measures to check the correctness of the amount of tax declared.

Furthermore, the Amendment introduces some provisions of the VAT Act in order to simplify

their application and reduce the administrative burden on taxable persons.

The Amendment to the VAT Act was approved with several amendments and thus some of the proposed changes were amended or deleted completely.

Please find below the list of the most significant changes approved for the year 2023 or 2024

Changes in the VAT Act effective from 1 January 2023

Correction of deducted VAT in case of unpaid liability

The amendment to the VAT Act introduces the obligation of the customer to correct the deducted VAT from the purchased goods or services at the price of which Slovak VAT was applied (or from which the VAT was deducted), if the customer does not partially or fully pay the liability, to the extent of the unpaid liability in that VAT period in which 100 days have passed since the liability's due date.

In the case that part or whole amount of the liability is paid in the future, the customer will have the right to deduct the corresponding part of input VAT again, i.e., the customer will have the right to correct already corrected deducted VAT. This right will be exercised during the VAT period the liability was paid.

When the correction of deducted tax caused by unpaid liability is needed, the customer must consider proportional deduction (if applicable) of tax and modifications of deducted tax.

This provision will also be applied to deliveries of goods and services that took place before 1 January 2023, if 100 days from the due date for the delivered goods or services expires on 1 January 2023, at the earliest. In the case that 100 days from the due date of the liability expire before the proposed provision became valid, the obligation to correct deducted VAT will not be applied due to the principle of non-retroactivity.

Above mentioned is related to such invoices where the person liable to pay tax is a supplier (according to § 69 sec. 1 of VAT Act), i.e. mainly the invoices issued by Slovak suppliers with Slovak VAT.

Correction of the tax base in case of unpaid liability from the supplier's point of view

In connection with the introduction of the correction of the deducted VAT mentioned above, it is also proposed to adjust the provision according to which the supplier may correct the tax base if the customer does not fully or partially pay him for the supply of goods or services, and his receivable becomes uncollectible for the purposes of the VAT Act.

According to the current wording of the VAT Act, the conditions for uncollectible receivables are set very strictly, so it is proposed to simplify them.

After the amendment of §25a of the VAT Act, receivable for which 150 days have passed since the due date for the supply of goods or services will be considered as an uncollectible receivable, to the extent that it has not been paid and this receivable

- is not more than EUR 1,000 including tax and the payer proves that he has performed any act intended to obtain payment of the receivable from the customer,
- is more than EUR 1,000 including tax and the payer proves that he is demanding its payment through a lawsuit in a court other than an arbitration court, or
- is more than EUR 1,000 including tax and the payer proves that it is recovered in enforcement proceedings.

The above mentioned stipulations effective from 1 January 2023 will be applied to receivables related to supply of goods or services, for which 150 days from due date have passed after 31 December 2022.

By this amendment is established the obligation of taxpayer to perform a correction of the tax base (decrease of the tax base) in the tax period in which:

- the taxpayer withdraws the lawsuit in total or in its part,
- the law proceedings were stopped by taxpayer or
- the enforced claim was not admitted by court in total or in its part,

if the receivable has become unenforceable after reduction of the tax base.

The taxpayer will perform the correction of the reduced taxbase in the amount corresponding to the amount not forceable in proceedings based on above mentioned facts.

Correction of deducted VAT in case of theft of goods

The Amendment of VAT Act defines rules for calculating the correction of deducted VAT in case of theft of goods with a purchase price of less than EUR 1,700, with a useful life of more than one year, acquired for a purpose other than resale, which is not depreciated asset.

The same logic will be followed for such goods as for obligatory depreciated assets.

In the case of theft of such goods, the deducted VAT will be reduced by a proportional part of the tax corresponding to the amount of depreciation that would be calculated for the asset if it could be depreciated linearly over a period of four years.

After four years since the acquisition of the above-mentioned goods, it will no longer be necessary to correct the deducted VAT due to the theft of the goods.

Cancellation of mandatory registration for selected taxable persons

Amended wording of VAT Act stipulates that selected taxable persons who carry out exclusively tax-exempt activities (mentioned in § 37 - § 39 of the VAT Act, i.e., insurance, financial services and the supply and rental of real estate) can choose whether they will register for VAT purposes or not, in the case that they exceed turnover for compulsory registration (i.e., EUR 49,790).

Since the value of services exempt under § 37 to § 39 of the VAT Act enters into turnover for the purpose of compulsory VAT registration, until now, such taxable persons have an obligation to register. From 1 January 2023, it is proposed that such taxable persons can decide whether they will register for VAT purposes after exceeding the turnover.

In the case that such persons will also perform other economic activities, except the VAT-exempt activities stated above, VAT registration will continue to be mandatory after the turnover exceeds EUR 49,790.

If such a taxable person has already registered for VAT purposes in the past, and for the 12 consecutive calendar months, the turnover reaches EUR 49,790 exclusively from the supply of goods and services that are exempt from VAT according to § 37 - § 39, this taxable person may ask for deregistration for VAT purposes in Slovakia after 1 January 2023.

The Tax Office will stop registration process when taxable person who has already reached the turnover of EUR 49,790 for the 12 consecutive calendar months (exclusively from the supply of goods and services that are exempt from VAT according to § 37 - § 39) submitted the application for tax registration until 31 December 2022. And this taxable person will withdraw this application by the day before receiving the approval to the tax registration.

Change of tax period in case of delayed registration of the taxpayer

Currently, valid wording of the VAT Act stipulates that a person who has not fulfilled the obligation to submit the VAT registration application or who submitted the VAT registration application with a delay, and this delay is more than 30 days, has the obligation to pay output VAT from the supply of goods and services for which it incurred a tax liability for the period in which that person should have been a VAT payer, and at the same time, that person is entitled to deduct the VAT from the goods and services received.

The amended wording of VAT Act adjusts the above-mentioned period to 21 days, and subsequently also shifts the period in which the person should have been a VAT payer to the period that begins on the 22nd day after the day when the obligation to apply for registration arose at the latest.

The concept of small consignment of goods a non-commercial character

The Amendment of VAT Act specifies the concept of small consignment of a non-commercial character.

According to VAT Act the small consignment of a non-commercial character is exempt from VAT when importing goods and thus it was necessary to precisely define this term.

According to the amendment of VAT Act as a small consignment of goods a non-commercial character is considered such shipment which is sent from third countries by individuals to other individuals in Slovak Republic if:

- the consignment is shipped occasionally,
- the consignment involves the goods defined for personal usage of recipient or members of his household and there is no suspicion in regard to character and amount of goods the recipient or

member of his households will use these goods for commercial use, and

- the amount of consignment is up to EUR 45 including.

The reduced VAT rate for services related to sport activities and restaurant and catering services

NC SR approved temporary reduced VAT rate from 20% to 10% for supply related to sport activities which will be applied until 31 March 2023 as a temporary measure regarding increased energetic difficulty. The decreased rate 10 % for sport activities involves transportation by cable cars and ground lifts and ski lifts, access to indoor and outdoor sports facilities for the purpose of practicing sports, entrance fees to artificial swimming pools.

The reduced VAT rate of 10% will also apply till 31 March 2023 for restaurant and catering services. To apply reduced VAT rate for restaurant and catering services the following conditions must be met:

- above mentioned services must have the character of serving meals or beverages or both (prepared or unprepared food and beverages),
- the sufficient support services for immediate consumption have to be ensured (e.g. service, washable dishes and cutlery, the space for consumption or restrooms.),
- serving meals and drinks must be defined as a providing of services not goods from the VAT point of view.

We would like to draw attention to the fact that reduced rate of VAT will not be applicable for delivery of meals or takeaway meals without any other supporting services (except transportation).

Changes in the VAT Act effective from 1 January 2024

New obligations for payment service providers

As of 1 January 2024, Council Directive (EU) 2020/284, which amends Directive 2006/112/EC, is transposed into the VAT Act in the case of the introduction of certain obligations for payment service providers.

The purpose of this provision is primarily to combat the tax fraud associated with the change in consumer purchasing behaviour and the massive expansion of electronic commerce (e-commerce) within EU member states, or third countries. Since the customer has no information, recording, record-keeping obligation, or obligation to keep accounting in relation to the purchase made, financial reports in individual member states must be based only on information from the suppliers of these purchases, which, however, are not always accurate and complete.

However, since payments for cross-border purchases of goods or services are made mainly through payment service providers (such as banks and other payment institutions), a special recording obligation is imposed on domestic payment service providers.

A domestic payment service provider means any provider whose home or host member state is the Slovak Republic.

From 1 January 2024, several obligations are being introduced for payment service providers, for example:

- The obligation to keep detailed records of the recipient of the cross-border payment and of the cross-border payment in connection with the provided payment service,
- The obligation to keep and store data on cross-border payment transactions for the period of a calendar quarter, if the recipient accepts more than 25 cross-border payments,
- Obligation to make available data on payers or payment recipients from payment transactions to the Financial Administration via an electronic form no later than the end of the calendar month following the calendar quarter to which these reports refer.

The records obtained from the payment service providers will then be sent by the Member States to the Central Electronic System of Payment information (so-called CESOP), where the obtained data and records will be subjected to risk analysis, cross-checking and subsequently evaluated.

Records will have to be kept in electronic form and kept for three calendar years from the end of the year in which the payment was made.

If you would like to discuss the above-mentioned changes or assess their impact on your business, we stay at your disposal.

Contact

Kvetoslava Čavajdová, Partner, Tax
kvetoslava.cavajdova@mazars.sk

Ivana Bošková, Senior Manager, Tax
ivana.boskova@mazars.sk

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