



Draft amendment to the Value Added Tax Act

On 25 October 2023, the Ministry of Finance of the Slovak Republic (hereinafter referred to as "MF SR") published an adjusted draft amendment to Act No. 222/2004 Coll. on Value Added Tax (hereinafter referred to as the "VAT Act"). Most of the proposed amendments would enter into force on 1 January 2025. The adjusted draft amendment is the result of an inter-ministerial comment procedure. A summary of the main proposed changes is provided below.

The main objective of the proposed amendment to the VAT Act is the transposition of Council Directive (EU) 2020/285 of 18 February 2020, which amends Directive 2006/112/EC on the common system of VAT and introduces a special scheme for small businesses. The amendment to the VAT Act also includes changes resulting from Regulation (EU) No 904/2010 on administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small businesses.

We would like to draw your attention to the fact that this modified draft amendment to the VAT Act has not been discussed and approved by the National Council of the Slovak Republic and the final text of the amendment may be amended. We will inform you about the changes and the approved wording of the provisions presented below.

Draft amendment to the VAT Act

The following overview summarises the main changes contained in the proposed amendment to the VAT Act:

Special scheme for small businesses

The proposed rules are aimed at simplifying administrative procedures for small businesses, thereby increasing their efficiency, and supporting entrepreneurship. The harmonisation of the rules across the EU ensures that small

businesses will have uniform and clear regulations on VAT exemptions for their economic activities, both at the national and international levels.

The proposed amendment introduces the following annual turnover thresholds for taxable persons:

- **62 500 EUR** on the domestic transactions and
- **100 000 EUR** for intra-EU transactions.

As of **1 January 2025**, foreign taxable entities that do not exceed the amount of 62 500 EUR, i.e. the annual turnover during the current calendar year and at the same time in the previous calendar year the value of the annual turnover did not exceed 50 000 EUR, and in the current calendar year and also in the previous calendar year the value of the annual turnover in the EU did not exceed the amount of 100 000 EUR, may be considered **small businesses of foreign entities** in the domestic territory. At the same time, domestic taxable persons may be considered **small businesses** if the turnover of the domestic entity¹ in the EU does not exceed 100 000 EUR.

A small business will receive an individual identification number with the suffix EX and will be able to supply goods and services domestically (for foreign individuals) and in the EU (for domestic businesses), exempt from VAT (provided that the condition of local turnover in another Member State is met).

VAT registration of a domestic taxable person

In connection with the above-mentioned special scheme for small businesses, as of **1 January 2025**, the turnover threshold for mandatory VAT registration of a domestic taxable person will be

adjusted to **50 000 EUR** in a calendar year or 62 500 EUR in the current calendar year.

The domestic taxable person will become a VAT payer:

- 1 January of the calendar year following the calendar year in which the value of the turnover of that taxable person exceeds 50 000 EUR, or
- by supplying goods or services whereby the value of the turnover for compulsory VAT registration of the domestic taxable person in the current calendar year exceeds 62 500 EUR.

The obligation to apply for VAT registration is **set within 5 working days** from the date on which the fact based on which the taxable person became a VAT payer occurred.

The tax authority is obliged to issue a decision on VAT registration **within 10 days of receiving the VAT registration application**. This decision shall confirm the VAT registration of the VAT payer either:

- from 1 January of the calendar year following the calendar year in which the turnover exceeded 50 000 EUR, or
- from the date on which the turnover of 62 500 EUR was exceeded if this occurred before 1 January of the following calendar year.

However, the amendment to the VAT Act will allow a taxable person to become a taxable person also from the supply of goods or services exceeding a turnover of 50 000 EUR, if the VAT payer indicates this fact in his application for VAT registration.

These changes are intended to simplify the registration process for VAT payers and ensure that taxable entities are registered once they reach a required turnover, thereby increasing

¹ A small enterprise of a domestic person may be a VAT payer registered in the country under Section 4 of the VAT Act.

the transparency and efficiency of the VAT system.

VAT registration of a foreign entity

A foreign taxable person who does not have a registered office or permanent establishment in Slovakia becomes a VAT payer by carrying out a taxable transaction which is subject to VAT in Slovakia (except for certain transactions specified in the VAT Act). Under the proposed amendments, the foreign person will be obliged to apply for VAT registration **within 5 working days** from the date on which he/she becomes liable for VAT in Slovakia (i.e. not before the taxable supply takes place, as is currently the case).

The tax authority will be obliged to register a foreign person and assign a VAT identification number **within 10 days** of receipt of the VAT registration application.

Adjustment of taxation on import of goods

One of the most significant changes included in the proposed amendment to the VAT Act is the introduction of the option of reverse-charge mechanism application when importing goods. This change is proposed to be included in the VAT Act, with **effect from 1st January 2025**.

Reverse-charge on the import of goods will be applicable to the VAT payer on whose account the imported goods are released for free circulation or placed under one of the specified customs procedures, provided that the VAT payer:

- is established in the domestic territory;
- has a VAT registration number assigned at the time of the VAT liability;
- has been granted the status of authorised economic entity in terms of customs regulations, and

- uses the imported goods for economic activities.

A taxable person established in another EU Member State is also entitled to apply a reverse charge on the import of goods if the goods, located in the territory of the country at the time when the VAT liability on the import of goods arose, are released for his account and under a centralised customs procedure, and the taxable person fulfils the conditions set out in the points above.

If this proposal is adopted, the VAT on the import of goods will be calculated by the VAT payer and subsequently, the VAT on the import of goods will be declared in the VAT return for the tax period in which the VAT liability arose. At the same time, the VAT payer will be entitled to deduct a VAT in the same tax period. In practice, the amendment will eliminate the obligation to pay import VAT for selected VAT payers and will bring them a cash flow advantage.

It should be noted, however, that a similar amendment to the VAT Act was introduced in the past, but its entry into force was repeatedly postponed, mainly due to its negative impact on the state budget.

The right to deduct VAT on the acquisition of goods from another Member State

The amendment to the VAT Act proposes that a VAT payer who has acquired goods from another Member State has the right to claim a VAT deduction in the tax period in which the VAT liability arose, even if the VAT payer does not have an invoice for the supply of the goods from the supplier at the time of submitting the relevant VAT return.

In this case, the right to deduct VAT can also be proved with **other relevant documents from**

the business correspondence with the supplier, which must demonstrate the actual acquisition of the goods and the amount of VAT liability arising from the acquisition of goods in the relevant tax period. At the same time, it is proposed that, in this case, the VAT payer includes the data from this other document in the Recapitulative List.

The proposed effective date of this change is 1 January 2025.

Deduction of VAT in case of late registration

The amendment to the VAT Act provides a change in the conditions for the deduction of VAT on goods and services purchased by a VAT payer acquired before VAT registration and used by him/her as a VAT payer or if the tax liability arose on the date of receipt of payment in advance at a time when the VAT payer was not registered for VAT. As a fundamental change compared to the current rules, this VAT will only be deductible **in the VAT return submitted for the first tax period.**

Simultaneously with the entry into force on 1 January 2025, fundamental changes are expected in the provisions of the VAT Act concerning late VAT registration. According to the relevant provisions of the VAT Act, if a VAT payer submits a late application for VAT registration, he/she will be obliged to submit VAT returns and Recapitulative Lists for all tax periods for which, due to non-compliance with this obligation, he/she failed to submit VAT statements within the legally prescribed deadline. This means that the VAT payer will have to submit VAT returns and Recapitulative Lists in chronological order from the tax period in which he became a VAT payer, which can be administratively demanding and it will increase the burden on VAT payers. In addition, VAT payer will also be penalized for the late submission of VAT returns and Recapitulative

Lists for each tax period for which was obliged to submit them.

The current regulation allows these entities to submit one "extraordinary" VAT return, covering all taxable transactions carried out from the moment when the taxable person should have become a VAT payer. No Recapitulative List is required in the case of late VAT registration.

Financial leasing

With effect from 1 January 2025, it is proposed to clarify the existing rules on the supply of goods under a lease contract with a negotiated option to purchase the leased asset, provided that exercising the option is the only economically rational choice for the lessee at the time the contract is entered into.

Under the proposed amendments, such a transfer of the leased asset will be considered a supply of goods subject to VAT.

As a result of this change, the VAT payer will be required to pay VAT on the entire value of the lease at the time of delivery of the leased asset, rather than gradually on the value of each instalment as is currently the case.

The new approach will apply to leases or similar contracts concluded after 1 January 2025.

Other proposed changes to the VAT Act

In addition to the above changes, the draft amendment to the VAT Act proposes the following changes:

- The definition of the term "VAT payer" in § 5a of the VAT Act;
- Extension of the deadline for the tax authority in the case of registration of persons who are not VAT payers from 7 to 10 days (§7 and §7a);

- Adjustment of the place of supply of services for virtual or online events;
- Amend the definition of theft in relation to the obligation to adjust deducted VAT;
- Specification of the VAT payer's obligation to adjust deducted VAT in case of full or partial non-payment of the consideration for goods or services in § 53b of the VAT Act;
- Reducing the value of the document issued by the e-kasa client and the fuel dispenser, which is considered as an invoice (from 1,000 EUR to 400 EUR) in § 74
- Modification of the conditions for early refund of the VAT excess - the VAT payer has been assigned a VAT identification number at least 12 calendar months before the end of the calendar month in which the VAT excess occurred.

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