



Tax news: Amendments to the VAT split payment mechanism

Law project for the approval of Government Ordinance no. 23/ 2017

The Romanian Senate has approved the law project for the approval of the Government Ordinance no. 23/ 2017 regarding the VAT split payment mechanism. For the moment, the law has not been promulgated and consequently the Ordinance which stipulates the mandatory application of the VAT split payment starting with 1 January 2018 remains in place still.

The law project brings significant changes which set the manner of applicability of the VAT split payment system starting with 1 January 2018, as well as the taxpayers' categories that may end up in the VAT split payment system.

Therefore, although the new legislative provisions do not include the generalized mandatory application of the VAT split system by all taxpayers registered for VAT purposes in Romania, they stipulate thresholds amounting between RON 100 and RON 1,500 representing outstanding VAT liabilities as at 31 December 2017, above which the taxpayers will automatically enter into the VAT split system.

The VAT payers in Romania must check until the end of the year if there are any outstanding VAT liabilities that may lead to the immediate entry into the VAT split system starting 1 January 2018.

The amounts representing VAT liabilities suspended for payment through a bank guarantee letter are still considered outstanding liabilities for which the taxpayers will automatically enter into the VAT split system starting with 1 January 2018.

Moreover, even if the legal taxable persons in Romania do not enter into the system, they will be required to check if their suppliers apply the VAT split payment mechanism and to make the VAT payment separately from the net amount payment, in the VAT account of the supplier.

A. Who is liable to apply the VAT split payment mechanism?

The taxable persons and public institutions, registered for VAT purposes in Romania have the liability to open VAT bank accounts in Romania for the cashing and payment of the VAT if:

1. As at 31 December 2017 they have outstanding VAT liabilities, as follows:
 - For large taxpayers – RON 1,500;
 - For middle taxpayers – RON 1,000;
 - For small taxpayers – RON 500;
 - For individuals registered for VAT – RON 100.
2. Starting with 1 January 2018, the taxpayers have outstanding VAT liabilities older than 30 days since the due date for the same amounts as mentioned at point 1 above;
3. Are in insolvency proceedings.

B. What obligations have the companies that do not apply the VAT split payment system?

The legal taxable persons registered for VAT or not in Romania have the liability to check if their suppliers apply the VAT split payment mechanism and must perform the payment of the purchases separately, as follows: VAT in the VAT account of the supplier and the net price in their current account.

Failure to make the split payment brings significant penalties for the companies that although they do not apply the VAT

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split payment system, end up to be part of it through the payments made, as follows:

- 0,06% per day of delay from the VAT amount incorrectly paid in other bank account than the VAT account of the supplier, if this payment is not corrected within a term of 7 working days since the

actual incorrect payment was made, without exceeding 30 days from the payment;

- 50% of the VAT incorrectly paid in other bank account than the VAT account of the supplier, if the payment is not corrected within the 30 days term since the payment was made.

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