



Obligations of VAT payers as of the date of registration – as of the date of assignment of VAT number

2019

A. Obligations of VAT payers as of the date of registration – as of the date of assignment of VAT number

Claim on VAT refund prior to the date of registration

According to Article 55 of the VAT Act, a person who becomes a VAT payer is eligible for the VAT refund – ex-post tax discharge of fixed assets and unexpended inventories acquired prior to registration.

For these purposes the following conditions are to be fulfilled:

- The assets have not been included among the tax deductible expenses as per the date of registration,
- The assets will be used for deliveries of goods or provision of services by that person as a VAT payer.

The VAT payer will deduct such tax in the extent and under the conditions stipulated in Articles 49 to 51 of the VAT Act.

Tax base and tax rate

The tax base upon the delivery of goods or provision of service is compound of all the supplier has acquired or shall acquire as a consideration from his customer or any other person for the delivery of goods or provision of service, reduced by the tax.

If at the time of delivery of goods or provision of service the supplier grants a deduction from the price or grants a discount based on an early payment, the tax base is decreased by the amount of such discount.

The basic tax rate on goods and services amounts to 20% of the tax base. A decreased tax rate of 10%

Obligation to issue a tax document – rise of tax liability

As of the date of registration the VAT payer becomes obliged to issue a tax document – an invoice upon every rise of tax liability within 15 days thereafter the latest. The VAT payer should issue an invoice upon every delivery of goods and provision of service for a taxable person and for a legal entity not being a taxable person. The VAT payer is not obliged to issue an invoice upon tax free fulfillment except for tax free delivery of goods to EU.

According to the provisions of the VAT Act as they stand at the present, the rise of tax liability which makes the VAT payer obliged to issue a tax document is considered to be every

- Delivery of goods,
- Provision of service,
- Acceptance of payment prior to delivery of goods or provision of service.

Domestic repeated fulfillments with payments agreed for a period exceeding 12 calendar months are subject to tax on the last day of the respective 12th calendar month.

In case of repeated provision of “reverse charge” services from supplier of another EU Member State with payments agreed for a period exceeding 12 calendar months the tax liability arises by the end of each calendar year. This is also applicable to EU services provided partially.

Services acquired on behalf of the VAT payer but at expense of a third party are subject to tax on the date when the invoice is issued by the VAT payer as an intermediary however not later than on the last day of the third month following the real provision of the services.

When issuing the tax documents the VAT payer should follow the stipulations of the VAT Act.

Requirements on the tax documents for the VAT purposes

The VAT payer is obliged to have the below mentioned requirements stated on all tax documents issued or accepted by him for the VAT purposes. Besides, he is also obliged to follow other requirements on documents prescribed by the special regulations (Commercial Code, Act on Accounting etc.).

When issuing the tax documents for VAT purposes, one may differ between the documents upon the deliveries or provision of service in inland and abroad.

Requirements on tax document issued by the VAT payer

- 1) Invoice upon a delivery of goods and provision of service in inland should comprise**
 - a) Name and address of the seat, place of business, or the contingent establishment of the VAT payer who delivers the goods or provides the service, and his VAT number,
 - b) Name and address of the seat, place of business, or the establishment if appropriate or residence of the recipient of the goods or service and his VAT number, if assigned,
 - c) The ordinal number of the invoice,

- d) The date of delivery of goods or provision of service or the date when the payment was accepted, if this date might be determined and if this date differs from the invoice date,
- e) Invoice date,
- f) Amount and sort of delivered goods or extent and type of provided service,
- g) Tax base, unit net price and deductions and discounts, if not included in the unit price,
- h) The applied tax rate or information about the tax exemption,
- i) The total amount of tax in EUR which is to be paid.

2) Invoice upon a delivery of goods to another Member State

When delivering goods from inland to another Member State to a person registered for VAT purposes in another Member State the invoice shall comprise the following information:

- a) Name and address of the seat, place of business, or the contingent establishment of the VAT payer who delivers the goods, and his VAT number,
- b) Name and address of the seat, place of business, or the establishment if appropriate of the recipient of the goods and his VAT number used for the order,
- c) The ordinal number of the invoice,
- d) The date of delivery of goods or the date when the payment was accepted, if this date might be determined and if this date differs from the invoice date,
- e) Invoice date,
- f) Amount and sort of delivered goods,
- g) Price of the goods, unit net price and deductions and discounts, if not included in the unit price,
- h) Reference to Article 42 or 43 of the VAT Act, reference to Article 136 or 138 of the Council Directive 2006/112/ES from November 28th, 2006 on the common system of value added tax as amended by the Council Directive 2006/138/ES from December 19th, 2006 or information that the delivery of goods is exempt from tax.

3) Invoice upon provision of service to another Member State

When providing a service upon which the customer in another Member State is liable to pay the tax, the invoice should include:

- a) Name and address of the seat, place of business, or the contingent establishment of the VAT payer who delivers the goods, and his VAT number,
- b) Name and address of the seat, place of business, or the establishment if appropriate of the recipient of the goods and his VAT number used upon the order, if assigned,
- c) The ordinal number of the invoice,

- d) The date of provision of service or the date when the payment was accepted, if this date might be determined and if this date differs from the invoice date,
- e) Invoice date,
- f) Extent and type of provided service,
- g) Price of the service,
- h) Reference to Articles 193 to 196 of the Council Directive 2006/112/ES from November 28th, 2006 on the common system of value added tax as amended by the Council Directive 2006/138/ES from December 19th, 2006 or information that the person liable to tax is the recipient of the service.

Requirements on the tax document acquired by the VAT payer

The VAT payer who delivers the goods or provides the service is responsible for the issuance of the invoice, for the correctness of the quoted invoice data and for the timeliness of its issuance.

The accepted tax document from the supplier – VAT payer upon the delivery of goods or provision of service should include all requirements on the invoice according to the VAT Act. To put it differently, the data that should be quoted on the tax documents the VAT payer issues, should also be quoted on the tax documents he accepts.

In the case the VAT payer (recipient of the goods or service) claims the VAT refund on the basis of the invoice which does not meet the requirements stipulated in the VAT Act, the tax administrator is, according to the Administration of Taxes Act, allowed to call upon the VAT payer to ensure the addition of the missing data by the VAT payer who has issued the respective invoice. Under no circumstances, however, might the invoice data be changed by the recipient of the invoice who claims the VAT refund.

According to Article 51 of the VAT Act, the correctness of the quoted invoice data and completeness of the requirements on the tax document present the prerequisites to be met in order to exercise the right on input VAT refund.

The obligation to keep records for the VAT purposes

The VAT payer is obliged to keep detailed records sorted according to the taxable periods about delivered goods and provided services, received goods and services, payments accepted prior to delivery of goods or provision of service as well as payments effected prior to delivery of goods and provision of service. These records should be kept for inland, Member States and third countries separately.

The VAT payer keeps and archives these records in line with Article 70 of the VAT Act in the current wording.

Determination of the taxable period

The taxable period of the VAT payer is the month. If the VAT payer do not reach the turnover amounting to more that EUR 100000,- in the preceding 12 months, the taxable period can be the calendar quarter.

Time-limits for filing of VAT returns, recapitulative statements and the due date of the own VAT liability

The VAT payer is obliged to file the VAT return within 25 days after the end of the taxable period and within the same time-limit to settle his own VAT liability. To put it differently, the VAT return has to be filed on a monthly or quarterly basis, dependent upon the determined taxable period, more precisely, 25 days after the end of the respective calendar month or calendar year quarter. Simultaneously, he has to settle his own tax liability within the same time-limit.

The VAT return has to be filed even in the case the respective taxable period led to neither input nor output tax liability.

A recapitulative statement is filed monthly within 25 days after the end of the respective calendar month. In case the VAT payer conducts tax free delivery of goods within EU and the value thereof exceeds neither in the given year quarter nor in the preceding four year quarters EUR 100,000, the recapitulative statement might be filed on a year quarter basis, i.e. within 25 days after the end of the respective year quarter. If the VAT payer neither provided services nor delivered goods in another EU Member State, the recapitulative statement does not have to be filed that period.

All statements are filed electronically only.

Cancellation of registration

The VAT payer might apply the cancelation of VAT registration after one year as of the date when he became the VAT payer the soonest, if the turnover for the last 12 consecutive calendar months has not reached the amount of EUR 49.790,-.

The tax office will cancel the registration on the basis of a written application of the VAT payer or ex officio, if there are no reasons for the registration.

Such cancellation of registration results in expiration of obligation to charge the output VAT to the price of goods and services as of the date of cancellation of registration. Simultaneously, the legal entity or individual is not eligible for the VAT refund from the acquired goods or services anymore, nor is he allowed to issue invoices with VAT, nor expected to file a VAT return.

B. RECAPITULATIVE STATEMENTS

Obligation to file RS refers to each VAT payer who

- a) Conducts a **tax exempt EU delivery of goods** to a person registered for VAT purposes in another Member State (and subsequently this delivery is declared by the recipient in his Member State)
- b) **Transfers** his own goods to another Member State (and declares this transfer in that Member State himself)
- c) Takes part in the **intracommunity triangular delivery** of goods as the middle person,
- d) Renders a service to another Member State which triggers transfer of VAT liability on the recipient of the service from EU, i.e. **“reverse charge” service** (the Slovak VAT is not applied and the recipient of the service declares the service in his Member State)

1. Declaration period for RS

The basic period of a VAT payer for filing the RS is a **calendar month**. In that case the RS has to be filed by the **25th day of the following month**.

Under some circumstances the VAT payer might file RS on a **year quarter basis**. This option refers to a VAT payer who

- i. neither conducts tax exempt EU deliveries of goods nor transfers his goods in another Member State (lit. a) to c)), i.e. from the above mentioned deliveries solely renders the “reverse charge” services (lit. d)), or
- ii. conducts tax exempt deliveries of goods or transfers his goods to another Member States (lit. a) to c)) but the value of the delivered or transferred goods exceeds EUR 100,000 neither within the given year quarter nor within the last 4 year quarters observed separately.

If the above mentioned suits, the RS has to be filed **no later than the 25th day after the end of the respective year quarter**.

If the VAT payer did not conduct any of the above mentioned transfers or deliveries of goods or services in the given period (month or year quarter), RS does not have to be filed.

2. Special regulation for entrepreneurs – non VAT payers

The obligation to file RS also refers to entrepreneurs with special registration for VAT purposes.

With effect as of January 1st 2010 an entrepreneur who is not registered as VAT payer is obliged to apply for a special registration for VAT purposes given that

- i. he renders a service subject to reverse charge regime i.e. subject to VAT in the Member State of the recipient (lit. d))
- ii. he receives a service from an entrepreneur from EU which has to be declared and taxed in Slovakia.

However, this obligatory special registration does not equal to ordinary VAT registration, e.g. it does not allow recovery of input VAT.

Special registration has to be applied before provision or receipt of service. Omission of registration obligation is penalized from EUR 60 up to EUR 3,319.39.

Persons with special registration file the RS each calendar quarter provided they rendered a service subject to tax in the Member State of the recipient (lit. d)).

3. Sanctions

Failure to file RS within the prescribed period is subject to a fine amounting to EUR 331.93. Assuming that the RS is not filed even within the prolonged period set by the tax office, a fine amounting to EUR 663.87 is assessed.

4. Request for delivery of documents

In light of the above mentioned stricter rules for filing the RS, **we dare to ask you to deliver your outgoing invoices within 15 days after the end of each month.** All other individually agreed delivery dates concerning sundry documents remain unchanged.

Regards,

Straková Dáša

The information presented is only of a general nature, may omit many details and special rules, is current only as of its published date, and accordingly cannot be regarded as legal or tax advice. Please contact our office for more information on this subject, and how it pertains to your specific tax or financial situation.

GET MORE - PAY LESS

www.foxconsulting.eu

FOX Consulting s.r.o.

Cyrila a Metoda 1
900 29 Nová Dedinka

IČO/ID Nr.: 35959215

DIČ: 2022079070

IČ DPH/VAT Nr.: SK2022079070

Office: City Hotel Bratislava

1. poschodie, číslo kancelárie 134
Seberínho 9, 821 03 Bratislava

+421 907 020 378
strakova@foxconsulting.eu
www.foxconsulting.eu

Spoločnosť je zapísaná v obchodnom registri Okresného súdu Bratislava I, oddiel: Sro, vložka č. 37901/B
Business Register of the District Court Bratislava I, Section: Sro, Insert No.: 37901/B