

The release of funds from VAT accounts must be requested individually

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The Ministry of Finance in anti-crisis regulations did not introduce a general rule that would free taxpayer accounts for split payments. Despite the lack of such a provision, the release of funds can be requested at the discretion of the tax authority. It is therefore important to properly justify the application.


Although the solutions proposed in the anti-crisis shield program are aimed at supporting Polish entrepreneurs, a large number of conditions that separate entrepreneurs from real assistance. Therefore, in the face of a crisis caused by a pandemic, they are more likely to resort to simpler methods of improving financial liquidity - e.g. effectively using the funds accumulated on the VAT account. The funds

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accumulated on the VAT account belong exclusively to the taxpayer. However, it should be remembered that the manner of disposing of them is strictly defined by the VAT Act. Taxpayers can use them to pay purchase invoices to their suppliers, as well as to pay taxes.

Split payment or application for release of funds

Kamila Koziara, a consultant in the VAT team at KPMG in Poland, explains that in the event of a surplus of funds on the VAT account, taxpayers often use the split payment mechanism to settle their obligations towards suppliers in situations where it is not mandatory or by paying taxes to the office. **By paying voluntarily under the split payment mechanism, taxpayers also hedge against other negative consequences** (e.g. resulting from the lack of a bank account on the so-called white list or the lack of certainty as to the obligation to use the mechanism). – It happens, however, that despite this a surplus arises which the taxpayer cannot use effectively. Then the taxpayer may submit to the tax office an application to transfer the funds accumulated on the VAT account to the settlement account – notes Kamila Koziara.

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Application to the head of the office

The application is submitted to the head of the relevant tax office. Nevertheless, here too the taxpayer may face a negative decision on release if the authority finds that the entrepreneur has tax arrears or there is a justified fear of their occurrence. Pursuant to the Act, it may take up to 60 days for the authority to consider the application, but in the face of extraordinary circumstances, it can be seen that the deadline has been reduced.

– Processing of applications for releasing funds from the VAT account is currently faster than 60 days. A positive decision can be obtained within three weeks – notes Kamila Koziara.

60 days to issue the order

Wiktoria Szpineta, a consultant at TLA, points out that the 60-day deadline is the deadline. In her view, applications from VAT accounts should be processed without undue delay. – The provisions of Art. 125 of the Tax Code obliging to **deal with immediately**. The expected time – even if in practice it is shorter than 60 days – for the decision to be made in this form attractive for few taxpayers. Companies usually allocate funds from the VAT account to settle their amounts due to contractors, paying via split payment or on current tax liabilities – emphasizes Wiktoria Szpineta.

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The Office may refuse

According to the provisions, in order to release the funds accumulated on the VAT account, it is sufficient for the taxpayer to submit an application to the head of the tax office. **The taxpayer does not actually have to meet any conditions to submit such an application, however, he must take into account a negative decision if he has tax arrears and in a situation where, according to the head, there is a justified fear that such arrears may arise or the tax liability will not be fulfilled.**

This is noticed by Tomasz Groszyk, tax advisor, manager at Crido. The expert reminds that before submitting the application, special attention should be paid to the condition of no tax arrears on the part of the applicant (and this is not only about VAT arrears).



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