

The treasury tells you how to avoid splitting payments

Krzysztof Koślicki

VAT ACCOUNTING NEWS Date added: 05.06.2020



Source: iStock

The latest tax interpretation confirms that for the purposes of split payment is not the value of the transaction or contract, but the amount indicated on the invoice. It turns out, therefore, that the split payment mechanism can be avoided quite simply. Thanks to this, the money will not go to VAT bills.

Although more than half a year has passed since the introduction of the obligatory split payment mechanism, related issues still raise many doubts among taxpayers. They concern, among others mandatory use of split payment when the issued or regulated invoice does not exceed the amount of PLN 15,000 PLN, but the entire transaction or contractual value is already yes.

These doubts are caused by relatively unfortunate editing of regulations. The provisions of the VAT Act refer to invoices in which the total amount of receivables is the amount referred to in art. 19 point 2 of the Entrepreneurs Law. This article mentions the amount of 15 thousand. PLN in the context of a one-off transaction value, regardless of the number of payments resulting therefrom.

Read in LEX: Consequences of making payments without split payment>

Is the value of the transaction or invoice important?

Such a reference to the right of entrepreneurs in the VAT Act raises the **question** for many taxpayers **whether, for the application of the obligatory split payment mechanism, taxpayers should only look at the value of the invoice itself or whether they should refer the aforementioned limit to the value of the entire transaction**, even if it has been divided into several parts (documented with separate invoices) that do not exceed this amount. The answer to this question is provided by the latest individual interpretation of the director of the National Treasury Information of 28 May 2020, No. 0111-KDIB3-1.4012.156.2020.2.IK .

The tax authority indicated in it that only the amount of the individual invoice is relevant for the application of the mandatory split payment mechanism, not the value of the entire transaction. According to the tax office, since the provisions of the VAT Act clearly relate to the value of the invoice, the amount of the transaction concluded in the contract between contractors is irrelevant.

See the procedure in LEX: Obligation to use the split payment mechanism>

- This interpretation is an important voice in the discussion. So far, many taxpayers, for the sake of safety and security, have covered split payment with all those cases where the total value of transactions exceeded 15,000. PLN, regardless of the amount of individual invoices - emphasizes Bartosz Kubista, lawyer, tax advisor, partner at GLC. In his opinion, **fear of the consequences (and the lack of sanctions for unnecessarily marking the invoice with the annotation about the split payment mechanism) often meant that taxpayers preferred to puff cold in such situations** .

Read in LEX: Split payment in accounting books>

- It remains only to enjoy this position. This interpretation is beneficial for taxpayers. The interpretation proposed by the director of the KIS completely cuts off speculation and refers to a very simple to interpret criterion, which is the amount invoiced. This criterion should not pose difficulties for taxpayers, because it is unambiguous and obvious - emphasizes Bartosz Kubista.

See the procedure in LEX: Collective payments using the split payment mechanism>

In turn, as Małgorzata Kalinowska, a tax consultant at TPA Poland, notes, this position is not surprising. The Minister of Finance in his tax explanations of 23 December 2019 regarding the split payment mechanism explained that the **obligatory split payment applies only to invoices with a value exceeding PLN 15,000. PLN gross**. However, the expert indicates that the obligation to issue invoices with the note "split payment mechanism" also occurs when the goods covered by Annex 15 to the VAT Act will constitute a negligible item on the invoice, the total amount of which exceeds PLN 15,000. zł. It is true that the obligation to apply split payment will apply only to the VAT amount of this particular item, but the invoice should be properly marked by the taxpayer. The possible lack of annotation about the split payment mechanism will impose a penalty of 30% on the taxpayer who issued the invoice. the amount of tax indicated on the invoice.

See also: You do not have to split payments where it is not necessary >>

The tax office allows you to split transactions

It turns out that **tax authorities are trying to relax somewhat restrictive regulations**. Earlier, the tax office also confirmed that the seller may issue several invoices for one order and only place sales requiring mandatory payment sharing on one order. In interpretation No. 0111-KDIB3-2.4012.646.2019.1.AZ, the tax authority reminded that the obligation to issue invoices with the annotation "split payment mechanism" will exist if three conditions are met jointly, i.e. invoice:

- will be issued for the total amount of receivables (gross amount) exceeding PLN 15,000 PLN or its equivalent,
- will document the delivery of goods or services referred to in Annex 15 to the VAT Act,
- activities will be carried out for the benefit of the taxpayer.

See procedure in LEX: Obligation to put the words 'split payment mechanism' on the invoice>

This means, therefore, that **there is no obstacle for the seller, within the framework of one order, to make separate invoicing for the sale of goods included in Annex 15 to the Act and the sale of goods outside this Annex**. The tax authority considered that the seller could therefore issue separate invoices. One of them will refer to the delivery of goods covered by Annex 15 to the Act, the other to the sale of goods outside Annex 15 to the Act. In addition, the director of KIS pointed out that the gross invoiced value, rather than the value of the entire order, is important for making a payment using a mandatory split payment mechanism.

See also: You can issue two invoices and avoid split payments >>