

Bonus sale without VAT

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Source: iStock

Free transfer of prizes (vouchers) to contractors is not subject to VAT. The taxpayer will not be entitled to deduct VAT on the purchase of these awards (vouchers), as the expenses will not be used to perform a taxable activity. This is confirmed by the treasury in a recent interpretation.

The taxpayer conducts business activity in the scope of wholesale and retail sale of clothing and footwear. The taxpayer has implemented two promotional campaigns (bonus sales and loyalty program).

30.06.2020 10:00

Zmiany w podatkach od 1 lipca 2020 r.

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Bonus sales will be intended for natural persons conducting business activity, under which they buy goods for the purposes of conducting business activity, as well as for persons not conducting it. As part of the bonus sale, these persons will purchase goods that are in the organizer's assortment for one time or within a specified period of time in excess of the level specified by him. The level of purchases eligible for the prize will be determined in the bonus sales regulations.

Read in LEX: Taxation of awards related to bonus sales - discussion of case law>

The second promotional campaign as a loyalty program is intended for selected people. Only customers making purchases for the needs of their business will be covered.

Bonus sales and the loyalty program will encourage the purchase of goods being in the entrepreneur's assortment. The purchase of vouchers will be documented by an invoice issued by the distributor of these vouchers. The issuing of prizes will be each time documented by the entrepreneur with an issue warehouse document (WZ).

Read in LEX: Gift vouchers and the tax on goods and services>

The taxpayer asked the tax authorities **whether free delivery of gift vouchers is not subject to VAT, as a consequence of which he is not entitled to deduct input tax from invoices documenting the purchase of prizes. According to the entrepreneur, the free transfer of vouchers is not subject to VAT and is not entitled to deduct input tax from invoices documenting the purchase of prizes.**

See the procedure in LEX: Vouchers in the light of the provisions of the VAT Act>

Statutory definition of vouchers

The Director of the National Tax Information Office recognized the taxpayer's position as correct. He reminded that as a result of the amendment to the VAT Act to the glossary of terms contained in art. 2 of this Act, from January 1, 2019, **the following definitions were added: voucher, single-purpose voucher, multi-purpose voucher, voucher issue and voucher transfer**. A voucher should therefore be understood as an instrument which involves the obligation to accept it as a remuneration or part of remuneration for which the goods to be delivered or services to be performed, or the identity of potential suppliers or service providers, is specified on the instrument itself or specified in related documentation, including the conditions of use of that instrument.

So you can distinguish single-purpose (SPV) and multi-purpose (MPV) vouchers. For single-purpose vouchers, the goods or services to which the voucher relates is known at the time of issue, and the amount of tax or value added tax on those goods or services is known, while such information is on issue. There are no vouchers for various purposes.

Transfer of vouchers without VAT

The director of the KIS stated that in the present case we are dealing with vouchers of various purposes transferred free of charge by the taxpayer, referred to in art. 2 point 44 of the Act and the transfer of the abovementioned vouchers free of charge will not be subject to VAT, in accordance with art. 8b paragraph 1 second sentence of the Act.

Pursuant to the content of art. 8b paragraph 1 sentence 1 of the Act – the **act subject to VAT will be the actual release of goods or services in exchange for a voucher accepted as a remuneration or part of a remuneration.**

The right to reduce the amount of tax due by the amount of input tax is payable if certain conditions are met, i.e. the taxpayer makes a tax deduction of goods and services and when the goods and services from which the tax was calculated are used to perform taxable activities, i.e. those that have the consequence of determining the tax due (tax liability arising).

The legislator granted the taxpayer the right to deduct input tax, provided that he meets both positive conditions resulting from art. 86 section 1 of the Act and the non-existence of negative premises referred to in art. 88 of the Act. This provision sets out a list of exceptions that deprive the taxpayer of the right to reduce the amount of tax due by the amount of input tax.

The condition enabling the exercise of the right to deduct input tax is, therefore, the relationship between purchases and taxable activities, which relationship may be direct or indirect.

To indicate that certain purchases are even indirectly related to the entity's activities, there must be a causal relationship between the purchases of goods and services and the creation of trade. One can speak of an indirect relationship when the purchase of goods and services does not contribute directly to obtaining turnover by the taxpayer, e.g. through resale, but through the impact on the overall functioning of the enterprise as a whole, contributes to the turnover generated by the entity.

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The taxpayer is required to determine separately what type of business the tax will be based on the purchase of goods and services, so-called tax allocation to taxable and non-taxable activities.

Free transfer of vouchers to contractors is an activity not subject to tax on goods and services. Thus, **expenses (vouchers) made by the taxpayer will be used to perform activities not subject to value added tax – the tax due).**

The taxpayer will therefore not be entitled to deduct input tax from invoices documenting the purchase of goods and services. Expenses will not be used for VAT taxable activities.

Individual interpretation of the director of the National Treasury Information of 16 June 2020, No. 0113-KDIPT1-2.4012.198.2020.4.KW



The image is a promotional banner for a webinar. It features a background of a calculator and a spreadsheet with numbers. The text is primarily in white and red on a dark blue background. At the top left is the logo for 'Wolters Kluwer'. At the top right, it shows a calendar icon with the date '30.06.2020' and a clock icon with the time '10:00'. The main text reads 'Zmiany w podatkach od 1 lipca 2020 r.' (Changes in taxes from July 1, 2020). At the bottom left, there is a red circular icon with a laptop and the text 'Bezpłatny webinar' (Free webinar). At the bottom right, there is a red button with the text 'Zapisz się' (Sign up) and a right-pointing arrow.