

VAT
ALERT!

INTERTAX

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VAT alert 03/2011

Polish VAT Act Amendment

Obligatory reverse charge mechanism applied in Poland as for 1st of April 2011 -

applicable if an entity which does not have its registered seat, permanent place of residence or fixed establishment in Poland provides services or supplies goods on Polish territory.

The change in law came into force on 1st of April 2011. The change affects any existing supply chains involving foreign entities registered for VAT in Poland. There is no „grace period” so every invoice has to be issued this way otherwise must be credited.

Starting the 1st of April all supplies of goods made by entities that are not seated or do not have a fixed establishment in Poland (according to VAT regulations in Poland) to Polish customers will be subjected to obligatory reverse charge mechanism. Under this mechanism non-Polish entities will no longer be allowed to charge Polish VAT on such supplies of goods.

Please note, reverse charge mechanism however only applies to domestic sales by a non-resident business to a company that is established in Poland.

Also, foregoing rules do not apply to supplies of services connected with immovable property provided by registered VAT taxpayer.

Instead, VAT on these supplies will need to be self-assessed by the Polish customers, even if a supplier charges Polish VAT (which would be incorrect). In that case (incorrectly charged VAT) not only the purchaser will still be required to self-assess Polish VAT but also VAT charged by the supplier will remain unrecoverable for the Polish customer.

Till the 31st of March 2011 the reverse charge mechanism was only an option and rather an exception from a general rule based on which the supplier should account for VAT.

The changes, unfortunately, may have rather negative impact on the current situation of VAT registered non-resident entities. This may be due to prolonged time in case of VAT refund as well as multiple tax audits triggered by the VAT refund claims.

For more information, such as:

1. Will it be necessary for foreign entities to be VAT registered in Poland after this amendment comes into force ?
2. Will the reverse charge mechanism be obligatory in all cases or are there any exceptions?
3. What will be the most effective way to reclaim input VAT incurred upon business operations undertaken in Poland?
4. Does the obligation not to charge VAT on sales in Poland immediately trigger an obligation to deregister?
5. Is it possible to keep the registration by non-resident entities and continue reclaiming VAT through a VAT return?
6. And other.

please do not hesitate to contact us.

Intertax team



INTERTAX LTD

ul. Krakowskie Przedmieście 47/51, 00-071 Warszawa,

tel +48 225.512.570 Fax:+48 228.263.266

www.polishtax.com, www.intertaxaudit.pl
office@intertax.com