



# The epidemic status suspends validity of some VAT regulations

Due to the spread of the SARS CoV-2 virus and consequences of introducing the epidemic status, several amendments were introduced, also in terms of VAT.

It should be noted that, in fact, they relate to regulations that, although introduced, have not yet become applicable. Unfortunately, contrary to taxpayers' expectations, the Act amending the Act on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, as well as some other acts (also called the "Special Act") does not introduce any simplification in VAT settlements (e.g. in the form of a statutory postponement of the deadline for submitting VAT returns, shortening the VAT refund deadline) or temporary suspension of certain regulations (e.g. temporary abolition of the split payment mechanism).

The so-called Special Act was adopted and signed by the President on 31 March 2020. We present below the solutions it introduces.

## 1

### Postponing the deadline for submitting a new JPK\_VAT file (tax return with accounts)

#### AMENDMENT

The so-called Anti-Crisis Shield postponed by 3 months (i.e. until 1 July 2020) the obligation to submit a new JPK\_VAT file (tax return and accounts). The deadline is postponed with regard to large taxpayers, in respect of whom this obligation, according to applicable regulations, was to apply to settlements starting from April 2020.

The Act in question provides that large taxpayers will be able to voluntarily make their settlement in the new form for April 2020, i.e. submit the new JPK\_VAT in May 2020. We recommend a great deal of caution in the case of earlier implementation of this obligation because in the case of submitting a file containing errors and failing to correct them within 14 days from the date of receiving a call from the tax office, penalties referred to in the Act on Tax on Goods and Services may be imposed.

#### BENEFIT

Introduction of the obligation to submit the new file as of 1 April 2020 was a source of concerns for large entrepreneurs. Postponing this deadline was awaited by them from the very beginning, since many taxpayers – for reasons not dependent on them – were not properly prepared for it.

## EFFECT

What is important, however, is that the obligation to submit the new JPK\_VAT file has not been postponed (e.g., by analogy, by 3 months) in the case of other taxpayers. This means that at the moment all taxpayers will be required to submit their return with accounts for July 2020. This may cause significant organizational and technical problems related to the simultaneous arising of this obligation for all taxpayers.

## 2 Postponement of the new VAT Matrix

### AMENDMENT

A new VAT matrix was to be in force as of 1 April 2020, under which goods would be qualified on the basis of the Combined Nomenclature and services – according to the Polish Classification of Goods and Services (PKWiU) of 2015. The said Act postponed the entry into force of these regulations to 1 July 2020.

### BENEFIT

Postponement of this deadline will not be good news for all taxpayers. Some of them are already prepared for the implementation of the VAT Matrix, some are not ready yet. It is also important that the introduction of the VAT Matrix involves a huge amount of taxpayers' work, such as reprogramming of cash registers in a very short time, so that proper VAT rates would be assigned to specific goods and services.

### EFFECT

Thus, until 30 June 2020, PKWiU of 2008 will continue to be used for classification for both goods and services.

## 3 Application of current VAT rates

### AMENDMENT

As a result of continued use of PKWiU of 2008 for the classification purposes, current VAT rates for goods and services will remain applicable until 30 June 2020. This applies to, inter alia, VAT rates on books (5%), e-books (5%), newspapers (8%), which remain taxed at the currently applicable rates.

It should be underlined that wherever the Act of 9 August 2019 on the amendment of the act on tax on goods and services and on the amendment of other acts (Journal of Laws, item 11751) refers to the provisions of the Combined Nomenclature or the Polish Classification of Goods and Services of 2015 as tools for the classification of goods and services – the words “from 1 April 2020” were replaced by “1 July 2020”. Thus, these provisions will enter into force on 1 July 2020.

### BENEFIT

Not only does the amendment made in this respect postpone obligations resulting from the introduction of the VAT Matrix (as referred to above) to 1 July 2020, but it also leaves the value of VAT rates on goods and services at the current level. This will be particularly important for the restaurant industry, for which the introduction of the VAT Matrix will in many cases result in an increase in the VAT rate (often to 23%). Postponing the entry into force of the VAT Matrix also has a negative effect; there will be no VAT reduction on certain goods (e.g. VAT on tropical fruit).

# 4

## Amendments to regulations regarding the Binding Rate Information (WIS)

### AMENDMENT

Amendments relating to the Binding Rate Information are closely related to the postponement of the VAT Matrix. Since the time of entry into force of the VAT Matrix was postponed, also regulations governing this new solution had to be adapted.

As a consequence of the foregoing:

- a) Tax authorities will be bound by the Binding Rate Information issued from 1 July 2020; this also applies to that Binding Rate Information that was already issued pursuant to the existing regulations.
- b) Taxpayers who would like to refer to the Binding Rate Information published in the Public Information Bulletin issued for another taxpayer can effectively do so only from 1 July 2020.

# 5

## Payments outside the white list

### AMENDMENT

The deadline for submitting a notification of making payment to an account not included in the white list will be extended from 3 to 14 days. This applies to payments for transactions over PLN 15,000.

### BENEFIT

A taxpayer who has made payment to an account not included in the white list and would like to protect himself against negative tax consequences will have 14 days to do so, so far these were 3 days.

# 6

## Temporary reduction to 0% of the VAT rate on donations of selected products

### AMENDMENT

Temporarily, from 25 March 2020 to 31 August 2020, a reduced 0% VAT rate will apply in respect of free delivery of selected products, including medicinal products, disinfectants, specialist diagnostic tests or face masks.

However, application of the reduced 0% VAT rate to such a donation of goods required compliance with the following additional conditions:

- 1) the donation of goods must be intended for purposes related to combating infection, preventing the spreading of, prophylaxis and combating the effects of the infectious disease caused by SARS-CoV-2 virus;
- 2) the donation must be made to one of the following entities:
  - Material Reserves Agency - for the implementation of its statutory tasks;
  - Central Sanitary and Anti-Epidemic Reserves Base - for the implementation of its statutory tasks;
  - entities performing medical activity entered in the list, providing healthcare services such as hospital treatment only in connection with counteracting COVID-19 (so-called isolation hospitals).
- 3) a written donation agreement must be concluded between the taxpayer supplying the goods and the abovementioned entity for whom the donation is made, which shows that the delivered goods will be used for purposes related to combating infection, preventing the spreading of, prophylaxis and combating the effects of an infectious disease caused by SARS-CoV-2 virus.

## EFFECT

Donations of selected goods for purposes related to combating the coronavirus, made to the Material Reserves Agency, the Central Sanitary and Anti-Epidemic Reserves Base or the so-called isolation hospitals – will be temporarily taxed with a reduced 0% VAT rate.

## BENEFIT

Regardless of the value, donation of selected goods for purposes related to combating infection, preventing the spread of, counteracting and combating the effects of an infectious disease caused by the SARS-CoV-2 virus, made in the period from 25 March 2020 to 31 August 2020 for the Material Reserves Agency, the Central Sanitary and Anti-Epidemic Reserves Base, or the so-called isolation hospitals – will not result in taxpayer's (donor's) obligation to pay VAT due on such donation and at the same time it will not change the sales structure.

# 7

## Optional financial penalty for errors in sales records

### AMENDMENT

In place of the obligatory imposition of a financial penalty of PLN 500 for each error in JPK\_VAT file not corrected in due time despite being called, an optional entitlement of the head of the tax office to impose this penalty on the taxpayer was introduced.

### EFFECT

Imposition of a financial penalty on the taxpayer for each error in JPK\_VAT – after the amendment will depend on the head of the tax office and it will be head's entitlement, not an obligation.

### BENEFIT

The imposition of a penalty for failure to correct errors, despite prior call, will be left to the head's discretion. However, due to the fact that this is only a "possibility" given to the authority and not the abolition of this penalty – there is still a risk of imposing a financial penalty on the taxpayer in this situation. Therefore, we recommend paying constant attention to correctness of sales records and complying with any calls from the authority made in this regard.

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We would like to inform you that our lawyers are ready to provide support in all areas of activity that may be affected by the coronavirus epidemic. We are always at your disposal, ready to answer questions, solve problems, and assist you in every legal and tax matter.

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## Contact persons



**Małgorzata Militz**  
tax advisor, partner  
malgorzata.militz@gww.pl  
tel: 602 321 637



**Piotr Świstak**  
attorney-at-law  
piotr.swistak@gww.pl  
tel: 508 424 471



**Angelika Dahms**  
lawyer  
angelika.dahms@gww.pl  
tel. 504 086 664