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KMLZ VAT NEWSLETTER

Changes for 2018 becoming more concrete

POLAND plans to publish list of active taxable persons and postpones introduction of the split-payment-system +++ ROMANIA postpones introduction of the split-payment-system +++ SWITZERLAND lowers VAT rates +++ HUNGARY is being criticized by the EU Commission for its rules on the EKAER system +++ GERMANY is being criticized by the European Commission for its implementation of the VAT refund procedure

A look across the border

1. Poland

According to a draft bill, Poland is planning to publish an official list consisting of the identities of all taxable persons. The list is expected to include the full name and address of each taxable person, as well as their VAT-ID and bank account details. This will have consequences for CIT purposes. E.g. if a payment is made to an unpublished bank account, the recipient of the goods or services will not be entitled to deduct the payment as a business expense, thereby increasing the CIT burden.

Furthermore, the recipient will be liable for any outstanding tax liabilities of the supplier if the payment is made to an unpublished bank account.

Poland is also planning to introduce a split-payment-system. The introduction, originally scheduled for 1 January 2018, is currently postponed to 1 April 2018. The reason for this is that the banks in Poland are presently working on the implementation of the system requirements, according to which the beneficiary is required to pay the VAT amount to a special tax account of the supplier. The amounts on the tax accounts are not freely available to the companies. The tax accounts may only be used to settle their own VAT liability.

2. Romania

The introduction of the split-payment-system, planned for 1 January 2018 for all taxable supplies in Romania, has been revised. Originally, the Romanian government planned that beneficiaries would be required to divide gross invoice amounts as of 1 January 2018. In that case, only the net invoice amount would have to have been paid to the performing entrepreneur. The VAT amount would have to have been paid to a special tax account of the supplier.

As a result of protests from the industrial sector, the draft law was amended on 22 September 2017. As of 1 January 2018, the split-payment-system will now only be applied for supplies to public institutions and government authorities. Regarding supplies between non-governmental enterprises, the application is to remain voluntary in 2018. An expansion,

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which will cover all taxable supplies, as was initially planned to occur as of 2018, is now envisaged to come into effect on 1 January 2019.

3. Switzerland

The current VAT rates of 8,0%, 3,7% and 2,5% were the result of a temporary VAT increase for the purpose of financing disability insurance. This temporary tax increase will be terminated at the end of 2017. Originally, the temporary increase was to be maintained for a longer time in order to finance pension provisions. However, on 24 September 2017, Switzerland, by popular vote, declined to extend the temporary increase. As a result, the following changes in the tax rates will occur as of 1 January 2018:

Tax rate	Current	Future
Standard rate	8,0 %	7,7 %
Rate for accommodation	3,8 %	3,7 %
Reduced rate	2,5 %	2,5 %

4. Hungary

By letter dated 4 October 2017, the EU Commission criticized Hungary's EKAER system, which was introduced on 1 January 2015. The EKAER system is an electronic system for the monitoring of transports of goods on public roads. Since the introduction of the EKAER system, companies have had to provide the Hungarian authorities with detailed information on all transported goods, as well as the means of transport used.

According to the EU Commission, the EKAER system restricts the cross-border trade of goods. This is a violation of the VAT Directive and the free movement of goods within the EU.

The EU Commission has set a two-week deadline for Hungary to take appropriate measures. If Hungary declines to act, the EU Commission will approach the Hungarian government with an official statement.

5. Germany

By letter dated 4 October 2017, the EU Commission also criticized the German implementation of the European regulations on the VAT refund procedure. If a German entrepreneur requests reimbursement of input tax in EU countries, there is a risk that the VAT deduction will be lost. The reason for this is that the German fiscal authorities do not pass on error notifications from the refund state to the applicant. According to the EU Commission, Germany is therefore in breach of both the provisions of the VAT Directive and the directly applicable EU Regulation 282/2011, as well as the rules on the administrative cooperation of the individual Member States.

The EU Commission has set a two-week deadline for Germany to take appropriate measures. Failing this, the EU Commission will approach the federal government with an official statement.