

## **SPECIAL SCHEME FOR CASH ACCOUNTING UNDER THE BULGARIAN VAT ACT**

The State Gazette, issue 101 of 22.11.2013, effective from 01.01.2014, introduced a special scheme for VAT cash accounting. A new Chapter Seventeen "a" is introduced to the law. This scheme is provided for in Directive 2010/45 of the Council of 13.07.2010 amending Directive 2006/112/ EC on the common system of VAT in respect of invoicing rules. In order to support small and medium sized enterprises which encounter difficulties in paying VAT, Member States have the right to introduce an optional cash accounting scheme.

The VAT cash accounting scheme is voluntary, which means that taxable persons registered for VAT purposes have the right to choose its application. Upon selecting the special scheme, an explicit permission from the NRA is required, which shall be issued by the competent territorial directorate. This scheme aims to support the taxpayers through suspension of VAT due to the state budget until the tax becomes due. Chargeability of VAT is suspended until receipt of the payment for the particular taxable supply of goods or services on or after the date of the chargeable event. In this respect, the special arrangements for cash accounting represent an exception to the general procedure of occurrence of the chargeable event and tax chargeability under art. 25 of the VAT Act. This scheme is used only for full or partial payment under a particular taxable supply only by bank transfer.

### **1. General provisions for the application of the special arrangements for cash accounting**

The special scheme for cash accounting is applied only by the persons registered for VAT purposes on the following grounds: compulsory VAT registration /art. 96 of the law/, voluntary VAT registration /art. 100 of the law/ and registration upon the supply of goods requiring assembly and installation /art. 97/. The special scheme does not apply to persons registered for VAT purposes only for distance selling of goods<sup>1</sup>, intra-Community acquisition<sup>2</sup> and for services where the tax is payable by the recipient<sup>3</sup>. To qualify for registration under the special scheme, Art. 151a para. 1 of the VAT Act provides cumulatively the following conditions:

1. the VAT registered person has a taxable turnover not exceeding the Lev equivalent amount of 500,000 Euro, realized for a period not exceeding the last 12 successive months before the current month;
2. the VAT registered person has no effective tax assessment act under Article 122 of the Tax Insurance Procedure Code and/or for liability under Article 177 of the VAT Act;

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<sup>1</sup> Art. 98 of the VAT Act

<sup>2</sup> Art. 99 of the VAT Act

<sup>3</sup> Art. 97a of the VAT Act

3. the VAT registered person has no chargeable and unpaid tax liabilities and liabilities for social insurance contributions under effective acts, and in case of existing liabilities, he has provided security or a permit for suspension or rescheduling has been granted thereto.

Even if the taxable person registered for VAT purposes has an effective tax assessment act under art. 122 of the TSSPC or an act under art. 177 of the same Code which is paid, the voluntary registration under the special scheme for cash accounting is inadmissible. The cash accounting scheme applies to all taxable supplies of goods and services, excluding the supply referred to in Art. 151a para. 2, sentence 2 of the VAT Act. It includes the following cases:

1. importation of goods;
2. intra-Community acquisitions of goods;
3. intra-Community supplies of goods and supplies under chapter three of the act, taxable at a zero tax rate;
4. supplies to persons not registered under this Act;
5. tax-exempt supplies;
6. supplies with place of transaction outside the territory of the country;
7. supplies of services with place of transaction on the territory of the country in respect whereof the tax is chargeable on the recipient of the goods;
8. supplies under lease contract under Item 3 of Article 6 (2) of the VAT Act;
9. supplies in respect whereof part eight applies, except for this chapter;
10. supplies of goods and services in respect whereof the consideration is not paid via bank transfer, including credit transfer, direct debit or cash transfer effected through a payment service supplier within the meaning of the Payment Services and Payment Systems Act, or via postal transfer effected through a licensed postal operator making money transfers within the meaning of the Postal Services Act;
11. supplies between related parties;
12. chargeable supplies in respect whereof the whole payment is made, including the tax for the supply, including the tax hereunder<sup>4</sup>, before or on the date of occurrence of the chargeable event.

## **2. Registration under the special scheme for cash reporting**

Registration is performed based on an application under art. 101 of the VAT Act. The competent territorial directorate of the National Revenue Agency may refuse to provide an authorization for application of the arrangements in the absence of the prerequisites referred

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<sup>4</sup> *The special cash accounting scheme may be applied also in the case of a partial payment of the price for the supply on the date of occurrence of the chargeable event, in compliance with the provision of art. 151c, para. 4 of the VAT Act. The special scheme shall not apply only in case of partial payment of the price on the date of occurrence of the chargeable event.*

to in art. 151a para. 1 of the VAT Act, and in the cases under art. 176 of the same act, upon its discretion. The persons applying the value added tax special cash accounting scheme are entered in a special registry, which is part of the registry under Art. 80, para 1 of the TSSPC. The entry in the registry shall be made from the date of issuance of the authorization for application of said scheme. Within seven days from the submission of the application, the revenue authority shall examine the grounds for registration. Within 7 days from the expiry of the term for examination, the revenue authority shall issue a registration act or shall refuse to carry out the registration<sup>5</sup>. The person authorized to implement the special scheme for cash accounting shall apply it from the first day of the month following the month of receipt of the authorization.

### **3. Termination of the special cash accounting scheme**

The termination of the special cash accounting scheme may be effected on the initiative of the registered person or on the initiative of the revenue authority. The registered person may voluntarily terminate the registration under the special scheme after the expiry of 12 months, considered from the month of deregistration<sup>6</sup>. The registered person shall terminate its VAT registration upon the occurrence of any of the conditions for the voluntary registration under art. 151a, paragraph 1 of the VAT Act. Termination at the initiative of the person is performed by submitting a request to the competent territorial directorate of the National Revenue Agency. If the person is obliged to terminate the registration under the special scheme the request shall be submitted within 7 days from the occurrence of the relevant circumstance under Art. 151a para. 1 of the VAT Act. The termination of the registration is based on an act of deregistration, considered from the day following the day of notification of the act.

The revenue authority is obliged to terminate the registration under the special scheme if any of the prerequisites under art. 151b para. 7 of the VAT Act is fulfilled, and in the case of Art. 176 of the same law - at its discretion. Termination of registration under Art. 151b para. 7 VAT occurs where:

- The person has not filed a request for termination of registration upon the existence of the prerequisites under art. 151a para. 1 of the Act;
- The person has deducted a credit prior to the full or partial payment for the supply, provided that the supplier is not registered under the special cash accounting scheme;
- the person has not issued or recorded the memorandum issued under Article 151c (8) of the VAT Act for the value added tax due upon received payment for the supply of goods or services effected thereby in the reporting ledger under Item 2 of Article 124 (1) and in the VAT return under Article 125 for the period for which the tax has become chargeable.

Upon termination of the application of the special tax scheme for which chargeability has not occurred, VAT becomes chargeable on the date of notification of the order for termination of

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<sup>5</sup> Art. 151a, para. 5 of the VAT Act.

<sup>6</sup> Art. 151b, para. 2 of the VAT Act.

the application of the scheme. The registered person is liable to include the tax in determining the result from the tax period in which the application of the special scheme was suspended, including in the return under art. 125. In this case, if the supplier was registered for VAT purposes, all invoices issued by him shall become due on the date of service of the order for termination of the scheme. For the recipient, if he is not registered under the special VAT scheme, the right to deduct arises when the tax becomes chargeable<sup>7</sup>, upon termination of the registration under the special scheme for cash accounting. If the recipient has a registration and the supplier has no such registration, the right of deduction arises at the time of notification of the order for termination of the scheme for cash accounting.

#### **4. Chargeability of tax in case of an intra-community supply of services**

Upon application of the special scheme for cash accounting, the chargeable event occurs under the general procedure - art. 25 of the VAT Act. In general, the chargeable event occurs on the date on which the ownership of the goods is transferred or the service is performed. The full or partial payment of the price for a specific supply does not constitute a chargeable event<sup>8</sup>, but only leads to chargeability of tax. Unlike the common scheme according to which VAT is chargeable on the date of the chargeable event or upon full or partial payment prior to that date, VAT under the special scheme is chargeable only on the date of the payment. This date is on or after the date of occurrence of the chargeable event. On the date of occurrence of the chargeable event, the supplier issues an invoice indicating the tax on a separate line. A supplier who applies the special scheme shall include the invoice issued in his sales records for the relevant tax period, but its taxable amount and the amount of tax shall not be included upon determining the result of the tax period.

The following scenarios are possible upon application of the special cash accounting scheme:

- The supplier is registered under the special scheme and the recipient is not;
- The supplier is not registered under the special scheme but the recipient is registered
- The supplier and the recipient are registered under the special scheme.

##### **4.1. The supplier is registered under the special scheme but the recipient is not**

In this case, the supplier applying the special scheme includes the invoice issued in his sales records for the relevant tax period, but its taxable amount and the amount of tax shall not be included in determining the result of the tax period. The invoice is issued on the date of occurrence of the chargeable event and shall contain the following text: "cash accounting". The tax for the supply is chargeable on the date of receipt of a full or partial payment on the supplier, and the supplier who applies the special arrangements shall indicate and incorporate the tax amount from a memorandum upon determining the result for the tax period in his sales records and in the return under art. 125 for the relevant tax period. The special VAT cash

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<sup>7</sup> Ar.t 151d, para. 7 of the VAT Act

<sup>8</sup> Argument of art. 25, para. 7 of the VAT Act

accounting scheme is used only in case of a full or partial payment for the supply on and after the date of the chargeable event, since upon a full or partial payment prior to the date of occurrence of the chargeable event VAT becomes chargeable and the recipient obtains a right of deduction.

If a partial advance payment was made before the date of occurrence of the chargeable event, the general legal procedure shall be applied. In this case, the invoice shall not indicate "cash accounting" and shall be included in the sales records and the VAT return. Upon a partial advance payment received prior to the occurrence of the chargeable event, the special scheme applies to the amount of tax paid on or after the date of the chargeable event on the difference between the taxable amount of the supply and advance paid, excluding the tax under the law<sup>9</sup>. If an invoice is issued before the application of the special scheme for a partial advance payment under a taxable supply, the chargeable event for which occurs after the first day of the month following the receipt of the authorization, the general procedure shall apply. The memorandum for VAT charging is issued by the supplier in the manner specified in the regulation.

The right of deduction for a supply, for which the supplier has applied the special scheme and the invoice for which indicates "cash accounting", arises for the recipient during the tax period in which a full or partial payment of the supply was made in favour of the supplier, and it may be exercised for the tax period during which the rights has occurred or in any of the following 12 tax periods.

#### **4.2. The supplier is not registered under the special scheme but the recipient is registered.**

In this case, the supplier issues an invoice under the general procedure, includes it in the sales records and the VAT return, and the recipient exercises the right of deduction in the tax period in which the full or partial payment of the supply was made in favour of the supplier. Just like under point 4.1., the payment should be made on or after the date of occurrence of the chargeable event in order apply the special scheme. In case of a partial advance payment made before the chargeable event occurs the right of tax credit arises under the general rules of law. To determine the amount of tax credit the recipient shall issue a memorandum in compliance with the provisions of the regulation implementing the law.

#### **4.3. The supplier and the recipient are registered under the special scheme**

In this case, the supplier issues an invoice on the date of the chargeable event, which contains the words "cash accounting". The invoice shall include the taxable amount and the tax, but in the VAT return it shall not be involved in determining the result of the period. The recipient may exercise the right of deduction upon carrying out a full or partial payment of the price for the supply, on or after the occurrence of the chargeable event. In cases of a partial payment made before the date of the chargeable event, the general procedure shall apply, i.e. VAT is chargeable upon the payment of the price. The memorandum with which VAT is

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<sup>9</sup> Art. 151c, para. 5 of the VAT Act

charged shall be issued by the supplier and it shall be used upon exercising the right of deduction<sup>10</sup>.

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<sup>10</sup> *Art. 71, point 9 of the VAT Act*