

The Act on the reduction of certain administrative burdens in the economy – overview of major amendments

On 16 November 2012, Sejm adopted the *Act on the reduction of certain administrative burdens in the economy*, prepared at the Ministry of the Economy. The Act, signed by the President on 30 November 2012, shall enter into force on 1 January 2013.

The major amendments, introduced by this Act, are commented below.

1. Amendments to the Act on the goods and services tax

In the current legislation, in the case of the so-called *small tax-payers*, where cash is the basis for tax settlements, a tax obligation arises in principle when the contractor pays the price for the goods or services supplied. However, the obligation arises always on the 90th day from delivery day at the latest, whether or not the payment has been actually made.

The new regulation, by changing the wording of art. 21 of the Act on the goods and services tax, introduces a new solution in this scope (naturally, in reference to small tax payers only, where cash serves as the basis for settlements): the above mentioned term shall be extended to 180 days, if a non-active VAT payer is obliged to pay an invoice, and the term shall be fully abolished in the case of an active VAT payer (therefore, cash-basis shall apply fully here). It should be noted that this amendment shall only relate to services rendered after the Act has entered into force.

The purpose of the amendments is, above all, to facilitate maintenance of financial liquidity of small tax payers.

2. VAT invoice correction in the case of non-payment of the price by a contractor

The Act also provides for facilitating invoice corrections related to the so-called *bad debts* (debts impossible to collect, but for which relevant tax has been settled). The Parliament accepted the proposition of the Ministry of the Economy, according to which such invoice correction shall be possible after the lapse of 150 days of the payment date. Thus, the 180-day term in force is going to be shortened. Also, in order to show that a debt is impossible to be collected, the lapse of this term shall be enough; and invoice correction shall be admissible provided that the debtor is not subject to liquidation or insolvency at the time of making the correction. Additionally, the obligation to notify the debtor of the planned correction is going to be lifted.

Along with the above regulations, the entity which has not made due payments shall be obligated to correct input VAT deducted earlier.

Those amendments shall relate to debts incurred after 1 January 2013, as well as to older ones, provided that the fact, that they are impossible to be collected, was shown after 31 December 2012.

3. Limiting the level of advance tax payments

Further interesting change includes an amendment to art. 22 § 2a of the Tax Ordinance Act – *Ordynacja podatkowa*. Decisions of tax authorities on limiting the level of advance tax payments (when they are in disproportion to the actual expected tax) should no longer be taken at their discretion. Tax payers shall still be obliged to prove the disproportion, however once they have done it, the authority will have to – and not just be entitled to – limit the level of advance payment. As a result, any authority's decision to refuse a payer's demand in this matter shall be subject to court's supervision.

This regulation is supposed to encourage tax payers to refer to this statutory solution more frequently than at present.

Next to the above mentioned propositions, the draft also contains some ideas about changes to the contract of *leasing*, as well as numerous minor modifications to reduce bureaucracy (especially lifting certain notification obligations, or admitting statements instead of official certificates in various administrative proceedings).