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REGISTRATION FOR VAT

Abstract. *Businessmen, who did not register for value added tax, should recognize legal terms and when they're fulfilled, there's an obligation of registration related to it, as well as basic terms and their importance in relation to registration of this indirect tax.*
Keywords: *VAT, registration, taxpayer.*

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Introduction

VAT act enables various types of registrations. Which type of registration businessman selects depends on several criteria, especially on the business area, on the region of the business and on their customers – taxable or nontaxable persons, domestic or foreign, from member states of European Union or from the third states.

Every type of registration is connected with different obligations and rights, that need to be recognized, because late submitting of registration application, not submitting of declaration of taxes or late submitting of it are considered as legal deliquesces and are sanctioned by the tax administrator.

Registration types for value added tax

According to act nb. 222/2004 from Codex about value added tax in form of latter regulations, registration for VAT in the Slovak republic may concern domestic and also foreign persons, types of registrations and their conditions are regulated in clauses § 4, v §7 a v §7a.

Domestic taxable persons register as taxpayers in terms of § 4 of VAT act. According to this clause, after registration they will be in a position of taxpayer and have an obligation to levy tax from their product and service deliveries and have a right for tax deduction with the exception of delivering products and services exempted from taxes according to §28-42 of VAT act.

According to §7 of VAT act registration is done by acquirers who acquire products from other member states inland.

According to § 7a of VAT act registration is done by taxable persons who receive or deliver services from/to other member state, where the place of delivery is assigned according to § 15 section 1 of VAT act and the person obligated to pay the tax is a service receiver. Registration of foreign person in the Slovak republic is regulated in §5 of VAT act and alteration of taxpayer's registration is regulated in § 6a of VAT act.

Not every registration of taxpayer results in registered person becoming the taxpayer as well. This position brings the advantage of right for tax deduction and thereby reducing their own tax obligation. Domestic taxable persons who register for VAT become taxpayers if they're registered according to §4 of VAT act.

Domestic persons who are registered according to §7 (as a result of acquiring products from other member states of EU) or according to §7a (as a result of receiving or delivering cross-border services from or to member states) are not in a position of taxpayers. That means that these registered persons have the obligation to declare and levy tax to the state budget of the Slovak republic in certain cases, but do not have the right for VAT deduction.

Hence in some cases it may be more convenient for the taxable person to opt for optional registration according to §4 of VAT act instead of obligatory registration according to §7 or §7a. Decision-making about the type of registration is individual and depends on specific activity that is carried out by a taxable person.

Registration of taxpayers according to § 4 of VAT act

In comparison to other registered persons who are in a position of payers, taxpayers have a right for tax deduction. If the businessman is registered for VAT depends on:

- The fact if they achieve sales established by law. If they do they lose the option of deciding about the registration and it will become obligatory. They cannot decide about the registration in case if they become taxpayers by law, that is:

▪ when they gain material or nonmaterial assets from the payer within acquired business or part of it,
▪ when they become assignee of payer without bankruptcy,
▪ if they add construction, part of it or building ground extempted from taxes according to §38 section 1 or section 7,

- if they're taxable person according to §8 section 7 first sentence, which does not implement individual amendment according to §68b (so a taxable person, who enables product delivery via electronic interface from provider in the third state to nontaxable persons within EU).

- The fact if they don't achieve sales established by law, they can decide about the registration and their decision-making is affected by:

- what are their fulfillments for business intentions (inputs) – on accounts of option for deduction,
- the importance of them being the taxpayer from customer's point of view (so the customers can deduct taxes from their sales invoices).

Obligatory registration

Terms of registration are not assigned equally in all member states of EU because the guideline of VAT does not involve registration. So if a Slovak businessman does activities that interfere with other member states of EU, they must check VAT act of particular member state and its obligation of registration.

According to § 4 section 1 of VAT act every taxable person, that is domestic or foreign person with registered place, place of business or business premises in the Slovak republic, or if they do not have such place or their residence is inland or if they typically stay inland and their sales reach 49 790 Euros in the period of 12 consecutive calendar months at most has an obligation of registration. Taxable person has to submit the registration application at the local tax authority by the 20th day of calendar moth following the month of achieving given sales.

Optional registration

In terms of § 4 section 2 of VAT act taxable person can request registration of the taxpayer even before reaching sales established by law, that is before their sales reach 49 790 Euros in the period of 12 consecutive calendar months at most.

While submitting request for optional registration of the taxpayer, it's relevant if the person submitting the request is a taxable person, so if they carry out economic activity in terms of § 3 of VAT act. According to obligatory definition of Court of justice of the European Union even the preparation for future taxable businesses is regarded as carrying out economic activity (decision of Court of justice C-268/83).

That is why a person who does not carry out any taxable businesses at the time of submitting request, but their intention is to carry out business activity and they can demonstrate the preparation for future taxable businesses by reliable evidence can request optional registration.

Newly found company that is interested in registration for VAT should be able to demonstrate their intention of carrying out economic activity and support it by evidence. Such evidence can be for example assigning initial invested expenses for business purposes, or demonstrating preparations for business activities. Company that does not carry out any economic activity, cannot objectively demonstrate their intention of carrying out economic activity and cannot demonstrate taxable person's position is not able to achieve taxpayer's position.

If person requesting registration does not demonstrate their intention to carry out economic activity in adequate way and they do not demonstrate that they're a taxable person, tax administrator does not grant their request for registration after evaluating all the evidence in correlative connection. It's due to no evidence of taxable person's position.

When it's convenient to be a taxpayer:

- in case of purchases from taxpayers and if customers are also taxpayers,
- while making big investments into long-term assets, because with cash flow they can count for returned VAT that will be used for short-term commitments – e.g. paying out wages or further business development,
- in case of construction businesses that invoice construction work (classified in section F of statistic classification of CPA production) to taxpayers in the Slovak republic because they achieve excessive deduction,
- if providers are taxpayers in the Slovak republic and customers are taxable persons abroad. In this case the result in relation to state budget is excessive deduction.

When it's inconvenient to be a taxpayer:

- while providing services when the final customer is a citizen or a business – not a taxpayer (e.g. businesses that provide services of establishing business companies, if they would be taxpayers their value would be increased by 20%),

- during purchases from persons who are not taxpayers, if the customer is a citizen of the Slovak republic or business – not a tax payer in the Slovak republic.

Conclusion

It's not possible to generalize the convenience or inconvenience of taxpayer's position. Its evaluation is individual. It mostly depends on the position of business partners – providers and customers, and also depends on the business subject. For example, it's "not profitable" for optional taxpayer to be a businessman who delivers nonmaterial services, so intellectual work and could only deduct tax from small purchases.

Anyway, it's necessary to consider registration for VAT according to business subject, area of business realization and the extent of it.

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