



Temporary VAT reverse charge for sales of gas in the gas system, electricity in the electric energy system and services regarding the transfer of greenhouse gas emission allowances

On April 1, 2023, the reverse charge on VAT for the supply of certain energy products came into effect. The regulations are temporary in nature and will be in force until February 28, 2025. According to the statement by the Ministry of Finance, the solution meets the expectations raised by the industry and aims to increase the competitiveness of the Polish exchange system.

In practice, the application of the newly-introduced regulations will mean that the VAT settlement obligations will be transferred:

- **from the seller** – so far obliged to issue a VAT invoice in the gross amount and pay the VAT due to the tax office, with the simultaneous right of the buyer to indicate and deduct the tax paid in the VAT return
- **to the buyer** – the seller will issue an invoice in the net amount, and the buyer will simultaneously settle the output and input VAT in a single tax return, on a reverse charge basis).

In most cases, this will avoid freezing funds to pay VAT, and will positively affect the cash-flow.

The new regulations include:

- gas supply in the gas system
- electricity supply in the electric energy system
- services regarding the transfer of greenhouse gas emission allowances.

The condition to apply them is as follows:

- the buyer of the gas or electricity is an active VAT taxpayer whose main activity with regard to the purchase of gas or energy is their resale
- with regard to the service of transfer of greenhouse gas emission allowances, the buyer is an active VAT taxpayer
- the seller is an active VAT taxpayer not subject to an exemption
- the transactions in question were carried out directly or through an authorized entity on a commodity exchange or OTF.

The main entities subject to the new regulations include energy producers (including those in the RES sector) selling to:

- buyers with an energy trading license or an account in the EU registry for the purpose of trading greenhouse gas emission rights
- brokerage houses
- a company operating a commodity energy exchange
- companies operating an exchange clearing house or a clearing house and settlement house at the same time.

Note!

Both sellers and buyers, prior to carrying out the first activity covered by the above rules, are required to submit a notice to the head of the tax office on the commencement of such activities under a penalty of a fine for a tax offense.

However, filing a notice is not a condition for the obligation to apply the new regulations.

CONTACT

Should you be interested in and are looking for support on the above topic, please feel free to contact our experts.



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