



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
VAT and other turnover taxes

Brussels, October 2010
TAXUD/C/1

VAT in the European Community

**APPLICATION IN THE MEMBER STATES,
FACTS FOR USE BY
ADMINISTRATIONS, TRADERS
INFORMATION NETWORKS ETC.**

Note

This document collates a range of basic information on the application of VAT arrangements in the Member States which has been obtained from the tax authorities concerned.

The sole purpose of distributing details of national provisions is to create a work tool. In no way does this document reflect the views of the Commission of the European Communities. Nor does it signify approval of the relevant legislation.

POLAND

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GENERAL INFORMATION

1. IF A FOREIGN TRADER WANTS TO OBTAIN INFORMATION ABOUT YOUR VAT SYSTEM, WHOM SHOULD HE CONTACT? (ADDRESS, TELEPHONE, FAX, EMAIL)?

Information about the tax system can be obtained from National Tax Information: for callers ringing from Poland the telephone number is 0-801 055 055 (for mobile networks: 22 330 03 30). Taxable persons may obtain information concerning *inter alia* VAT. Information is also provided about procedures in force in the Polish tax system. The information is provided in Polish by National Tax Information consultants.

2. WHAT IS THE ADDRESS OF THE NATIONAL TAX ADMINISTRATION WEBSITE? WHICH CATEGORIES OF INFORMATION ON VAT IS AVAILABLE ON THAT WEBSITE (GENERAL INFORMATION, LEGISLATION, CONTACT POINTS, FORMS, ETC.)? AND IN WHICH LANGUAGE(S)?

The address of the Polish Ministry of Finance is: www.mf.gov.pl

The website contains, among other things, general and detailed information on VAT, tax return forms, legislation, information materials (brochures, leaflets, etc.) for taxable persons, and answers to the most frequently asked questions concerning VAT. The website also contains basic information about changes that have occurred since Poland's accession to the EU. The full version of the website is accessible in Polish, and a short version in English.

3. WHERE IS IT POSSIBLE TO FIND NATIONAL VAT LEGISLATION AND REGULATIONS? IN WHICH LANGUAGE(S) ARE THEY AVAILABLE?

See answer to question 2.

The provisions on VAT are set out in the VAT Act of 11 March 2004 (Journal of Laws No 54, item 535, as amended) and implementing acts adopted pursuant to that Act. The Act and the implementing acts are available in Polish.

VAT REGISTRATION OF FOREIGN TRADERS

4. WHAT ARE THE CIRCUMSTANCES GOVERNING THE NEED TO BE REGISTERED FOR VAT?

As a rule, all traders engaging in activities subject to VAT on Polish territory are obliged to register for VAT if the turnover generated from those activities exceeds PLN 100 000 (in 2010). Starting from 2011, the threshold will be raised to PLN 150 000. For taxable persons commencing activities subject to VAT, the level of the threshold is proportional to the period over which the trader has engaged in business activity. A taxable person for whom the value of taxable sales does not exceed the above threshold may voluntarily give up his exemption by registering for VAT, and pay the tax on general principles. If the trader engaging in taxable activities within the territory of Poland does not have his place of residence or place of business on Polish territory (foreign trader), he must as a

rule register for VAT on Polish territory before effecting his first supply, except in cases in which the recipient of the goods or services is liable for the tax. In that case, the issue of exempting the trader depending on the level of his turnover does not arise.

5. WHAT ARE THE SITUATIONS WHERE REGISTRATION IS UNNECESSARY BECAUSE THE RECIPIENT OF THE GOODS OR SERVICES IS LIABLE FOR THE TAX? IN SUCH SITUATIONS, IS IT POSSIBLE TO REGISTER ON A VOLUNTARY BASIS?

If a taxable person who does not have his place of business, permanent address or a fixed establishment on Polish territory supplies services or goods to a Polish taxable person, then as a rule the Polish person to whom the goods or services are supplied is obliged to settle the tax, unless the tax due has been settled by the supplier of the services or goods on Polish territory. However, in the case of supplies of certain goods or services to which the reverse charge mechanism must be applied, the taxable person is always the Polish customer. Foreign traders who conduct transactions subject to VAT on Polish territory can as a rule register for VAT purposes in Poland.

6. WHOM SHOULD A FOREIGN TRADER CONTACT TO GET REGISTERED FOR VAT? (DETAILS ABOUT THE DEPARTMENT, INCLUDING ADDRESS, TELEPHONE AND FAX E-MAIL...)

If a trader has his permanent address, place of business or a fixed establishment on Polish territory, the competent tax authority is, as a general rule, the head of the tax office competent for the place where the taxable activities are carried out. In the case of foreign traders who do not have their place of business, permanent address or a fixed establishment on Polish territory, the competent tax authority is the head of the Second Tax Office for Warszawa-Śródmieście, ul. Jagiellońska 15, 03-719 Warszawa, tel.: +48 22 5113500, fax.: +48 22 5113502, e-mail: us1436@mz.mofnet.gov.pl.

7. PLEASE DESCRIBE THE DETAILED PROCEDURES (INCLUDING NECESSARY DOCUMENTS) FOR ISSUING VAT IDENTIFICATION NUMBERS, SPECIFICALLY TO FOREIGN TRADERS.

Taxable persons are obliged to submit a registration notification (form VAT-R) to the head of the Tax Office before the date of performance of their first taxable transaction. Traders exempt from tax because of the level of their turnover or who conduct only tax-exempt activities may also submit a registration notification. Next, the head of the Tax Office registers the taxable person and confirms that person's registration as an "active taxable person" or "exempt taxable person". If a particular trader loses or surrenders his tax-exempt status, he must submit a VAT-R registration notification, and if he is registered as an exempt taxable person he must update the registration notification (also using the VAT-R form). Taxable persons intending to perform intra-Community transactions are, as a rule, obliged to notify the head of the Tax Office of this intention by submitting a registration notification form before performing their first intra-Community supply or acquisition of goods. This requirement also applies to taxable persons who intend to purchase services, to whom the obligatory reverse charge mechanism applies, if those services constitute imports of services, and to taxable persons who intend to supply services to taxable persons or legal persons who are not taxable persons but are identified for the VAT purposes where it is the customer who is required to pay the VAT. The head

of the Tax Office registers traders who stated their intention of becoming EU VAT taxable persons and confirms their registration as EU VAT taxable persons.

THRESHOLDS

8. WHICH THRESHOLD DO YOU OPERATE AS REGARDS INTRA-COMMUNITY DISTANCE SELLING UNDER ARTICLE 34 OF THE VAT DIRECTIVE (2006/112/EC)?

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/traders/vat_community/vat_in_EC_annexI.pdf

9. WHICH THRESHOLD DO YOU OPERATE AS REGARDS ACQUISITIONS BY NON-TAXABLE LEGAL PERSONS OR EXEMPT PERSONS UNDER THE SECOND SUBPARAGRAPH OF ARTICLE 3 (2) OF THE VAT DIRECTIVE (2006/112/EC)?

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/traders/vat_community/vat_in_EC_annexI.pdf

APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN (NON-EU) TRADERS

10. WHAT ARE THE SITUATIONS IN WHICH THE APPOINTMENT OF A TAX REPRESENTATIVE IS OBLIGATORY?

Foreign traders who are obliged to register as active taxable persons must appoint a tax representative if they do not have their place of business, a fixed establishment or their permanent address on Polish territory. There is no such obligation for foreign traders who have their place of business, a fixed establishment or their permanent address on the territory of an EU Member State.

11. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?

A tax representative must be appointed by notarial deed between the foreign taxable person and a person meeting the requirements for being a tax representative. This person is obliged to present to the foreign taxable person a certificate issued by the relevant tax authority confirming that he meets the requirements for being a tax representative.

12. WHAT ARE THE RIGHTS AND OBLIGATIONS OF TAX REPRESENTATIVES?

A tax representative must meet the obligations of the taxable person whom he represents for VAT purposes.

13. WHAT ACTION CAN YOU TAKE IN THE EVENT OF FAILURE BY A TRADER IN ANOTHER COUNTRY TO DESIGNATE A TAX REPRESENTATIVE IN YOUR COUNTRY?

In that event a trader who has established his place of business outside the European Union must settle the tax in Poland (unless the reverse charge mechanism applies to the customer).

14. IS IT NECESSARY TO SET UP A BANK GUARANTEE?

A bank guarantee is not required.

APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN TRADERS ESTABLISHED IN THE EU

15. IS IT POSSIBLE TO APPOINT A TAX REPRESENTATIVE?

Yes

16. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?

See answer to question No 11.

17. WHAT ARE THE RIGHTS AND OBLIGATIONS OF A TAX REPRESENTATIVE?

See answer to question No 12.

18. ARE THERE SITUATIONS WHERE IT IS OBLIGATORY TO SET UP A BANK GUARANTEE?

A bank guarantee is not required.

INVOICING

RULES ABOUT INVOICING

19. WHERE CAN THE RELEVANT RULES (LAWS, REGULATIONS, INSTRUCTIONS, GUIDELINES...) BE FOUND?

Invoicing obligations are provided for in Articles 106-108 of the VAT Act of 11 March 2004 (Journal of Laws No 54, item 535, as amended) and in § 4 - 25 of the Regulation of

the Minister of Finance of 28 November 2008 concerning the refunding of tax to certain taxable persons, the issuance of invoices, the method of storing them and the list of goods and services to which VAT exemptions do not apply (Journal of Laws No 212, item 1337, as amended). Provisions concerning electronic invoicing are contained in the Regulation of the Minister of Finance of 14 July 2005 concerning the issuing and sending of invoices in electronic form and storing the invoices and making them available to tax authorities or tax control authorities (Journal of Laws No 133, item 1119). The above provisions are available on the website of the Ministry of Finance (www.mf.gov.pl <<http://www.mf.gov.pl>>).

ISSUANCE OF INVOICES

20. CASES WHERE AN INVOICE NEEDS TO BE ISSUED

As a rule, VAT taxable persons are obliged to issue invoices for supplies of goods or services. This rule also applies to part or all of the receivables received before handover of the goods or performance of the services. If the buyer of the goods or services is a natural person not conducting business activities, the taxable person must issue an invoice at the request of that person.

21. WHAT ARE THE RULES ON CORRECTIVE INVOICES (CREDIT / DEBIT NOTES)?

A corrective invoice is usually issued when, after the invoice is issued, a discount is granted or the price increased, or an error is found in the price, rate, or amount of tax, or in any other item on the invoice. The corrective invoice should contain, among other things, its sequence number and the date of its issuance, some data contained in the invoice to which the corrective invoice refers, the name of the goods or services covered by the discount, the amount and type of discount granted and the amount by which the tax due is reduced. The buyer receiving the corrective invoice must correct the deduction of the amount of tax assessed. These issues are governed by § 13 and § 14 of the Regulation of the Minister of Finance of 28 November 2008 concerning the refunding of tax to certain taxable persons, the issuance of invoices, the method of storing them and the list of goods and services to which VAT exemptions do not apply, and Article 29 (4a), (4b) and (4c) of the VAT Act of 11 March 2004.

22. WHAT IS THE TIME LIMIT FOR ISSUING INVOICES?

The general rule is that an invoice must be issued no later than on the seventh day after goods are handed over or the service is performed.

23. WHAT ARE THE RULES FOR SUMMARY INVOICING?

The taxable person may enter on the invoice the month and year of the sale in the case of continuous sales. The invoice must be issued no later than the seventh day after the end of the month in which the sales were made. These issues are regulated by of § 5 (1) (4) and § 9 (2) of the Regulation of the Minister of Finance of 28 November 2008 concerning the refunding of tax to certain taxable persons, the issuance of invoices, the

method of storing them and the list of goods and services to which VAT exemptions do not apply.

24. WHAT ARE THE CONDITIONS IMPOSED ON SELF-BILLING?

An invoice confirming the supply of goods or services may be issued by a buyer who is a registered active taxable person. This is provided for in § 6 of the Regulation of the Minister of Finance of 28 November 2008 concerning the refunding of tax to certain taxable persons, the issuance of invoices, the method of storing them and the list of goods and services to which VAT exemptions do not apply (Journal of Laws No 212, item 1337, as amended).

The buyer of the goods or services must have an agreement with the supplier of the goods or services authorising the buyer to issue invoices, corrective invoices and duplicates in the name of and on the account of the supplier of the goods or services.

The buyer should also supply inform the relevant head of the tax office in writing about the conclusion of such an agreement within 14 days of concluding it.

25. IS THERE ANY SPECIFIC RULE IN RELATION TO OUTSOURCING OF INVOICES TO A PERSON WHO IS ESTABLISHED OUTSIDE THE EU?

No.

CONTENT OF INVOICES

26. UNDER WHAT CONDITIONS MUST THE VAT NUMBER OF THE CUSTOMER BE ON THE TAX INVOICE?

As a rule, where both the buyer and the seller are taxable persons, their VAT identification numbers should be entered on the invoice. Invoices issued to natural persons who do not conduct business activity and natural persons conducting business activity in the form of individual farms may be issued without the buyer's VAT identification number.

27. ANY OTHER SPECIFIC RULE IN RELATION TO THE CONTENT OF THE INVOICE.

In general, the data which should be entered on the invoice are specified in § 5 of the Regulation of the Minister of Finance of 28 November 2008 concerning the refunding of tax to certain taxable persons, the issuance of invoices, the method of storing them and the list of goods and services to which VAT exemptions do not apply (Journal of Laws No 212, item 1337, as amended). Detailed provisions are set out in § 6 (3) and § 7 of the Regulation of the Minister of Finance cited above.

Pursuant to § 17 of that Regulation, in certain circumstances single tickets documenting the transport of persons, documents concerning financial intermediation services

exempted from tax and proofs of payment of motorway toll charges may also be regarded as invoices. A VAT document for air traffic control and supervision services for which route charges are collected is also regarded as an invoice if it meets certain conditions.

ELECTRONIC INVOICING

28. AS REGARDS INVOICES SENT WITH ADVANCED ELECTRONIC SIGNATURES, IS IT OBLIGATORY TO USE QUALIFIED CERTIFICATES AND SECURE-SIGNATURE-CREATION DEVICES? IF SO, PLEASE GIVE DETAILS.

Invoices may be issued, sent and stored in electronic form, provided that the authenticity of their origin and the integrity of their contents are guaranteed by:

- 1) secure digital signature within the meaning of Article 3 (2) of the Digital Signature Act of 18 September 2001 (Journal of Laws No 130, item 1450, as amended), verified using a valid qualified certificate, or
- 2) electronic data interchange (EDI) in accordance with the European Model EDI Agreement, if the agreement on the interchange provides for the application of procedures guaranteeing the authenticity of origin of the invoice and data integrity.

29. AS REGARDS INVOICES SENT BY ELECTRONIC DATA INTERCHANGE, IS AN ADDITIONAL SUMMARY DOCUMENT ON PAPER OBLIGATORY? IF SO, PLEASE GIVE DETAILS ABOUT ITS CONTENT AND PROCEDURE.

No, there is no obligation to supply a paper version of invoices sent in electronic form. No paper document is required for invoices issued electronically either.

30. DO YOU ALLOW INVOICES ISSUED PURSUANT TO ARTICLE 233(1), SECOND SUBPARAGRAPH, OF THE VAT DIRECTIVE (2006/112/EC) ("BY USING ANY OTHER ELECTRONIC MEANS")? IF SO, UNDER WHICH CONDITIONS AND FORMALITIES?

No, this is not allowed.

31. ANY OTHER SPECIFIC RULE IN RELATION TO ELECTRONIC INVOICING.

The provisions on electronic invoicing are contained in the Regulation of the Minister of Finance of 14 July 2005 concerning the issuing and sending of invoices in electronic form and storing the invoices and making them available to tax authorities or tax control authorities (Journal of Laws No 133, item 1119). The Regulation is available on the website of the Ministry of Finance (www.mf.gov.pl).

STORAGE OF INVOICES

32. WHAT ARE THE RULES ON THE PLACE OF STORAGE OF INVOICES?

Traders are obliged to notify the competent head of a Tax Office of, among other things, the place of storage of documents concerning their business activity (including invoices).

33. IS PRIOR NOTIFICATION OF INVOICES STORED IN ANOTHER COUNTRY AN OBLIGATION? IF SO, PLEASE SPECIFY.

Invoices issued in electronic form may be stored on the territory of a Member State other than the territory of Poland (provided that the head of the Tax Office and the head of the Customs Office received the prior notification in certain cases), in accordance with § 6 (2) of the Regulation of the Minister of Finance of 14 July 2005 concerning the issuing and sending of invoices in electronic form and storing the invoices and making them available to tax authorities or tax control authorities (Journal of Laws No 133, item 1119). The Regulation is available on the website of the Ministry of Finance (www.mf.gov.pl).

34. WHAT IS THE OBLIGATORY STORAGE PERIOD FOR INVOICES?

Taxable persons are obliged to store originals and copies of invoices and corrective invoices, as well as duplicates of those documents until the tax liability is time-barred (i.e. as a rule 5 years after the end of the calendar year in which the deadline for the payment of tax lapsed).

35. WHAT ARE THE SPECIFIC RULES ON STORAGE FORM AND POSSIBLE CONVERSIONS?

Invoices are stored in their original form, broken down by accounting period and in a way that facilitates easy retrieval. Invoices issued in electronic form should be stored in the format in which they were sent, in a way that guarantees the authenticity of their origin and the integrity of their contents, as well as their legibility for the entire storage period.

36. ANY OTHER SPECIFIC RULE IN RELATION TO INVOICE STORAGE.

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SIMPLIFIED INVOICES

37. WHAT ARE THE SITUATIONS WHERE SIMPLIFIED INVOICING IS ALLOWED PURSUANT TO ARTICLE 238 OF THE VAT DIRECTIVE (2006/112/EC)? AND WHAT ARE THE SPECIFIC RULES?

See answer to question No 27.

PERIODIC VAT RETURNS

38. UNDER WHAT CIRCUMSTANCES IS A TRADER OBLIGED TO SUBMIT A VAT RETURN?

As a general rule, taxable persons who are not VAT exempt are obliged to submit periodic tax returns for each tax period.

39. AT WHAT INTERVALS ARE VAT RETURNS AND ASSOCIATED PAYMENTS TO BE MADE?

As a rule, taxable persons are obliged to submit their tax returns to tax offices for each monthly period by the 25th day of the following month. Taxable persons may choose a quarterly accounting period (one of several conditions for this is prior notification of the head of the Tax Office).

40. WHAT IS THE PROCEDURE FOR THE REPAYMENT OF EXCESS VAT DECLARED IN THE PERIODIC VAT RETURN? WHAT ARE THE TIME LIMITS FOR REPAYMENT, IF ANY?

Where the amount of tax assessed is higher during the accounting period than the amount of tax due, the taxable person has the right to reduce the amount of tax due for the following periods by that difference or to receive a refund of the difference to his bank account. As a rule the tax difference is refunded to the taxable person's bank account within 60 days from submission of the tax return by the taxable person. When certain conditions are met, at the request of the taxable person submitted together with the tax return, the Tax Office must refund the tax difference within 25 days from the date of submission of the return. However, where the taxable person has not engaged in any taxed activities within the accounting period, the amount of tax assessed for that period is carried over to the following accounting period, or the taxable person is entitled to a refund, at his substantiated request, within 180 days of submission of the return.

41. DOES A SPECIAL REGIME EXIST AS REGARDS PERIODIC VAT RETURNS FOR SMALLER TRADERS AND/OR CERTAIN CATEGORIES OF BUSINESS? IF SO, PLEASE DESCRIBE IT.

Taxable persons who are exempt because of the level of their turnover, or who carry out only exempt activities, are not obliged to submit tax returns. "Small taxable persons" who use the VAT cash accounting scheme submit tax returns for quarterly periods by the 25th day of the month following each consecutive quarter. Small taxable persons who have not opted to use the VAT cash accounting scheme may submit their returns quarterly and pay the tax within deadlines indicated in the previous sentence. A "small taxable person" should be understood as a VAT taxable person:

- a) the value of whose sales (including the tax amount) did not exceed the amount expressed in zloty corresponding to EUR 1 200 000 in the previous tax year,
- b) who operates a brokerage firm or is an investment fund manager, agent, contractor or other person providing services of similar nature, with the exception of

commission sales – if the amount of commission or other forms of remuneration for services performed (including the tax amount) did not exceed the amount expressed in zloty corresponding to EUR 45 000 in the previous tax year.

Tax returns for quarterly periods may be also submitted by other taxable persons, who must, however, then pay monthly advances for the tax settled quarterly.

42. DO YOU OPERATE SIMPLIFIED CALCULATIONS OF TAX LIABILITY? IF SO, WHAT ARE THE QUALIFYING CRITERIA, TO WHOM DO THEY APPLY AND WHAT IS THE NATURE OF THE SIMPLIFICATION?

The VAT cash accounting scheme (which links the chargeable event and the right to deduct the tax to the time when payment is made) may be applied by small taxable persons (listed in item 41) who have opted for this scheme. Taxable persons who supply taxi services may also opt for flat-rate taxation without the right to deduct input tax. The VAT Act also include provisions on flat-rate taxation for farmers, on principles in accordance with Articles 295 - 305 of Directive 2006/112/EC.

RECAPITULATIVE STATEMENTS

43. MAY RECAPITULATIVE STATEMENTS BE SUBMITTED AT QUARTERLY INTERVALS? IF SO, UP TO WHAT THRESHOLD AND ON WHAT CONDITIONS?

Yes. Recapitulative statements may be submitted for quarterly periods by the 15th day of the month following the quarter during which the tax liability was incurred for:

1. intra-Community supply of services for which the person liable for the value added tax is the service recipient, regardless of the value of the transaction,
2. intra-Community supplies of goods and supplies in the context of intra-Community simplified triangular transactions, if the total value of the transactions, without the value added tax, does not exceed EUR 50 000 (PLN 250 000) in the given quarter and in any of the four preceding quarters; until 31 December 2011 the limit is EUR 100 000 (PLN 500 000),
3. intra-Community acquisitions of goods if the total value of those transactions without tax does not exceed EUR 10 000 (PLN 50 000) in the given quarter.

Since one recapitulative statement is submitted for all intra-Community transactions, if one of the limits (for supplies or acquisitions) is exceeded, the trader will be obliged to submit a monthly recapitulative statement.

44. IS ANY ADDITIONAL INFORMATION REQUIRED OTHER THAN THAT SET OUT IN ARTICLE 266 OF THE VAT DIRECTIVE (2006/112/EC)?

No, there is no such requirement in this respect.

45. DO YOU OPERATE SIMPLIFIED PROCEDURES AS REGARDS RECAPITULATIVE STATEMENTS AS PROVIDED FOR IN ARTICLE 269 OF THE VAT DIRECTIVE (2006/112/EC)? IF SO, WHAT ARE THE RELATED THRESHOLDS FOR APPLYING SUCH PROCEDURES?

No, there is no provision for such a procedure.

ELECTRONIC RETURNS

46. IS IT POSSIBLE TO SUBMIT VAT RETURNS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT RETURNS ELECTRONICALLY?

Yes. The provisions concerning the submission of VAT returns in electronic form are set out in the Regulation of the Minister of Finance of 24 December 2007 concerning the logical structure of returns and applications, the method of sending them and the types of digital signature to be used (Journal of Laws No 246, item 1820, as amended). This Regulation (including amendments thereto) and information concerning the submission of electronic returns may be found on the website of the Ministry of Finance (www.mf.gov.pl) in the part concerning “e-returns”.

47. IS IT POSSIBLE TO SUBMIT RECAPITULATIVE STATEMENTS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT STATEMENTS ELECTRONICALLY?

Yes. Recapitulative statements may be submitted using electronic means of communication. In that case recapitulative statements must be submitted by the 25th day of the month following the month or quarter in which the tax liability for intra-Community transactions was incurred.

The provisions concerning the submission by electronic means of recapitulative statements of intra-Community transactions and corrections to those statements are contained in the Regulation of the Minister of Finance of 24 December 2007 concerning the logical structure of returns and applications, the method of sending them and the types of digital signature to be used (Journal of Laws No 246, item 1820, as amended). Additional information may also be found on the website of the Ministry of Finance www.e-deklaracje.gov.pl <<http://www.e-deklaracje.gov.pl>>

OBLIGATIONS CONCERNING IMPORTS

48. WHO ARE THE PERSONS THAT CAN BE DESIGNATED OR RECOGNISED AS LIABLE TO PAY IMPORT VAT UNDER ARTICLE 201 OF THE VAT DIRECTIVE (2006/112/EC)?

The persons taxable for imports of goods are the legal persons, organisational units without legal personality and natural persons who:

- a) are liable for the customs duties, even when, pursuant to customs legislation, the imported goods are exempt from customs duties or the customs duties on the goods have been suspended in part or in their entirety, or a preferential, reduced or zero rate of customs duties has been applied;
- b) are eligible for a customs procedure including inward processing, temporary importation and processing under customs control, including persons to whom rights and duties relating to those procedures have been transferred under separate provisions.

49. WHAT ARE THE RULES FOR DECLARATION AND PAYMENT OF IMPORT VAT?

As a rule, taxable persons are obliged to calculate the amount of tax with reference to the current rates, and enter it in the customs declaration and to pay the amount of tax calculated within 10 days of the date of notification by the customs authority about the amount of the tax liability. Different rules apply to taxable persons who are allowed to account for the import VAT directly in their tax return, or who have been granted a SASP. The detailed rules for assessment and collection of tax on imports of goods are set out in Articles 33-40 of the VAT Act.

50. DO YOU APPLY THE OPTION OF "POSTPONED ACCOUNTING" REFERRED TO IN ARTICLE 211 OF THE VAT DIRECTIVE? IF SO, THEN ON WHAT CONDITIONS?

Article 33a of the VAT Act of 11 March 2004 (Journal of Laws No 54, item 535, as amended) allows the tax due on imports of goods to be settled directly in the tax return, rather than having to pay the tax in the customs office. This option is available to taxable persons applying the simplified procedure mentioned in Article 76 (1) (b)-(c) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, where the accounting period is a calendar month. Taxable persons on whose behalf the customs declaration is submitted also have the right to account for tax in respect of imports of goods directly in the tax return where the goods are placed under a simplified procedure by an indirect representation within the meaning of the customs legislation. Entitlement to this option is dependent on the fulfilment of certain conditions.

ADMINISTRATIVE REQUIREMENTS

51. DO YOU OPERATE A FLAT-RATE SCHEME? IF SO, TO WHOM DOES THE SCHEME APPLY?

Yes. The scheme applies to flat-rate farmers and persons who perform passenger and luggage transport services by taxi.

52. DO YOU OPERATE SIMPLIFIED ADMINISTRATIVE REQUIREMENTS OTHER THAN THOSE ALREADY MENTIONED? IF SO, PLEASE GIVE A DESCRIPTION.

Yes. Taxable persons who supply commercial services that are taxed at different rates or are taxable and VAT exempt, and who are not obliged to keep a register of sales using a fiscal cash register may, for the purposes of calculating the tax due, divide up the sales of goods in a given accounting period in proportion to the documented purchases for the period in which they were bought.

53. IN WHICH LANGUAGE(S) ARE FORMS (PERIODIC VAT RETURNS AND RECAPITULATIVE STATEMENTS) AVAILABLE OR TRANSLATED INTO?

Tax returns and recapitulative statements are available in Polish.

RIGHT TO DEDUCTION

54. FOR WHICH CATEGORIES OF GOODS AND SERVICES IS THERE NO RIGHT OF DEDUCTION?

As a general rule, there is no right to deduct input tax on the purchase of, *inter alia*:

- exempt goods and services and goods and services not subject to taxation,
- accommodation and catering services,
- motor fuels, diesel oil and gas used for some categories of passenger cars with a maximum permissible mass not exceeding 3.5 tonnes.

55. ARE THERE CATEGORIES OF GOODS AND SERVICES IN WHICH THERE IS A PARTIAL RIGHT OF DEDUCTION? IF SO, WHAT IS THE PERCENTAGE?

For the purchase of passenger cars or other vehicles with a maximum permissible mass not exceeding 3.5 tonnes, the amount of input VAT is calculated as 60 % of the amount of tax specified in the invoice, the amount of tax due on an intra-Community acquisition of goods or the amount of tax due on a supply of goods for which the buyer is the taxable person, but in no case may it exceed PLN 6 000.