

## **BELATED PREPAYMENT MEANS YOU HAVE TO RAISE A NEW PREPAYMENT INVOICE**

According to VAT Act (Article 106i.7.2), a prepayment invoice may not be issued earlier than 30 days before receipt of full or partial payment.

However, it happens in business practice that the customer does not make the prepayment within that time or the contract provides for a longer time for prepayment under prepayment invoice. In such cases, the prepayment invoice would not be compliant with VAT Act.

The Finance Minister took a stance on this matter through Director of Łódź Tax Chamber, who issued private tax ruling ref. **IPTPP4/443-785/14-4/ALN** on 29 Jan 2015.

The case with which the ruling was concerned involved a party who issued a prepayment invoice to their client under a service agreement. The client made the prepayment more than 30 days after the invoice was issued.

The tax authority held that since the invoice was issued before performance of the service and receipt of all or part of the payment, and the invoiced prepayment was not received within 30 days from invoice date, the invoice should be considered to be contrary to the VAT Act. In consequence, the invoice issuer should have raised a correcting invoice to correct not the date of receipt of the prepayment but the very transaction, which never took place.

Then, as the the invoice issuer actually received the prepayment later on, he should have raised a new prepayment invoice under Article 106b.1.4 VAT Act in support of that later prepayment.

This ruling may offer tax authorities some footing to challenge prepayment invoices issued more than 30 days before receipt of prepayment, including especially the right to deduct VAT stated on such invoices.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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