

Review of letters from the tax authority

September 2017

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Voluntary issuance of electronic invoices

Position of the SRC

The State Revenue Committee ("SRC") clarifies that the tax legislation does not limit voluntary issuance of electronic VAT invoices ("e-invoices").

As such, the SRC confirmed that taxpayers who are not yet obliged to issue e-invoices may issue both electronic and paper invoices. Such taxpayers should not be subject to administrative liability for issuance of paper invoices.

In addition, the SRC advises that it plans to introduce tools for documentation of acts of acceptance, bills of lading and other shipping documents in the e-invoicing system in 2018.

[SRC letter №КІД-08-2-17021-КІД-7951 dated 29 March 2017]

Comments

We recommend taxpayers to start issuing at least some invoices in e-format before enforcement of requirements for obligatory issuance of e-invoices. This allows implementing necessary changes in accounting systems and documentation processes in advance.

Tax period and grounds for VAT offset

Position of the SRC

The SRC confirms that a tax period for VAT offset should be determined in accordance with paragraph 3 of Article 256 of the Tax Code. As such the later of the following dates should be used:

- the date of receipt of goods, work or services;
- the date of issuance of a VAT invoice.

However, paragraph 8 of Article 256 provides that, if there are several grounds for VAT offset, it should be made based on the earliest. The SRC hold that paragraph 8 does not contradict to paragraph 3.

The SRC provides an example by referring to the grounds for VAT offset on goods and services used for construction of non-residential premises being a part of a residential building. According to paragraph 3-3 of Article 256, the right for VAT offset arises only on sale or lease of the non-residential premises. According to paragraph 8 of Article 256, on leasing the premises in the 1st quarter of 2017 and further sale in the 2nd quarter, the taxpayer's right for VAT offset occurs on leasing (i.e. based on the earliest ground).

[SRC letter dated March 13 2017 №КІД-07-1-13035-КІД-6523]

Comments

It is not clear from the comments of the SRC how to treat the provisions of Article 256. Considering the example, we understand that paragraph 8 of Article 256 is intended to be applied only in specific cases. In general, we recommend applying paragraph 3 of Article 256 for determination of the tax period for VAT offset.

Deduction of employees' salaries and other payments to individuals

Position of SRC

The SRC clarifies the procedure for deduction of income of employees and other payments to individuals, both groups of which are directly involved in production of goods.

In the CIT return (form 100.00), deduction of these expenses should be reflected as follows:

- lines 100.00.009 I and 100.00.09 II should contain the book value of inventory at the beginning and end of a tax period, including salaries of employees directly involved in production of the inventory;
- line 100.00.009 IV should reflect the total expenses for the period as accrued income of employees as well as other payments to individuals. This amount should represent the income of employees included in the value of inventory.

Thus, expenses being income of employees included in the value of inventory should be deducted when the inventory has been sold. No additional adjustments are required for line 100.00.009 IV with respect to employees' income included in the value of inventory.

If the inventory is not used for income generating purposes, the value of such inventory should be excluded from deductions in line 100.00.009 VIII.

[SRC letter dated 14 April 2017 N°KI/I-07-1/9767-II]

Comments

We recommend taxpayers to ensure their approach is consistent with this.

Application of risk management system for VAT refund

Position of the SRC

The SRC confirms the risk management system ("RMS") as applicable only to direct suppliers of taxpayers having the right to apply the simplified procedure for VAT refund as per the Government Decree N°279 dated 27 March 2013 ("RMS Rules").

The SRC also clarifies that, on submission of an additional VAT return resulting in reduction of previously assessed VAT payable or in increase of excess VAT amounts, the taxpayers receives 10 points as per the table of criteria for risk level in paragraph 3 (i.e. increases assessed risk levels).

[SRC letter dated 24 May 2017 N°KI/I-08-3-27621-KI/I-13297]

Comments

In this letter, the SRC does not specify whether the tax authorities could apply the provisions of paragraph 7 of the RMS Rules to form a "Suppliers Pyramid", i.e. an analytical report on suppliers in the value chain below direct suppliers of a taxpayer.

However, in practice, the tax authorities form a "Suppliers Pyramid" for suppliers located in the second and lower supply levels for taxpayers having the right to apply the simplified procedure for refund of the excess VAT.

Note too, that the SRC applies paragraph 7 of RMS Rules, according to which the SRC categorises a taxpayer as risky by referring to indicators of tax evasion in his activity.

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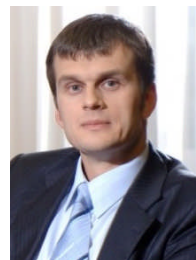
If you are interested in further information of how this might affect your business, please contact PwC team members servicing your company, or any person below.



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