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## New sanctions regarding so called 'blank invoices' may affect not just tax fraudsters

**On 1 March 2017 regulations of the Act of 13 February 2017 amending the Polish Criminal Code and certain other statutory laws entered into force. The above-mentioned provisions have introduced new types of offences against the credibility of documents.**

**The new regulations are supplementary to the amended provisions of the VAT Act being in force as of 1 January 2017, which implemented additional sanctions for discrepancies in VAT settlements, as well as to the amended regulations of the Criminal Fiscal Code introducing stringent penalties for taxpayers taking part in tax frauds.**

### **New types of offences in the Criminal Code**

As of 1 March 2017 individuals who falsify invoices or issue fabricated invoices may be held liable pursuant to Criminal Code provisions.

According to the newly introduced regulations the following acts shall be subject to criminal liability:

- falsifying invoices or issuing fabricated invoices with regard to data which might affect the amount of tax liability or the level of any refund, or
- provision of false information in the invoices in order to gain tax advantages.

The use of fabricated invoices in place of authentic ones is also penalized.

The severity of penalties for the above-mentioned acts depends on the value of the amount involved resulting from such invoices.

In case of invoices of a gross value exceeding 10 million PLN such offences are punishable even by imprisonment of up to 25 years.

### **Sanctions introduced by the provisions of the VAT Act**

Notwithstanding the liability under the Criminal Code regulations, usage of so-called 'blank invoices' (invoices which do not document actual transactions) may be also subject to sanctions introduced by the amended provisions of the VAT Act.

Starting on 1 January 2017 taxpayers who deduct input VAT resulting from such invoices shall be obliged not only to repay the deducted amount along with default interest but also to pay so called additional sanctions.

In cases of understatement of the VAT liability amount or overstatement of the amount of VAT refund caused by deduction of the input VAT resulting from 'blank invoices' the additional sanctions would be equal to 100 per cent of such amount.

The tax authorities are also entitled to deregister ex officio VAT payers who issued 'blank invoices' or who knew or had reasonable grounds

to believe that their suppliers or purchasers, participating in the delivery of the same goods or services, were involved in unreliable VAT settlements in order to gain a financial advantage.

Removal from the register of VAT payers may have significant consequences for both the taxpayer and his contractors.

### **Amendments to the Fiscal Penal Code**

More severe penalties specified by the provisions of the Fiscal Penal Code have been also introduced.

Up to 31 December 2016 issuance or use of falsely issued invoices or bills was punished with fine of up to 240 times the daily rate.

Currently, the above-mentioned act is punishable by a fine of up to 720 times the daily rate or imprisonment, or both these penalties jointly.

While the aforementioned provisions have been introduced to combat VAT fraudsters, they may also impact businesses who were not aware of the fraudulent activities of their contractors.

Therefore, in order to decrease the risk of negative tax consequences, we recommend reviewing current procedures concerning both the verification of contractors and VAT settlements.

If you have any questions regarding the issues discussed in this alert please do not hesitate to contact us.

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