

With effect from 1 September 2016, a new tax on retail sales will be introduced in Poland. The tax will be payable by larger retailers – all vendors selling goods to consumers who meet the minimum monthly revenue level of PLN17 million (about €4million), regardless of their legal status.

The tax will cover retail sales of goods to consumers – sales to persons (including individuals) engaged in economic activity are not taxed. Internet sales will generally be excluded, as will be sales of utilities, certain drugs and nutritional foods.

If the sale of a service is closely linked to a sale of goods, it will be considered part of the retail sale, and will also be taxed. For example, the sale of a washing machine with delivery will all be taxable as the sale of the washing machine.

The taxable basis will be the monthly revenue (excluding VAT) of the retailer from sales of goods to consumers. Generally the tax will be determined based on the revenue recorded as cash sales, but it also includes advance payments, instalments, prepayments and down payments.

Problems might arise with establishing whether a person conducting an individual business activity purchases goods in relation to their business or not. This will determine whether the sale is subject to the retail tax. The retailer will be forced to decide if the invoice is issued in relation to the business activity of the individual entrepreneur and not subject to tax, or whether the customer has requested an invoice but the purchase is not related to their business activity, e.g., a purchase of baby clothes.

The sales tax has two rates, one for sales between PLN17 million and PLN170 million and one for sales above PLN170 million per month. The two rates are 0.8% and 1.4% respectively.

The new tax must be settled on a monthly basis by the 25th day of the following month, provided that the PLN17 million threshold has been reached in the particular month. Taxpayers will be also required to submit a monthly tax return.

Concerns have been raised that large retail chains would divide into smaller separate legal entities to avoid the tax. However the Ministry of Finance has said it is not concerned because of the new general anti-avoidance rule, which came into force in Poland on 15 July 2016.

The government expects the tax to be absorbed by retailers; however, suppliers are almost certain that the cost of the tax will be pushed onto them. When the tax enters into force, it is sure to cause more controversy, particularly as to the method of calculating the taxable base.

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