

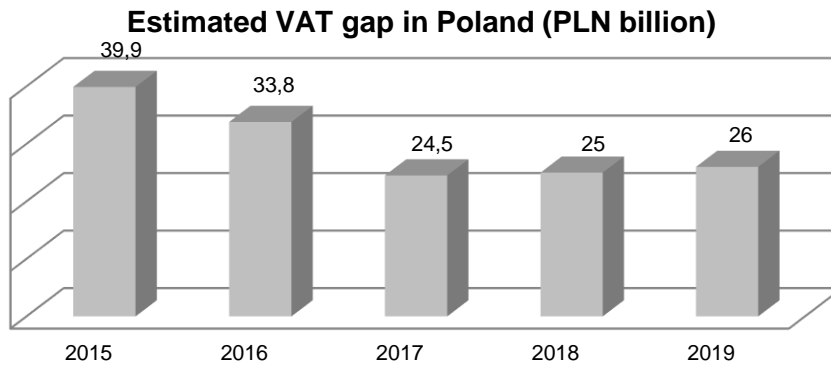
PRESS RELEASE

VAT MAFIA TARGETING ELECTRONICS DISTRIBUTORS

Warsaw, 11 August 2020 – Despite the efforts of the government, the VAT gap is growing, which means that efforts to tighten the tax system are not effective. "Currently, electronics distributors are among the entities most vulnerable to unwitting participation in the VAT carousel procedure," notes Arkadiusz Matusiak, a former prosecutor, expert on fiscal criminal liability and the head of the White-Collar Crime team in Wolf Theiss Warsaw office.

Forecasts concerning the tax gap show that the problem of VAT carousels has not disappeared. After a decline in 2017, when the gap amounted to PLN 24.5bn¹, there has been a slight increase in 2018 and 2019.

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"Tax crimes are based on a fictitious trade of the same goods as a legitimate trade. Due to the specific nature of their business, electronics distributors are exposed to participation in such fictitious trades, unbeknownst to them. This is due, among other things, to the range of products they trade in, which have an increased turnover due to a high level of interest in computer equipment as a result of the COVID-19 pandemic. Often, high-value equipment is not marked with a serial number which makes it possible to distinguish individual batches of goods. Criminals search for entities which have good brand recognition and reputation among consumers in order to make their fraudulent activity appear more credible," says Arkadiusz Matusiak from Wolf Theiss.

Even without being aware of participating in carousel transactions, a taxpayer may become a participant and consequently be held liable. Most often, the charges are levied against board members, chief accountants and CFOs. Apart from fiscal offenses, individuals may be charged with participation in organised crime.

¹ https://www.podatki.biz/artykuly/luka-w-vat-nieznacznie-w-gore_16_44674.htm
<https://demagog.org.pl/wypowiedzi/ile-rocznie-wynosila-luka-vatowska-za-rzadow-platformy-obywatelskiej/>

"In electronic trading, we often deal with transactions in which the goods are not transported to the buyer but remain in the seller's warehouse for some time. This is the business model that online shops practice. To the detriment of entrepreneurs, these transactions are often the type that are scrutinized by prosecutors. Repeated purchases of the same equipment may also be suspicious to tax authorities and thus instigate a criminal investigation," adds Matusiak.

"Lawmakers have imposed a duty of care and co-responsibility on companies to ensure they do not participate in VAT carousels. Although companies may refer to a white list of contractors to help minimize the risk of fraudulent activity, this is the bare minimum that companies can do. There must be internal policies and procedures of verification and acceptance of contractors that are more in-depth and scrutinized, and are adjusted to the characteristics of a given industry," emphasizes Karolina Stawowska, partner of the Tax Team of Wolf Theiss Warsaw office.

"The procedure of verification of contractors on the basis of the so-called white list is currently not enough. There have been companies trading in goods on a large scale, in which even this basic procedure has not been implemented. All companies should take care to implement the available solutions, such as the white list, to protect against participation in tax carousels. Merely charging a company with a fiscal crime can be very detrimental to their business operations. The key is the procedure of verification of suppliers and recipients, as well as the implementation of split payments. A good solution is also D&O insurance (Directors and Officers), which protects managers of companies. Proceedings concerning VAT carousels are extremely expensive, and in most cases, the full appeal path is utilised, both in criminal and tax proceedings," concludes Arkadiusz Matusiak.

According to the Ministry of Finance, last year the number of detected VAT losses increased fourfold compared to 2018 to PLN 584 million, funds blocked on accounts used by dishonest entities – six times, and the number of accounts established for money laundering and VAT refund fraud from which funds could be withdrawn – thirteen times.

ABOUT WOLF THEISS

Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 countries, over 80% of the firm's work involves cross-border representation of international clients. Combining expertise in law and business, Wolf Theiss develops innovative solutions that integrate legal, financial and business know-how.

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