

SYLWIA ADAMCZYK-KACZMARA<sup>1</sup>

# Changes Concerning Cash Registers as a Manifestation of Measures to Tighten the Tax System

## Abstract

It has been several years since the search for solutions that would improve and increase the supervision and control of tax authorities over the taxable persons' turnover made from selling to natural persons started. The legislative activities currently undertaken in this domain (especially the implementation of online registers) are oriented towards the increasing digitalisation of the process in question, supplementing the already existing solutions (such as the obligation to file electronic VAT return forms and SAF-T [PL: JPK] files).

**Keywords:** cash registers, online cash registers, turnover recording, tightening the tax system, digitalisation

---

<sup>1</sup> Sylwia Adamczyk-Kaczmaro – Deloitte; e-mail: [sadamczyk@deloittece.com](mailto:sadamczyk@deloittece.com); ORCID: 0000-0002-4778-3706.



## General remarks

Twenty five years have passed since the obligatory use of cash registers was introduced in Poland.<sup>2</sup> Firstly, it affected shop owners, nevertheless, everyone who, as part of his business activities, supplies goods or services to customers who are not taxable persons, has to have a cash register nowadays.<sup>3</sup>

Initially, the introduction of cash registers was accompanied by protests of some groups of taxable persons who were supposed to be subject to the obligation to have cash registers.<sup>4</sup> The protests weakened with time and the said obligation was gradually extended to other professions and business activities. Pursuant to the currently applicable Article 111 of the Act of 11 March 2004 on the Tax on Goods and Services (hereinafter referred to as “the VAT Act”),<sup>5</sup> taxable persons who sell to natural persons engaging in no business activity and to flat-rate farmers are obligated to keep records of turnover and amounts of tax due by using cash registers.<sup>6</sup>

One of the reasons for introducing the obligation to record turnover and amounts of tax due by using cash registers was to tighten the tax system by limiting the so-called grey market, i.e. to eliminate taxable persons’ non-disclosure of a part of their income from selling goods or providing services.<sup>7</sup> As thanks to a cash register, it should be known whether declared turnovers, on which taxes are calculated, are similar to actual ones or whether they are under-declared. Unfortunately, practice has shown that imposing the obligation to have a cash register on taxable persons will not lead to the elimination of the so-called grey market by itself. Therefore, the government takes further legislative measures intended to make a taxable person’s entire turnover declared (and, consequently, taxable).

<sup>2</sup> See W. Modzelewski (ed.), *Komentarz do ustawy o podatku od towarów i usług*, Warszawa 2011, p. 736.

<sup>3</sup> See T. Michalik, *VAT Komentarz*, Warszawa 2013, p. 979.

<sup>4</sup> One of the protesting groups were taxi drivers who protested by blocking the centres of big towns with their cars – see <https://www.polityka.pl/tygodnikpolityka/rynek/1507540,1,zakup-kontrolowany.read>. (access: 30.11.2018).

<sup>5</sup> Consolidated text Journal of Laws of 2017, item 1221 with amendments.

<sup>6</sup> See T. Michalik, op. cit., pp. 979–980 and H. Litwińczuk (ed.), *Prawo podatkowe przedsiębiorców*, Warszawa 2017, p. 731.

<sup>7</sup> See T. Michalik, op. cit., p. 979.

## Cash registers – yesterday and today – the history of Polish regulations

The history of cash registers in Poland began with the adoption of the VAT and Excise Duty Act (hereinafter referred to as “the Act of 1993”)<sup>8</sup> on 8 January 1993. The first cash registers entered into service in 1994 and had to fulfil the requirements established by the Minister of Finance.<sup>9</sup>

The currently applicable regulations of the VAT Act are substantially similar to the ones introduced by the Act of 1993. Obviously, changes regarding i.a. technical requirements for different types of cash registers, the manner of determining the turnover limit allowing for the non-usage of such cash registers, as well as the limit itself, and the scope of exemptions from the obligation to use a cash register, were made over the years.

The VAT Act, similarly to the previously applicable regulations, also determines the consequences of infringing the obligation to keep records of turnover and amounts of tax due by using cash registers. In the event of non-compliance with the obligation mentioned above, the head of the tax office or the head of the tax and customs office imposes an additional tax liability equivalent to 30% of the amount of the input tax on the acquisition of goods and services, for the period up to the beginning of recording turnover and amounts of tax due by using cash registers.<sup>10</sup>

The regulations also specify what should be done when for reasons beyond the taxable person’s control, keeping records of turnover and amounts of tax due by using cash registers is impossible. Pursuant to Article 111 section 3 of the VAT Act, in this case, the taxable person is obligated to keep records of turnover and amounts of tax due by using a reserve cash register. However, if recording turnover and amounts of tax due by using a reserve cash register is impossible, the taxable person is not allowed to sell.<sup>11</sup>

There is no doubt that the provisions applicable so far did not lead to the elimination of the so-called grey market and cases of non-recording sales. The currently available possibilities of compliance control with the obligation to record sales by means of cash registers, which would largely involve the time-consuming analysis of paper till rolls, did not allow for the up to date verification of whether and what

<sup>8</sup> Journal of Laws of 1993 No. 11, item 50.

<sup>9</sup> A regulation which concerned the criteria and technical conditions which cash registers had to meet, and conditions for using those cash registers by taxable persons was the Regulation of the Minister of Finance of 12 May 1993 which was in force since 5 July 1993.

<sup>10</sup> Article 111 section 2 of the VAT Act. Cf: W. Modzelewski (ed.), op. cit., pp. 740–742 and T. Michalik, op. cit., p. 994 ff.

<sup>11</sup> See H. Litwińczuk (ed.), op. cit., p. 731 and T. Michalik, op. cit., p. 997.

kind of sale was recorded, as well as whether there were any breaks in recording. As a consequence, for a couple of years solutions had been looked for, the introduction of which would contribute to the tax authority's greater and fuller control over taxable persons' turnovers resulting from selling to natural persons.<sup>12</sup>

One of the considered solutions was the introduction of online cash registers, i.e. devices which, instead of using standard forms of data recording, send data to a central repository.<sup>13</sup> According to estimates by the Ministry of Finance, the tightening of the retail sales recording system due to the introduction of online cash registers will increase VAT revenue by 1–2% (which, in the opinion of the Ministry, would be a significant amount on the national level).<sup>14</sup> Considering the progressive digitalisation of taxable persons' obligations regarding VAT (the introduction of the obligation to submit JPK<sup>15</sup> files and VAT returns in electronic form), the introduction of online cash registers seems to be another step in that direction.

## Online cash registers – the legislation process

The discussion on online cash registers flared up for good when on 17 August 2016, the Minister of Development presented a draft regulation on the criteria and technical conditions which cash registers had to meet.<sup>16</sup> The purpose of the draft

<sup>12</sup> Organisation of so-called receipt lotteries could be given as an example here.

<sup>13</sup> The Ministry of Development emphasised that introducing additional requirements for cash registers was necessary if we wanted to tighten up the tax system and fight the grey market. It refers to the experiences of Hungary, Slovenia and Bulgaria which introduced similar solutions and were successful – see <https://superbiz.se.pl/wiadomosci/kasy-i-paragony-znikna-ze-sklepow-ekspert-z-ministerstwa-wyjasnia-rozmowa-aa-YLrk-VYm5-b3Ag.html> (access: 30.11.2018). For instance, in Slovenia, declared turnovers increased by 5.7%, and VAT revenue increased by 4.6%. Bulgaria can also enjoy success related to the introduction of the obligation to use cash registers which work online and are connected to the national IT system. Reforms initiated in 2012 resulted in an increase of turnover in specific economic sectors by 50–60 per cent – mainly in the catering and hotel industries. See <https://podatki.gazetaprawna.pl/artykuly/969151,nowe-kasy-fiskalne-cyfrowy-paragon-sprzedaz-vat.html> (access: 30.11.2018).

<sup>14</sup> [https://www.mf.gov.pl/ministerstwo-finansow/dla-mediow/wywiady/eksperci-mf/-/asset\\_publisher/P3qp/content/dyktor-wojciech-sliz-kasy-fiskalne-online-zwieksza-wplywy-z-vat-o-1-2-proc-wiadomoscihandlowe-pl-22-stycznia-2018-r?redirect=http%3A%2F%2Fwww.mf.gov.pl%2Fministerstwo-finansow%2Fdla-mediow%2Fwywiady%2Feksperci-mf%3Fp\\_p\\_id%3D101\\_INSTANCE\\_P3qp%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-2%26p\\_p\\_col\\_count%3D1](https://www.mf.gov.pl/ministerstwo-finansow/dla-mediow/wywiady/eksperci-mf/-/asset_publisher/P3qp/content/dyktor-wojciech-sliz-kasy-fiskalne-online-zwieksza-wplywy-z-vat-o-1-2-proc-wiadomoscihandlowe-pl-22-stycznia-2018-r?redirect=http%3A%2F%2Fwww.mf.gov.pl%2Fministerstwo-finansow%2Fdla-mediow%2Fwywiady%2Feksperci-mf%3Fp_p_id%3D101_INSTANCE_P3qp%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1) (access: 30.11.2018).

<sup>15</sup> JPK – Jednolity Plik Kontrolny – the Polish equivalent of SAF-T [translator's note].

<sup>16</sup> <https://legislacja.rcl.gov.pl/projekt/12288904> (access: 30.11.2018). It was on the basis of the aforementioned regulation that manufacturers of cash registers received the first guidelines on the parameters, functions and approval of new devices.

was to introduce, starting from 1 January 2018, the digitalisation of documents and fiscal reports and online transmission of data from cash registers (in the JPK format) to the central database maintained by the Minister of Finance.<sup>17</sup>

Works on the implementation of the aforementioned provisions lengthened,<sup>18</sup> but it seemed from the response of the Vice-Minister of Finance Paweł Gruza from July 2017 to the deputy interpellation No. 13726<sup>19</sup> that, starting from January 2018, cash registers recording paper copies (i.e. receipts), would be gradually replaced by online devices.<sup>20</sup>

Online cash registers became a reality on 22 June 2018 – it was then that the Regulation of the Minister of Business and Technology of 28 May 2018 on the criteria and technical conditions which cash registers have to meet,<sup>21</sup> hereinafter referred to as “the Regulation on the Criteria and Technical Conditions”. On the basis of the

<sup>17</sup> In the course of agreements carried out, the ministry made significant changes as compared to the original version of the draft, see <https://podatki.gazetaprawna.pl/artykuly/1044482,paragony-trafia-do-fiskusa-z-e-kasy-lub-jpk.html> (access: 30.11.2018) – where the preliminary assumptions of the draft and its modifications were discussed (it was particularly about extending the process of replacing devices with online cash registers, excluding specific types of business activities, as well as giving up the introduction of remote blocking of the cash register if suspicions arose that the owner is cheating the tax authority).

<sup>18</sup> Further versions of the above-mentioned regulation appeared on the websites of the RLC. On 24 February 2017, a draft appeared in which there was very detailed information on the manner of functioning of new cash registers, see <https://legislacja.rcl.gov.pl/projekt/12288904/katalog/12373946#12373946> (access: 30.11.2018). Apart from this, its content included an extensive justification of changes introduced in the Polish fiscalisation system. Another version, the draft regulation of 23 May 2017, was published on 20 July 2017, <https://legislacja.rcl.gov.pl/projekt/12288904/katalog/12373946#12373946> (access: 30.11.2018).

<sup>19</sup> <http://www.sejm.gov.pl/Sejm8.nsf/interpelacja.xsp?documentId=9B699F65BE7C51EAC125816A-002C6AE2> (access: 30.11.2018).

<sup>20</sup> According to the document mentioned above, in the case of industries which are exposed to the risk of tax fraud, new cash registers will be mandatory. A confirmation of the above can also be found in press writings from that period, see <https://www.pb.pl/nie-takie-strasznekasy-on-line-867205> (access: 30.11.2018), where it was emphasised that, among others, introducing online cash registers would bring concrete benefits – firstly, it would reduce burdens related to reporting information on turnover and VAT due to the tax office. Another benefit resulting from implementing online cash registers is the possibility to connect and integrate the payment terminal with the cash register, accelerating customer service. Connecting cash registers to the Internet network is also supposed to make it easier for manufactures to service those cash registers remotely. Apart from this, new cash registers will have many functions that will be programmed remotely and possible to be tailored to the user’s needs.

<sup>21</sup> <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180001206> (access: 30.11.2018); pursuant to § 1, the Regulation specifies, among others, the detailed criteria and technical conditions which cash registers have to meet, data in the application for the issuance of a confirmation specified in Article 111 section 6b of the VAT Act, submitted by a national manufacturer or an entity making the infra-Community acquisition or import of cash registers, the period for which the above-mentioned confirmation is issued, and the scope of tests of cash registers.

regulation mentioned above, manufacturers received a detailed list of guidelines concerning not only the technical parameters of cash registers, but also the procedure of submitting those cash registers for approval.

In the meantime, a draft law regarding the amendment to the VAT Act and the Trade Metrology Act, introducing a new solution in the form of recording sales by means of online cash registers (hereinafter referred to as “the Amendment Introducing Online Cash Registers”) into the VAT Act appeared on government websites. The first draft of the Amendment Introducing Online Cash Registers was presented on 18 September 2017.<sup>22</sup> At that time entrepreneurs learnt about the initial timetable for changes. According to the information from the Ministry of Finance: “Both the technical regulation and changes to VAT should be ready in the first quarter of 2018. We will start to gradually place new devices on the market from 1 January 2019. Replacing cash registers will start from industries which are exposed to fiscal irregularities the most, cover further sectors of trade and services in line with the increase of the supply of cash registers. In a little over a year, there will be two types of cash registers functioning on the market – online cash registers and cash registers without online functions, that is, which can record copies electronically or on paper.”<sup>23</sup>

According to the Draft Amendment Introducing Online Cash Registers, which was submitted to the Sejm<sup>24</sup> on 27 April 2018, some entrepreneurs were obligated to implement online cash registers by the end of 2018 (according to the finally approved provisions, this date has been changed to 31 December 2019).

## Online cash registers – the main objectives of the amendment

The main objective of the Amendment Introducing Online Cash Registers is to introduce the possibility for taxable persons to use cash registers which would allow for, apart from storing data in the cash register’s memory, continuous, automatic and direct submission of information on the recording and events that are of impor-

<sup>22</sup> See <http://legislacja.rcl.gov.pl/projekt/12303053> (access: 30.11.2018). The draft regulation was submitted to the Sejm on 27 April 2018 as the Government draft amendment of the VAT Act and of the Trade Metrology Act, Sejm paper No. 2503.

<sup>23</sup> See website cited in footnote 14 above, also there: “Entrepreneurs starting their business activity after that date will be encouraged to buy online devices with government funding of PLN 1,000. As old cash registers have a four-year approval, we can’t just forbid them to use those devices as new provisions enter into force. That’s why we opted for a subsidy – in the increased amount – but only for the purchase of new online cash registers, which should increase the number of activations of online cash registers in the initial period of the entire initiative [own translation].”

<sup>24</sup> The lower house of the Polish Parliament [translator’s note].

tance for the operation of the cash registers.<sup>25</sup> That information will be submitted to the ICT system (i.e. the Central Cash Register Repository<sup>26</sup> – hereinafter referred to as “the CCRR”) maintained by the Head of the National Tax Administration.<sup>27</sup> The system will receive and collect data from cash registers for analytical and monitoring purposes. The introduction of this solution is intended to force a more honest recording of sales. Furthermore, an additional purpose of the implementation of this tool is to strengthen the control factor in the system of recording of sales – a taxable person will be aware of the fact that his business is being monitored for the whole time of conducting it.

Pursuant to the amendment introducing online cash registers, the obligation to report a cash register to the head of tax office in order to receive a registration number – the proposed amendment is connected with the fact that cash registers will connect to the CCRR as a rule. Consequently, fiscalisation (and thus reporting a cash register to the head of the tax office) will be automatic and will not require any actions on the part of the taxable person.

The new regulations also indicate what the scope of taxable persons’ obligations is in the case of problem with connecting to the CCRR.<sup>28</sup> The amendment introducing online cash registers provides that when for reasons beyond a taxable person’s control, it is permanently impossible to ensure a connection to the CCRR via a telecommunications network, which would allow for continuous data transfer, the taxable person would be obligated to record transactions on a cash register and to obtain the permission the head of the tax office to submit those data in intervals. However, if for reasons beyond a taxable person’s control, it was temporarily impossible to ensure a connection to the CCRR, the taxable person would be obligated to ensure that connection immediately upon termination of the reasons, and, at the same time, would be obliged to record transactions by using a cash register.

The amendment introducing online cash registers provides a subsidy for purchasing cash registers in the form of refunding the expenses,<sup>29</sup> but it will be appli-

---

<sup>25</sup> Data from cash registers are to be transferred to the CCRR in electronic format that corresponds to the logical structure specified in Article 193a § 2 of the Tax Ordinance Act.

<sup>26</sup> In Polish: Centralne Repozytorium Kas [translator’s note].

<sup>27</sup> In Polish: Krajowa Administracja Skarbowa [translator’s note].

<sup>28</sup> Pursuant to § 43 of the Regulation on the criteria and technical conditions, a cash register sends data, using a default schedule no less frequently than 2 hours. In the case of failure to send the data, the cash register: 1) makes it possible to continue recording sales, by clearly signalling to the user that the scheduled deadline corresponding to the date specified in the schedule of sending data was exceeded; 2) makes automatic attempts at sending the data no less frequently than 2 hours of the cash operation.

<sup>29</sup> The refund will be of 90% of the purchase price (tax excluded), no more than PLN 700.

cable only in cases of purchasing cash registers of the new type. The regulation aims to promote online cash registers for the recording of sales (as for the taxable persons who will purchase cash registers prior to the entry into force of the amendment, provisions in their current wording will be applicable).

As it has already been indicated above, the Ministry of Finance assumes the gradual replacement of devices used so far with online cash registers.<sup>30</sup> The amendment introducing online cash registers correlates with this assumption; it provides shortening the expiry date for confirmations for cash registers recording electronic copies to 31 December 2022, and for cash registers recording paper copies to 31 August 2019, but with a restriction that in the case of cash registers recording copies on paper, the fiscal memory of those cash registers cannot be replaced. These actions should allow for the systematic replacement of the oldest, technologically dated cash registers with new ones – a process that would be stretched over time.

As previously announced, the possibility for taxable persons to use existing cash registers in case of some types of sales was limited in time.<sup>31</sup> In view of the new regulations, taxable persons can record sales by using cash registers with electronic or paper copies up to:

- 1) 31 December 2019 – for:
  - a) providing repair services for motor vehicles and mopeds, including tyre repair, fitting, retreading and regeneration, as well as replacing tyres or wheels for motor vehicles and mopeds,
  - b) selling motor-car petrol, diesel fuel, gas for combustion engines;
- 2) 30 June 2020 – for:
  - a) providing food services exclusively by stationary catering establishments, also during season, and short-stay accommodation services,
  - b) sale of coal, briquettes and similar solid fuels produced from coal, brown coal, coke and semi-coke intended for heating purposes;
- 3) 31 December 2020 – for providing hairdressing services, cosmetic and cosmetological services, construction services, medical services provided

---

<sup>30</sup> The amendment introducing online cash registers provides for the use of online cash registers which are used by taxable persons on the basis of a commercial hire, lease, rent agreement or agreements of a similar nature, on the condition that on the day of the acquisition (purchase) of the cash register by the lessor, those cash registers are covered by a confirmation of the President of the Central Office of Measures.

<sup>31</sup> It was justified by the signals from tax inspection services indicating areas of high risk of irregularities in terms of keeping records.



by doctors and dental practitioners, legal services, and services of fitness facilities only as regards admission.<sup>32</sup>

## **The introduction of online cash registers – benefits and challenges for taxable persons**

The assumption of the Ministry of Finance is that the introduction of online cash registers will bring fiscal benefits, which was emphasised both in the statements of employees of the Ministry<sup>33</sup> and in newspaper articles.<sup>34</sup> In turn, in the statement of reasons for the Draft Amendment Introducing Online Cash Registers, potential benefits connected with the use of these kind of devices for taxable persons themselves were indicated. The following benefits were listed as the most important ones:

- ❑ reducing the regulatory burden (a smaller number of required documents in paper form – e.g. the elimination of the necessity of storing paper till rolls, registering the fiscalisation of cash registers);
- ❑ limiting inspections which are inconvenient for a taxable person;<sup>35</sup>
- ❑ better conditions for running a competitive business.

There is no doubt that replacing existing cash registers with online cash registers may bring positive effects (especially from the perspective of the tax authority if it leads to the limitation of the grey market). It does not mean, however, that the

---

<sup>32</sup> Article 145b section 1 of the VAT Act as amended by the Amendment Introducing Online Cash Registers.

<sup>33</sup> See website cited in footnote 14 above (access: 30.11.2018).

<sup>34</sup> Experts pointed out the benefits that the new concept of cash registers may bring – see <http://www.biznes-firma.pl/system-kas-fiskalnych-online---na-czym-ma-polegac/29361> (access: 30.11.2018): “The KPMG report entitled “A case study – the system of online cash registers in Poland” shows that thanks to implementing such a solution in Poland, the national budget can gain up to PLN 2.8 billion a year from VAT. Such benefits should be corrected by expenditures which are necessary for implementing the system – they are estimated at PLN 300,000,000. Finally, it would still allow for revenue of ca. PLN 2.5 billion. These are not just estimates, but real and achievable benefits, which is shown by examples of other countries where the system of online cash registers was introduced. This made the permanent increase in VAT revenue possible [own translation].”

<sup>35</sup> The statement of reasons for the draft indicates that due to the solutions adopted in the draft act which are related to the introduction of the new type of cash registers, a decrease in the costs of inspections should be expected. Apart from this, the automatic analysis of a comprehensive dataset on a taxable person will allow for limiting inspections which are inconvenient for that taxable person, and it will allow for the more effective use of the resources of the tax authorities. It will be possible to precede potential inspections with a remote analysis of source documents.

introduction of such cash registers will not involve any additional obligations<sup>36</sup> and burdens (including financial ones) for taxable persons.

As far as the aspect of costs is concerned – in case of taxable persons, the biggest item will be the expenditure for the purchase of the device (this applies especially to taxable persons who, pursuant to the new regulations, will be obligated to replace their cash register first<sup>37</sup>). The Act indeed provides refunding in case of purchasing devices with new functions, however, as indicated above, only part of the expenditures will be refunded. Another significant cost on the part of a taxable person will be a fee paid for access to the system (data transmission).<sup>38</sup>

The introduction of online cash registers is also connected with technical challenges. Assuming that manufacturers of cash registers will manage to produce (place on the market) a sufficient number of devices so that taxable persons would be able to replace their devices within the applicable deadlines, it will be the taxable persons who will be under obligation to adapt their systems, cash registers and to prepare the staff who provide customer service for the new type of devices. Taxable persons will also have to handle potential difficulties with ensuring a connection and data transmission (e.g. difficulties related to the location of the point of sale).

It should be emphasised that since the very beginning of the legislative work, the manufacturers of the devices indicated that the proposed dates of the implementation of the provisions concerning the use of online cash registers left an insufficient amount of time for them to implement new solutions.<sup>39</sup> Their situation is only partially improved by the fact that the amendment introducing online cash registers allows to purchase the types of cash registers which have been used so far (cash registers with copies recorded on paper – up to 31 August 2019, and cash registers with copies recorded electronically – up to 31 December 2022) in order to record sales, nevertheless, this does not concern taxable persons who engage in business activities that are covered by the mandatory recording of transactions on online cash registers by the dates specified in the amendment.

---

<sup>36</sup> E.g. the obligation to have the cash register technically reviewed. Failure to comply with this obligation is punishable by a penalty payment of PLN 300.

<sup>37</sup> In the course of working on the amendment, taxable persons indicated that in case of industries obligated to keep records by using online cash registers, the requirement for replacing current devices would be independent of the revenue from one's business activity, which may be a great burden for taxable persons who engage in conducting business on a smaller scale.

<sup>38</sup> The amount of PLN 600 (average yearly cost) was adopted for that matter in statement of reasons for the amendment.

<sup>39</sup> Finally the amendment entered into force on 1 May 2019.

## Other solutions related to cash registers and the recording of sales

The introduction of online cash registers is not the only action of the Ministry of Finance that is aimed at tightening the tax system. Other solutions in this matter can be found in e.g. the Regulation of the Minister of Finance on cash registers,<sup>40</sup> which includes a number of regulations concerning technical issues related to recording sales by using cash registers and related to cash registers themselves and technical reviews thereof.<sup>41</sup> Pursuant to §65 of the regulation, it has entered into force on 1 May 2019 (with minor exceptions which has entered into force on 1 July 2019).

The Regulation also imposes an obligation on taxable persons to assign letters from "A" to "G" to tax rates or tax exemptions, which are assigned to the names of goods and services in a manner that is described in detail in the Regulation.<sup>42</sup> However, the Regulation does not indicate what should be done if a taxable person, by way of business, does not sell any goods or services which are taxed with a given tax rate.

Another solution, provided in the Regulation, is obligating a taxpayer to acquaint the person who keeps records for that taxpayer<sup>43</sup> with the rules of keeping records and issuing cash register receipts, as well as with the consequences of non-compliance.

---

<sup>40</sup> In Polish: Rozporządzenie Ministra Finansów z dnia 29 kwietnia 2019 r. w sprawie kas rejestrujących, <http://dziennikustaw.gov.pl/DU/2019/0816> (access: 25.07.2019).

<sup>41</sup> According to § 1 of the draft, the Regulation specifies: 1) the manner of recording sales by using cash registers, hereinafter referred to as "recording", including special use for a given kind of activity, and the conditions and manner of using cash registers, hereinafter referred to as "cash registers", including the manner of ending the use of cash registers in case of exit activities or ending the operation of those cash registers, special cases and the manner of issuing documents by cash registers in forms other than a printout, and the types of documents submitted in connection with using cash registers, the manner of submission, and templates of those documents; 2) the deadline for reporting a cash register recording electronic or paper copies to the head of the tax office in order to receive a registration number; 3) the conditions of organising and servicing cash registers, which are relevant for record-keeping, and the conditions which entities servicing cash registers should meet; 4) the dates and scope of mandatory technical reviews of cash registers.

<sup>42</sup> The assignment is to be done in the following manner: the standard rate of tax of 22% or 23% is assigned to the letter "A", the reduced rate of tax of 7% or 8% is assigned to the letter "B", the reduced rate of tax of 5% is assigned to the letter "C", the reduced rate of tax of 0% is assigned to the letter "D", tax-exempt sale is assigned to the letter "E", other rates of tax, including 0% (technical zero) in case of taxable sales, specified in Article 119 section 1 or Article 120 section 4 of the VAT Act, are assigned to the letter "F" and "G".

<sup>43</sup> The obligation to acquaint a person with the rules should be performed before that person starts keeping records, regardless of the manner and form of assigning records-keeping to that person.

Before starting to keep records, that person submits a declaration on knowledge of the information about the rules of keeping records.<sup>44</sup>

There are also ongoing works on other drafts of provisions. For instance, a draft of regulations providing the requirement for including a tax identification number (NIP) on receipts on the basis of which invoices are then issued.<sup>45</sup> According to the draft, the possibility of issuing a VAT invoice for a customer (a payer of VAT) for a sale recorded by using a cash register will depend on providing that customer's NIP on the receipt documenting that sale. At the same time, a sanction of 100% of the amount of tax declared on the invoice will be introduced. It will be given for violating the rules mentioned above (both in case of the issuer of the invoice and the customer who would like to deduct the input tax on the basis of that invoice / entering such an invoice into their VAT records).<sup>46</sup>

## Conclusions

As indicated above, the introduction of the obligation to have cash registers did not lead to the elimination of the so-called grey market by itself. Current legislative actions regarding the recording of turnover and the amount of tax due are orientated towards the increasing digitalisation of that process, which complements the already existing solutions (such as imposing the obligation to file electronic VAT returns and JPK files on a taxable person).

One may get an impression that emphasis on the quick entry into force of the new regulations (this particularly regarded the draft regulation introducing online cash registers) weakened in the second half of 2018. It is possible that delays in introducing changes were connected with the fact that the biggest challenges in implementing online cash registers are still before the government which should prepare its own IT infrastructure, including a central base in which information sent by online cash registers will be collected.

---

<sup>44</sup> A model of the information about the rules of keeping records and a model of the declaration on knowledge of the information about the rules of keeping records constitute Annex 1 to the Regulation.

<sup>45</sup> Act of 4 July 2019 on amending the VAT Act and some other acts, Sejm paper No. 3499, <http://www.sejm.gov.pl/sejm8.nsf/PrzebiegProc.xsp?id=5708736995DF5E1AC1258415004A3BB7> (access: 25.07.2019).

<sup>46</sup> Initially, the regulations concerning the requirement for including NIP on receipts were a part of the draft act introducing online cash registers, nevertheless, these issues were divided into separate drafts.

Nevertheless, on the basis of the existing announcements and actions of the Ministry of Finance, one may conclude that we are consistently tending towards progressive digitalisation the purpose of which is to tighten the tax system i.a. by implementing provisions which are supposed to lead to the elimination of cases of the non-recording of sales by taxable persons.