

## Reduction of cash payments in the scope of the anti-money laundering legislation: know your limits

Do you know as an entrepreneur which invoice you can receive in cash? This is not unimportant since the scope of the anti-money laundering legislation of 11 January 1993 has been enlarged significantly as from 1 January 2014 and infractions are penalized harder. A distinction should be made between real estate transactions and other transactions. The threshold for cash payments has been decreased to 3.000€. For real estate transactions all cash payments, including advance payments, are forbidden.

Cash (banknotes and coins) are legal means of payment. As from 16 April 2012 it is legally forbidden to receive cash payments when selling movable or immovable goods if the total price exceeds 5.000€. This is an important derogation - based on the anti-money laundering legislation of 11 January 1993 - to the general rule that cash is a legal means of payment and that you cannot refuse it when your clients pay cash. This regulation applies to merchants and, as from 16 April 2012, also to service providers (liberal professions, consultants or contractors).

### Sale of movable goods and services: cash up to 3.000€

The 5.000€ threshold has been further decreased to 3.000€ as from 1 January 2014. When selling real estate no cash payment can be made (see below). But for sales of movable goods and services an easing is foreseen. If the partial payment as such is maximum 10% of the total price and does not increase 3.000€, you can receive that partial payment in cash. When assessing the threshold of 3.000€ it is the total (invoice) amount to which the (partial) payment relates that matters.

Issuing several invoices is not an option. If several invoices relate to each other, they are considered as one transaction for which the above thresholds should be applied.

As long as the total sales price (incl. VAT) is lower than 3.000€, it can be fully paid in cash. When the total sales price amounts to 3.000€, the price cannot be paid in cash, but only through other means of payment (see below).

There is only one exception: the reduction for cash payments goes only for supplies made by a merchant, but not for sales between private individuals. For the sale of movable goods between private individuals, the cash payments are unlimited.

### Sale of real estate: no cash payments

As from 1 January 2014, when selling real estate, payment can only be made by bank transfer or check. The bank account number to which the money is transferred should be quoted in the notarial deed and the sales contract.

Notaries public and real estate brokers should make a notification to the anti-money laundering office in case the interdiction is not respected.

For real estate transactions all cash payments are forbidden, including advance payments: buyer or seller, private individual or trader. Only the costs of the notarial deed at a notary public can be paid in cash.

### Sale of precious metals: threshold is 3.000€

For precious metals (objects made of silver, gold, platinum or with these metals worked up into these objects) a special regulation applies. It depends whether the purchase price attains 3.000€ or not. If the purchase price (incl. VAT) is lower than 3.000€, the total amount can be paid in cash. If the purchase price equals to or is higher than 3.000€, up to 10% of the price can be paid in cash, with a maximum of 3.000€.

### Payment solutions

It is the intention of the Federal Government that through the changes of the anti-money laundering legislation we would make more use of bank transfers or payment cards (battle against tax fraud and black money). New payment solutions for big amounts should not be expected in the near future. Sufficient alternatives are available on the market. If you are often on the road, you can use a mobile payment terminal or ask for a bank check. When using a debit or credit card one should check up to which amount can be paid with each card. The maximum amount can be increased temporarily when important purchases are planned. A bank transfer can be made by your bank, or through home banking. Another alternative is the client check. But this requires a high level of confidence between buyer and seller.

### Severe sanctions

It is new that a merchant or a service provider who is aware of a forbidden payment in cash should notify this to the anti-money laundering office (CFI). If during an audit by the economic inspection it shows that he didn't do it, he risks a fine. The auditors of the economic inspection can audit all your accounting and commercial documents.

Infractions when selling real estate are sanctioned with administrative fines of 250€ up to 1.250.000€.

Infractions when selling other goods or services are sanctioned with penal fines of 1.500€ up to 1.350.000€ (including surtaxes). The fine cannot be higher than 10% of the unduly cash payments.

Both the seller and the buyer are jointly and severally liable for the payment of the fine. Penal fines when selling movable goods or services can be the subject of a settlement. In this case a lump sum is proposed to the offenders dropping all charges against them.

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