

Tax authorities will be able to seize tax debtor cars, computers and other items

I. Temporary seizure of tax debtor movables will soon become possible

As part of the package of tax changes under the Polish Deal that has already been passed by the Sejm and is now in the Senate, the Tax and Customs Service will get a new instrument (right) to take action against debtors who have had an enforceable title issued against them by enforcement authorities. This instrument will consist of temporary seizure of movables. Tax and Customs Service officers will be able to take action as a result of which the head of the tax and customs office will take temporary possession of the debtor's movables to the extent necessary for the administrative enforcement authority to execute the enforceable title.

The Polish Deal will introduce to tax collection regulations the ability for the tax authorities to temporarily (for 96 hours) seize a taxable person's movables, such as a car, if they find that the taxable person has a tax arrear in excess of PLN 10 thousand.

II. Movables will be seized based on enforcement proceeding information

Where based on data from the EGAPOLTAX system the Tax and Customs Service determines that an administrative enforcement proceeding is underway against a debtor, it will be able to hold the debtor's movables for 96 hours as part of temporary seizure of movables. During this period, the relevant enforcement authority will have to verify the existence and amount of the debt in order to approve a change over from temporary to actual seizure of the movables. The issue by the enforcement authority of approval (full or partial part) or refusal of approval of temporary seizure of movables must be preceded by a verification of the debt's existence, because in the period from the preparation by the Tax and Customs Service of a report in which the temporarily seized movables have been listed to its approval by the enforcement authority the debtor could fulfill the obligation and pay the debt, which would render the temporary seizure invalid.



III. Temporary seizure will become possible on debts in excess of PLN 10 thousand

Seizure of movables will be possible if, while performing a tax and customs inspection, a Tax and Customs Service officer uncovers a debtor's assets and determines that the debtor has a debt under enforcement by the head of a tax office based on one or more enforcement orders, and the total amount of the debt excluding late interest charges and processing costs exceeds PLN 10 000 thousand.

Movables with a value that considerably exceeds the amount needed to satisfy the debt will not be subject to temporary seizure. This will protect the interests of the debtor and guarantee that temporary seizure will be applied in a purposeful, proportional and adequate manner.

IV. Not every movable subject to seizure

A debtor will be able to protect his movables from temporary seizure if he shows evidence that the debt has been satisfied, or that it is not payable, has been cancelled, or has otherwise expired or does not exist. Under the new regulations, the officer will be required to abandon temporary seizure if the debtor shows evidence that: the debt has been satisfied (copy of bank transfer, bank statement), cancelled, expired or does not exist, e.g. following the expiration of statute of limitations, deferral, approval by the tax authorities of an installment payment plan; where the movables are subject to exclusion or exemption from administrative enforcement. In addition, no seizure will take place of movables that are perishable, or of animals.



V. Temporary seizure will become a seizure by writ of execution, or will expire

A temporary seizure of movables will turn into a seizure by writ of execution as of its approval date on the condition that it takes place no later than within 96 hours of the officer signing a temporary seizure report. In addition, the new regulations give the debtor the right to challenge the seizure by filing a complaint against the approval of the temporary seizure, thus safeguarding his right to protection. This right is further strengthened by a solution that requires the enforcement authority to verify the correctness of the temporary seizure report and compliance of the seizure with the provisions of the Administrative Enforcement Proceedings Act and the National Tax Administration Act.

VI. Attempts at selling or pledging seized movables will be ineffective

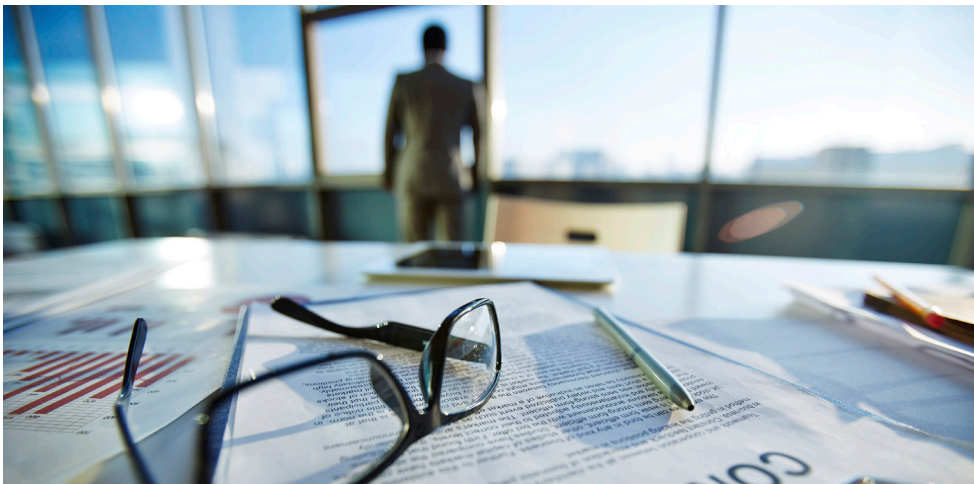
Once the report is signed, the debtor will lose the right to dispose of the seized movables to prevent him from selling them. However, when such a sale takes place after the temporary seizure, this will not prevent the approval of the temporary seizure and will de facto render the sale ineffective. This is because if an unauthorized sale is made of the movables in the period from their temporary seizure to the seizure's approval by an enforcement authority, this will not prevent the State Treasury from satisfying its interests. Any actions by the debtor consisting of pledging the temporarily seized movables will be invalid, and the secured debt will not benefit from priority of satisfaction of secured debts.

VII. Movables will be temporarily seized based on a report

The temporary seizure of movables report will contain several components of significance for further enforcement proceedings: identification of the debtor; identification of the enforcement authority and the enforcement title underlying the temporary seizure; the amount due, excluding late interest charges and processing costs; list of temporarily seized movables, including their number or quantity, unit of measure and description of each movable by characteristic; instructions to the debtor about the ban on the disposal of the temporarily seized movables and about the effects of the seizure; the first and last name or identification of the custodian; instructions to the custodian about the consequences of accepting the temporarily seized movables into custody; the first and last names of those taking part in the temporary seizure; requests and statements made during the temporary seizure; requests and statements made by those present; the signatures of those present or the reasons for the lack of such signatures; the place, date and exact time at which the report was signed by the officer.



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