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Numerous tax changes resulting from Polish Deal as of January 2022

A package of tax changes resulting from the so-called Polish Deal has been published in the Journal of Laws (item 2105). The majority will go into effect as of 1 January 2022, i.e. shortly. The most important are recapped below.

I. Increased tax-free amount and tax threshold for higher PIT rate

The most topical changes made in tax regulations include, no doubt, those that consist of raising the tax-free amount to PLN 30 thousand. This is, however, only available to taxable persons taxed on the tax scale. At the same time, the income limit above which a higher tax is paid has been increased to PLN 120 thousand (from the current slightly above PLN 85 thousand) per year. In addition, employees and traders taxed on the tax scale have become eligible for the so-called middle-class relief, i.e. an additional tax decrease for those whose income falls within the range of from PLN 68412 per year (or PLN 5700 per month) to no more than PLN 133 692 (or PLN 11 141 per month).

II. Higher insurance premiums for traders and no tax deduction

As of 1 January 2022, following the implementation of the Polish Deal, changes will be made in the payment of traders' health insurance premiums. Instead of a lump-sum premium, taxable persons taxed on the tax scale will pay a premium of 9% calculated on actual income. Flat-rate PIT payers will pay the premium at the rate of 4,9% (but will not be eligible for the tax-free amount or middle-class relief). Lump-sum payers will continue to pay lump-sum premiums, but based on average wages and at an amount calculated based on their annual incomes. All taxable persons, irrespective of the form of employment and form of taxation will also lose the ability to deduct a portion of health insurance premiums – as was the case until now. Traders will also see a change in the premiums payment deadline, from the 10th to the 20th day of each month. As of January it will also be necessary to file ZUS declarations monthly.
More on this on our website.

III. All tax books to be submitted to tax authorities electronically

As of 1 January 2023, all tax books and records will have to be kept electronically and sent in an unstructured form directly to the tax authorities. Where the books and records are used to determine the income on which monthly tax advances are paid, they will be sent in every month, by the 20th day of the following month. When tax advances are paid quarterly, the books will have to be sent to the tax authorities by the 20th day of the month following the end of the given quarter. After the end of the year, the books will have to be sent in once again, this time by the tax return filing deadline (for PIT taxable persons it is the last day of April, for CIT taxable persons whose tax year is the same as the calendar year – the last day of March).
More on this on our website.

IV. Changes in income limits when using company cars for private purposes

As of 1 January 2022, employee income associated with using company cars for private purposes will no longer be tied to engine capacity, but to engine power. Once the Polish Deal goes into force, lump-sum income from the use of a company car for private purposes will amount to: for cars with engine power of up to 60 kW – PLN 250 per month; for cars with engine power in excess of 60kW – PLN 400 per month; for electric and hydrogen cars – PLN 250 per month. It needs to be noted that the matter of employer reimbursement of the costs of charging an electric car at the employee's home remains unregulated. According to interpretations issued by the tax authorities, in such cases the entire reimbursed amount should be added to the employee's income and thus, subjected to taxation.
More on this on our website.

V. Sale of off-lease cars without tax after 6 years

The Polish Deal will introduce solutions that consist of adding to income from business activities the income from the disposal of movable assets, even if prior to the disposal they had been withdrawn from business operations to private assets. In such cases, VAT will have to be paid on their market value. Based on income tax regulations, income from business activities will include income from the disposal for consideration of movable assets, even if prior to the disposal they had been withdrawn from business activities (to private assets), and it has not been 6 years from the first day of the month following the month in which the assets had been withdrawn to the day of their disposal. What is more, income from such transactions will increase the health insurance premium calculation base.
This was discussed in more detail in one of our tax alerts.

VI. Less favorable debt financing settlement methods

As of 1 January 2022 changes will also be made in the settlement of debt financing. After the changes, the excess of debt financing will be tax-deductible up to an amount that does not exceed 30% of so-called tax EBITDA, or an amount that does not exceed PLN 3 million. The new regulations will provide that taxable persons are required to exclude from tax-deductible costs the costs of debt financing insofar as the debt financing costs exceeds: the amount of PLN 3 million or the amount calculated using the formula provided in the regulation. In addition, the changes provide that when a taxable person's tax year is longer or shorter than 12 months, the amount of the debt financing exclusion is calculated by multiplying PLN 250 000 by the number of started months of the taxable person's tax year.
This was discussed in more detail in one of our tax alerts.

VII. As of 2022 traders eligible for new innovation relief

The Polish Deal introduces new, or modifies the existing conditions for using innovation relief. The list includes 5 items: research and development relief (R+D relief) that supports conceptual work on new products; prototype relief that aids in the transfer of an idea into the language of practice and production; relief to support innovative workers, which makes it easier to compete for specialists with key skills and competencies; robotization relief that facilitates the modernization of machine park and increases the scope and efficiency of production; IP-Box relief, or preferential taxation of income from intellectual property rights for taxable persons who conduct research and development (R&D). Out of this package, only the R+D and IP Box relief were available until now.

VIII. Stock exchange debut and consolidation relief

The Polish Deal also includes solutions that in the government's opinion will strengthen Polish business expansion. This package includes four solutions: IPO relief, i.e. relief for the first public offering of shares, along with relief for investments in stock market debutantes, which supports long-term capital investment in the public market; consolidation relief that supports the process of business combinations to strengthen their market position; expansion relief, or a tax incentive to acquire new sales markets; relief for those who invest through Venture Capital funds as an incentive to invest in Polish innovative businesses and start-ups.

IX. As of January, related companies able to form VAT groups

As of 1 July 2022, financially, economically and organizationally related entities will be able to form VAT groups. The formation of a group will not only make it possible for the group's VAT to be settled by its representative, but will also eliminate taxation of intra-group transactions. The solution is voluntary, allowing companies to make an independent decision whether they want to apply it. A VAT group may be formed by taxable persons with their place of establishment in Poland, as well as taxable persons without their place of establishment in Poland with respect to the activities they conduct in Poland through a branch located in Poland. It needs to be noted that the condition of existence of financial, economic and organizational ties between members of the VAT group must be met continually throughout the period in which the group holds the status of taxable person.
This was discussed in more detail in one of our tax alerts.

X. Estonian CIT available to all companies without income limits

As of January 2022, every company, irrespective of its size, will be able to choose taxation with so-called Estonian CIT, i.e. flat-rate income tax. The settlement of the tax is also to become easier, and the rates will be reduced to 10 and 20%. The amendments lift the need to incur specific investment spending as a condition for the application of flat-rate tax regulations and removes the current income limits. When declaring PIT, company partners will also deduct a portion of the flat-rate tax paid by the company. Flat-rate tax, calculated on the income earned by the partner from payments of the company's distributed profits generated while the company was subject to flat-rate taxation (if they are from the distribution of profits from that period appropriately separated in the company's equity) will be subject to reduction by an appropriate amount determined in accordance with the new regulations (even as much as 90%).
This was discussed in more detail in one of our tax alerts.

XI. Formation of tax groups made easier

The Polish Deal contains simplifications for tax groups (PGK). First and foremost, the new regulations provide that the average share capital attributable to each of the companies from the group cannot be lower than PLN 250 thousand, instead of the current PLN 500 thousand. This is to enable the formation of PGK by smaller entities. After the changes, subsidiaries will be able to hold shares of other companies comprising the group, which is not permitted today. This means the removal of the current condition of unacceptability of existence of links between PGK members. The rules on changes in the composition of a PGK after its registration have also changed. The same goes for the formal side of forming a PGK. It will no longer be necessary to sign a notarial deed. A written agreement on the formation of a PGK will be sufficient (ordinary written form).

XII. Exemption from tax on dividends for Polish holding companies

Under the Polish Deal, tax preferences will also be available to Polish Holding Companies (PSH). The amendments provide the introduction of a so-called holding regime (RH). This new tax regime will be available to Polish holding companies with domestic or foreign subsidiaries. It is to be an alternative to the current institution of tax group (TG). The preference for PSH will consist of exempting from CIT of 95% of the value of the dividends received by holding companies from their subsidiaries and of fully exempting from CIT the profits from the sale of shares in subsidiaries. The main condition for taking advantage of the holding regime will be for the holding company to have at least 10% of the subsidiary's shares for at least a year.
This was discussed in more detail in one of our tax alerts.

XIII. Additional preferences for capital imported from abroad

The amendments also include some completely new solutions with regard to capital repatriation and new tax credits. This group of regulations includes a return credit for employees and small business; lump-sum taxation for new investors (favorable lump-sum taxation on foreign income for new investors, who move their tax residence to Poland); safe return of capital guarantee (so-called transitional lump-sum tax); CSR credit.
The return credit is meant for those who have lived and worked abroad for at least 3 years. After returning to Poland they will for 4 years pay lower taxes and ZUS premiums.
The sponsor credit (CSR) is a deduction for sponsors who invest in Poland in important social objectives, such as culture, sport or science.

XIV. Numerous changes in transfer pricing regulations

The Polish Deal brings numerous other changes, such as for example relating to transfer prices. In 2022, transfer pricing regulations will be modified with respect to: the concept of related party, transfer pricing adjustments, the financial safe harbor mechanism, local file preparation deadlines, the concept of controlled transaction, the requirement to prepare a local file and exemptions from the preparation of benchmark analyses, elimination of the declaration of having prepared a local file, new TPR information filing and signing methods, consistency of TPR information with documentation.
All of these changes have been discussed in detail on our website.

XV. Investors to be able to conclude investment agreements with tax authorities

The amendments introduce a new institution – investment agreement. It will enable an investor to conclude an agreement with the tax authorities on the tax effects of an investment project planned in the territory of the Republic of Poland (i.e. in practice, an agreement on the interpretation of tax regulations relevant to the investment). An investor may be a Polish law entity, as well as an entity formed under foreign law. It may be an entity that already has the status of taxable person under Polish tax law, as well as one that is only potentially a future taxable person (i.e. one that at the time of agreement conclusion is not yet a taxable person). It may be a taxable person who conducts business activities in the territory of Poland, with some tax history and investment track record, as well as a completely new taxable person with no history or track record, who is only planning his first investment.
This was discussed in more detail in one of our tax alerts.

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XVI. As of January, new minimum CIT for taxable persons who pay no tax

A new, so-called minimum CIT will go into effect as of January 2022 for taxable persons who in the given tax year incurred a loss on operating activities, or earned income on such activities that was so low that they had no tax due. The tax will amount to 10% of the taxable base, which will include a portion of debt financing costs, the costs of acquiring certain intangible services or rights, or deferred income tax. At the same time, the amendments do away with the provision of Article 15e of the CIT Act, which limits the amount of tax-deductible costs incurred by a taxable person for the acquisition of certain intangible services or rights. The cost of acquisition of such services and rights will be included in minimum CIT.
This was discussed in more detail in one of our tax alerts.

The information presented herein does not constitute comprehensive information or opinion. Consult your adviser before making any decisions.

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