



November 2017

Planned amendments to the Corporate Income Tax Act as of 2018 have been enacted by the Polish Parliament

On 27th October 2017 the Bill amending the CIT Act ('the Bill') was passed by the lower house of the Polish Parliament. A few substantial modifications have been introduced to the draft Bill originally presented by the Ministry of Finance.

Among the recent amendments to the draft Bill, special consideration should be given to:

- **The possibility to deduct for tax purposes the expenses incurred for purchase of intangible services without the limitations set out by the proposed art. 15e of the CIT Act by taxpayers who have obtained the decision approving the correctness of choice and use of transactional price method (*advanced pricing agreement - APA*), including the correctness calculation of intangible service fees.**

According to the draft Bill, expenses incurred on certain intangible services and royalties charged for the use of copyright, industrial property rights or know-how paid to related parties and entities seated in tax havens may be included in the tax deductible expenses up to the capped amount of 5 percent of EBITDA (calculated according to the algorithm outlined in the Bill).

Additionally, the proposed limitation is not to be applied to the costs of intangible services directly related to the purchase of goods or provision of services.

- **Extension of the definition of costs of debt financing by interest included in the initial value of a fixed or an intangible asset.**
- **Introduction of the possibility to reassess taxable base if the taxpayer's cost of debt financing exceeds the amount of funding that the taxpayer would receive if such financing was provided to a taxable person by an unrelated party (taxpayer's market creditworthiness).** Importantly, in the case of such an assessment, the collaterals granted to the taxpayer by related parties or the creditworthiness resulting from the existence of such intra-group affiliations are not to be taken into account.
- **Less restrictive and more precise definition of conditions establishing relations between companies forming the Tax Capital Group and non-TCG affiliates which may result in income reassessments by reference to transactions exceeding specified value**

thresholds (at least EUR 50 thousand p.a.). The current law does not provide for such a quantitative limitation.

- **Lack of obligation to prepare transfer pricing documentation for transactions or other events covered by APA.**
- **Extension of the statutory delegation for the Minister of Finance to issue a decree on methods of assessing income of related parties by i.a. the method and procedure of determining the consideration for transferring economically significant functions, assets or risks between related parties.**
- **Clarification of the method of computing the commercial property tax base of real estate, jointly owned by the taxpayer and its related party.**

We anticipate that at its nearest meeting (scheduled on 9th and 10th November) the Senate will consider the Bill.

Please contact us if you would like to obtain more information on the draft amendments or discuss their impact on future tax obligations of your company as well as any possible changes in current business activity model to be best prepared for the new law.

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