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Tax changes brought by the Polish Deal put out to consultation

On 26 July 2021, a draft bill amending the PIT Act, CIT Act, and certain other acts, bringing a raft of tax changes under the Polish Deal program, was published on the Government Legislation Centre's website. Consequently, the proposed tax amendments have been put out to public consultations.

A summary of key measures provided therein can be found below.

Amendments to PIT regulations

According to the explanatory memorandum, the key purpose of the bill is to establish a fairer tax system by reducing the tax wedge and making it more progressive.

This goal is to be achieved through:

- increasing the personal income tax-free allowance to PLN 30 thousand annually for taxpayers using tax scale;
- raising the threshold for entering the highest personal income tax bracket of 32 percent to PLN 120 thousand;
- introducing a "middle-class relief" to cover individuals working under a contract of employment with annual revenue from employment relationship between PLN 68,412 and PLN 133,692. Consequently, the tax reform brought about by the bill is to remain neutral for employees with monthly income between ca. PLN 6 thousand and ca. PLN 11 thousand (i.e. is to compensate for the planned increase in the health insurance contributions).

Moreover, the bill is to introduce the previously announced changes relating to health insurance premium accounting basis and eliminating deductibility of health insurance premiums.

Individuals conducting business activity are to pay health insurance premiums in proportion to their income (at the same rate as individuals employed under a contract of employment, i.e. 9 percent), without possibility of deduction. Importantly, the bill provides for introduction of a minimum health insurance premium rate for individuals conducting business activity yet applying the tax scale or the flat tax rate. In such cases, the accounting basis for the minimum health insurance premium will be the statutory minimum wage. For individuals applying lump-sum tax on recorded revenue, the health insurance premium is to be set at 1/3 of the tax due (meaning that in this case there is no minimum rate available), while for individuals applying fixed amount tax it is to be set at 9 percent of the average remuneration.

Another tax incentive brought about by the bill is the so-called "return relief", to be offered to individuals moving their place of tax residence to Poland who earn income under employment relationship or similar arrangements, from activities performed in person, from non-agricultural business activity or copyright. The relief can be applied for four consecutive years following the reference year. The reference year will be the year in which the taxpayer changed their tax residence to Poland, or the year following the change of tax residence, to be selected by the taxpayer. The relief is to consist in the possibility to deduct 50 percent of the total tax due, calculated according to the tax scale, or the flat 19 percent income tax rate applicable to businesses. In the first year, 50 percent of the tax due for the reference year can be deducted, in the second year, the deduction will cover 50 percent of the tax calculated for the first year of applying the relief, while in the third and fourth year the deduction will be calculated in reference to the second and third year of applying the relief, respectively.

Other amendments to PIT regulations include, inter alia: relaxing the conditions for joint taxation of the income of spouses and single parents, expanding the catalogue of expenses entitling to rehabilitation relief, cutting the red tape on the rules for introducing new PIT forms (the new templates will not be published in the Journal of Laws, but on the website of the Ministry of Finance), or introducing new reliefs and tax preferences, incl. monument relief and reliefs for taxpayers supporting sports and cultural activities as well as higher education and science.

Changes related to business taxation

The bill is to bring amendments to the provisions on tax depreciation of private property introduced into the company's assets, consisting in:

- extending the catalogue of assets used in the conducted business activity, the sale of which, once they cease` to be used in business activity, is classified under income tax as revenue from business operations;

- introducing changes to the method of depreciation of assets acquired before they are used in business activity;
- excluding write-offs on residential buildings and premises from tax-deductible costs.

The repertoire of assets used in the conducted business activity, the sale of which, once they cease to be used in business activity, is classified under income tax as revenue from business activity will be extended.

Moreover, the bill provides for excluding write-offs on residential buildings and premises from tax-deductible costs as well as revoking the possibility of taxing the so-called private lease on general principles to replace it with lump-sum taxation.

Tackling the black economy

The bill introduces a raft of measures to tackle the issue of "black economy", i.e. to limit illegal employment and concealing the amount of the agreed actual remuneration.

This goal is to be achieved by burdening the employer with the consequences of illegal employment of an employee or failure to report the correct amount of income from the employment relationship. As a result, in situation where it is revealed that a worker is employed illegally or receives part of their remuneration "under the table", the worker will not bear the resulting tax burden, which will be imposed solely on the employer.

New innovation relief scheme

The bill brings about a suite of innovation-targeted tax reliefs, namely:

- relief for entities hiring innovative employees offered to taxpayers who obtain income from business activity, and who incur costs related to employing highly qualified employees involved with research and development;
- prototype relief covering test production of a new product or of marketing such a product;
- pro-growth relief to increase revenues from product sales;
- IPO relief offered to companies making initial public offerings or investing in such companies;
- robotization relief, consisting in reducing the tax burden of the purchase of brand-new industrial robots as well as software and accessories needed to operate such robots.

The bill is also to update the R&D provisions by providing for the possibility to jointly use the R&D relief and the IP Box scheme. Moreover, taxpayers having the status of research and development centres (R&D Centres) may benefit from a deduction of eligible costs incurred in a given tax year in relation to R&D activities amounting to 200 percent, including eligible costs of obtaining and maintaining a patent.

Consolidation relief

The bill brings a consolidation relief aimed at supporting CIT payers in increasing their visibility on foreign markets.

This mechanism will be addressed to residents and non-residents operating in the territory of the Republic of Poland through a Poland-based foreign establishment. Under the consolidation relief, taxpayers incurring "eligible expenses" for shares in a domestic or foreign company having legal personality (meaning a limited liability or a joint-stock company) will have the right to reduce the tax base by these expenses in the year when they were actually incurred. Nevertheless, the total reduction amount in a given tax year could not exceed the equivalent of PLN 250,000.

Eligible expenses for the acquisition of shares in a foreign company would include expenses for legal services related to the acquisition of shares, including their valuation (due diligence), interest, taxes directly charged on this transaction as well as notary, court, and fiscal fees. However, such expenses would not include: the price paid by the taxpayer for the acquired shares and the costs of debt financing related to such acquisition.

Amendments to the Estonian CIT regulations

The bill provides for a raft of amendments to the Estonian CIT scheme, namely;

- extending the scheme application to limited partnerships and limited joint-stock partnerships;
- abolishing the condition of making capital expenditure in a specified amount to apply the scheme, while keeping the possibility of making them to apply a preferential lump-sum rate;
- removing the upper income threshold and, consequently, the requirement to cover tax surcharge;
- relaxing deadlines for settling the tax liability resulting from preliminary adjustment and, in some cases, abolishing the requirement to pay it;
- postponing the taxation of income from retained profits generated in the period of scheme application to the time of their actual distribution.

Changes in WHT

The bill introduces the long-awaited amendments to the WHT collection system. The amendments are to bring, inter alia, narrowing the objective and subjective scope of the WHT refund procedure.

In turn, the scope of the opinion confirming the taxpayer's entitlement to use WHT exemption is to be extended to cover reliefs provided for in double taxation treaties.

The changes also relate to payments of receivables through entities maintaining securities and omnibus accounts, payments from Treasury bonds, as well as payments effectuated to foreign establishments.

Tax capital groups, Polish Holding Company, Investment deals

The bill proposes to relax the conditions for the establishment and operation of tax capital groups and to introduce a new Polish Holding Company regime. Starting from 1 January 2022, holding companies may apply a new scheme, under which they will be authorized to apply an exemption from taxation of capital gains (from the sale of shares in subsidiaries) and, at the same time, use a 95 percent participation exemption for dividends (instead of a 100 percent relief under general terms).

Moreover, the new regulations are to enable concluding investment deals setting forth tax consequences of a new investment planned or commenced in Poland.

VAT groups and amendments to the cashless payment scheme

Furthermore, the bill introduces provisions on VAT groups. Under the new scheme, entities having financial, economic, and organizational relationships will be able to make joint VAT settlements. The solution can be applied on a voluntary basis.

Changes are also proposed to promote cashless transactions by introducing a quick VAT refund for cashless taxpayers and a proposal to temporarily limit some VAT preferences for taxpayers who will not comply with the introduced obligation to be ready to accept cashless payments.

Amendments to transfer pricing regulations

The bill is also to bring a number of simplifying and clarifying changes to the provisions on transfer pricing, including: simplification of the rules for signing the statement on transfer pricing documentation, new documentation obligation exemptions, extension of the deadline for submitting transfer pricing documentation, simplification of the rules for making transfer pricing adjustments and changes to fiscal penalties.

Amendments to the lump-sum taxation system

The bill is also to amend the provisions on the lump-sum taxation of certain types of revenue earned by natural persons. The amendments will include:

- reduction of lump-sum rates on recorded revenues from certain categories, e.g. from the provision of healthcare and IT services;
- unification of the rules of taxation of income from rental, sub-rental, lease sub-lease and other contracts of a similar nature, concluded outside of business activity;
- changes to the rules for electronic keeping of records of revenues along with lists of fixed and intangible assets as well as introduction of the obligation to provide them in a structured form to the tax authorities;
- fixed amount tax regulations – this form of taxation will now only apply to taxpayers who used this form of taxation as at 31 December 2021.

The draft is currently subject to public consultation.

The essential part of the amendments brought by the bill is planned to enter into force on 1 January 2022.

If you would like to learn more about the issues discussed, do not hesitate to contact us.

KPMG offices

Warsaw
ul. Inflancka 4a
00-189 Warsaw
Tel. : +48 22 528 11 00
Fax: +48 22 528 10 09
kpmg@kpmg.pl

Gdańsk
al. Zwycięstwa 13a
80-219 Gdańsk
Tel. : +48 58 772 95 00
Fax: +48 58 772 95 01
gdansk@kpmg.pl

Kraków
ul. Opolska 114
31-323 Kraków
Tel. : +48 12 424 94 00
Fax: +48 12 424 94 01
krakow@kpmg.pl

Katowice
ul. Francuska 36
40-028 Katowice
Tel. : +48 32 778 88 00
Fax: +48 32 778 88 10
katowice@kpmg.pl

Poznań
ul. Roosevelta 22
60-829 Poznań
Tel. : +48 61 845 46 00
Fax: +48 61 845 46 01
poznan@kpmg.pl

Łódź
ul. Składowa 35
90-127 Łódź
Tel. : +48 42 232 77 00
Fax: +48 42 232 77 01
lodz@kpmg.pl

Wrocław
ul. Szczytnicka 11
50-382 Wrocław
Tel. : +48 71 370 49 00
Fax: +48 71 370 49 01
wroclaw@kpmg.pl

kpmg.pl