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Amendments to tax solutions provided under the Polish Deal

On 8 September 2021, the Ministry of Finance announced the final revision of the tax amendment package provided for under the Polish Deal Program. Furthermore, a new draft bill amending the PIT Act, the CIT Act, and certain other acts, taking into account some of the comments to the previous draft submitted during the consultation phase was passed to the Sejm.

The key tax amendments brought by the latest version of the Polish Deal Program are presented below.

Amendments to health insurance contributions

What remained unchanged compared to the previous version of the Program is that health security contributions are non-deductible and that individuals earning revenues from employment relationship and those who conduct business activity using tax scale are now to pay health insurance premiums at the same member of the, i.e. 9 percent of income.

What changed, however, is that the rules on the amount of health insurance contributions paid by entrepreneurs applying flat-rate personal income tax, lump-sum tax or fixed amount tax scheme got relaxed.

Under the latest version of the bill, starting from 2022, taxable persons remitting flat-rate tax will pay healthcare insurance contributions at the rate of 4.9 percent.

In turn, the healthcare insurance contribution amount for entrepreneurs subject to lump-sum taxation scheme will depend on the average monthly remuneration and the revenue threshold they fall under. With annual revenues of up to PLN 60 thousand, the basis for calculating the premium will be 60 percent of the average monthly remuneration, for revenue of up to PLN 300 thousand it will be 100 percent of the average remuneration, while for revenues higher than PLN 300 thousand it will be 180 percent of the average remuneration.

In the case of taxpayers using the fixed amount tax scheme, the accounting basis for the health insurance contribution calculated at the 9 percent rate will be the minimum remuneration and not the average monthly remuneration, as stipulated by the previous version of the bill.

The deadlines for settling health and social security contributions will also be standardized and extended. Up to now, they had to be remitted by entrepreneurs not employing any staff by the 10th day of the subsequent month and by the 15th day of the subsequent month in the case of entrepreneurs employing staff. Now the deadline is to be extended to the 20th day of the subsequent month, to adjust the contribution remittance deadline to the deadline for making PIT advance payments.

Minimum income tax

A new levy, referred to by the Ministry as the “large corporate tax”, which, in principle, will operate as a minimum tax on multinationals that do not declare any taxable income in Poland, is also to be introduced.

It is to be imposed on limited liability companies, joint-stock companies and tax capital groups, as well as non-residents conducting business activity through foreign permanent establishments reporting losses from a source of revenue other than capital gains or for which a share of income from a source of income other than capital gains in revenue other than capital gains amounts to 1 percent or less.

The tax should not target SMEs, excluded will be simple-structured entities, i.e. entities partnered solely by natural persons, free of shares in other entities. It is also to exclude financial sector entities subject to the bank tax, CIT payers in the first 3 years of business operations and companies heavily affected by the pandemic (which recorded a drop in revenues of at least 30 percent).

The tax is to be set at 10 percent taxable base, being, in principle, the sum of the following: 4 percent of the value of revenues from sources other than capital gains, debt financing costs incurred for the benefit of related entities - in the part specified in the act - the value of deferred income tax resulting from the disclosure of non-depreciated

intangible assets in tax settlements, to the extent it increases gross profit or decreases gross loss, as well as the value of costs of purchase of particular services or intangible rights incurred for the benefit of related entities (or entities from countries or territories pursuing harmful tax competition), in the part specified in the act. At the same time, the currently applicable Article 15e of the CIT Act, setting a cap on the tax-deductible costs incurred by the taxpayer in connection with the purchase of services or intangible rights is to be repealed.

In principle, the taxable base-reducing values will consist of deductions limiting the taxable base in CIT, excluding the bad-debt relief and the income taken into account in calculating tax-exempt income achieved from conducting business activities in special economic zones (Polish Investment Zone).

The amount of the minimum income tax paid for a given tax year will be deductible from the tax calculated according to general rules. The deductions can be made in three consecutive tax years immediately following the year in which the taxpayer paid the minimum income tax.

The minimum income tax is to be calculated and remitted on an annual basis. Importantly, taxpayers will be also required to report the taxable base, how it was reduced, and the amount of the minimum income tax due in the annual tax return.

Other changes

The principles of applying the Estonian CIT scheme are also to be modified. Apart from abolishing the revenue threshold, granting the possibility of using the scheme to cooperative societies, limited partnerships and limited joint-stock partnerships, and eliminating entry/exit taxation, the draft bill is now to provide for decreasing effective rates of joint taxation in PIT and CIT, from 25 to 20 percent for small taxpayers and from 30 to 25 for large entities.

The rules of applying for the return relief in PIT were also clarified. According to the amendments, the relief may be used by individuals with Polish citizenship and holders of *Karta Polaka* [Polish Charter] who for the last three years remained non-residents of Poland for tax purposes. The fact of living outside Poland can be confirmed not only with a certificate of residence, but also with other documents, e.g. certificates issued by administrations of other countries and documents regarding work or registration abroad.

Furthermore, regulations on extending tax residence, giving rise to the obligation of settling CIT in Poland imposed on foreign taxable persons, are also to be amended. The requirement of having a place of residence of the managerial staff, registered office, or place of management in Poland will be superseded by the requirement of managing the current affairs of the taxpayer from the territory of Poland in an organized and continuous manner.

Finally, deadlines for settling some types of reliefs are also to be extended. Namely, the deadlines for settling the expansion relief and the monument relief are to be extended from 5 to 6 years and the deadlines for settling the relief for using a payment terminal and the prototype relief are to be extended from 4 to 6 years and from 2 to 6 years, respectively.

What's next?

The draft bill was passed to the Lower House of the Polish Parliament. The tax changes it brings are expected 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.

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