

Tax Alert

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New tax preferences to support Ukraine

KPMG in Poland

March 2022

According to the Ministry of Finance's communication dated 3 March 2022, new tax preferences are envisaged for victims of the military conflict in Ukraine and entities assisting them.

Planned amendments

The planned amendments include, *inter alia*, the possibility to deduct expenses incurred for the production or the purchase price of goods and rights that are the subject of a donation intended for counteracting the effects of the armed conflict in the territory of Ukraine, made in the period from 24 February to 31 December 2022 to:

- non-governmental organizations (including Ukrainian ones);
- local government units;
- Governmental Agency for Strategic Reserves;
- entities providing healthcare and emergency medical services in Poland and Ukraine.

Expenses incurred on the account of providing free allowances, such as free-of-charge medical assistance granted to non-governmental organizations, will be also treated as tax-deductible costs.

Works on introducing an **exemption from inheritance and donation tax on transfer of ownership or property rights** are also underway. **It is expected to apply from 24 February to 31 December 2022.**

It is also planned to **exempt from personal income tax (PIT) benefits received from natural persons and companies by Ukrainian citizens residing in the territory of the Republic of Poland.**

Importantly, on 4 March 2022, a decree of the Minister of Finance amending the decree on goods and services subject to reduced VAT rates was published in the Polish Journal of Laws. Pursuant to the decree, 0 percent VAT rate is to be applied to free-of-charge deliveries of goods or provision of services aimed at supporting victims of the armed conflict in Ukraine made between 24 February and 30 June 2022. The preferential treatment can be applied to contributions made to the governmental Agency for Strategic Reserves, healthcare entities and local government units, i.e., entities acting as key coordinators and, in a way, intermediaries for the aid provided. The zero percent rate can be applied, provided that the taxpayer and an entity from the list indicated above enter into a written agreement stipulating that the donated goods and services will be provided to those affected by the Russian aggression in Ukraine.

Current tax regulations related to aid for individuals affected by the conflict in Ukraine

Persons affected by the armed aggression against Ukraine fleeing to Poland can expect material support from volunteers (being natural persons), foundations, associations, public benefit organizations and other social organizations, as well as legal persons.

Below we present a review of the **key aspects of the existing (as at 4 March 2022) tax treatment** of charitable donations made in the current situation, both for donors and aid recipients:

- ✓ **collections and fundraisers** organized among employees and their families must be **compliant** with the requirements set forth in the Polish Act on the principles of **public fundraising activity**. The Act specifies several prerequisites that a collection must meet to be recognized as a public fundraiser and establishes an obligation for such collections to be **reported via dedicated form**;
- ✓ **financial donations and benefits in kind transferred** by a company directly to Polish charities to support the Ukrainian cause **does not give rise to any obligations** for the company to calculate, collect or remit income tax;
- ✓ if the selected charity is a public benefit organization and the donated financial resources or benefits in kind come from collections held among **employees**, employers are encouraged to inform them on the **possibility to deduct the contributions made in their annual PIT returns** (yet the deduction cannot exceed 6 percent of the employee's income in a tax year). The employer should document the amounts received from each employee and the amounts passed to charities;

- ✓ money and benefits in kind donated by the company to Ukrainian citizens not being the company's employees (e.g., refugees or their families remaining in Ukraine) **do not give rise to any obligation for the beneficiaries to pay the inheritance and donation tax**, up to the amount of **PLN 4,902** (a tax-free allowance is set up for each beneficiary);
- ✓ companies may also provide Ukrainian citizens not being the company's employees with hardship benefits. **Hardship benefits are exempt** from personal income tax up to the limit currently set at **PLN 10,000** (once the state of COVID-19 epidemic in Poland is revoked, however, it will be PLN 6,000). The cap is fixed for each beneficiary individually;
- ✓ **money and the benefits in kind donated by the company** directly to Polish charities to support Ukraine may be deducted from **taxable income (up to 10 percent thereof)**, provided that the charity operates as a public benefit organization and has this type of activities covered by its statutes (this applies, *inter alia*, to many foundations); The donation made should be **documented** with a proof of payment to the recipient's payment account or a bank account other than the payment account, and in the case of a non-monetary donation, with a document confirming the value thereof and the beneficiary's reception confirmation;
- ✓ money and contributions in kind collected by the company from employees should be **recorded separately** (e.g., transferred to a separate bank sub-account), to **demonstrate that they are not gains (i.e., taxable revenue)** for the company, but as funds entrusted to company to be transferred to Ukrainian beneficiaries;
- ✓ if the company is eligible for VAT deduction on material aid for Ukraine, it may still be required to pay **VAT on account of the release of goods** (i.e., bear the economic burden as an end consumer).

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