

To Whom It May Concern,

Please find below the information on selected and, in our opinion, most significant **amendments to the business tax laws which become effective in 2022**, also implemented within the so-called Polish Deal.

We believe that this information will be useful for you.

The Mac Auditor Team

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The main legal acts on which this brochure is based can be found [here](#) and [here](#).

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## 1. Minimum wage

The employment contract minimum wage will be **PLN 3,010.00** gross

The minimum hourly wage under civil-law contracts will be **PLN 19.70** gross.

## 2. Change in the tax threshold and PIT scale

From 1 January 2022, the income threshold is increased to PLN 120,000. After exceeding it, the 32% tax rate applies. Therefore, the tax scale is also changed in accordance with the following table:

Base for tax calculation in PLN		The tax amounts to
more than	to	
	PLN 120,000	17% minus the amount reducing the tax PLN 5,100
PLN 120,000		PLN 15,300 + 32% of surplus over PLN 120,000

### 3. Increase in the tax-free amount and the amount reducing monthly tax advances [PIT]

As of 1 January 2022, the tax-free amount is increased to PLN 30,000, and therefore the amount reducing the tax increases to PLN 5,100 (30,000 x 17%).

The tax-free amount will be deducted when calculating monthly tax advances, by deducting 1/12 of the tax reduction amount. The so-called monthly tax relief taken into account by the employer when settling the remuneration under the employment contract, resulting from PIT-2 submitted, increases from the current amount of PLN 43.76 to PLN 425.00 (5,100.00/12) per month. The new amount of the so-called tax relief applies throughout the tax year, also after exceeding the first tax threshold, which is a change in relation to the currently applicable provisions. Employees who earn revenue from different employers, receive pension or disability pension, or conduct business activity taxed according to the general tax provisions should verify the legitimacy of PIT-2 submitted to the employer. If the employee is not sure whether they have a tax relief deducted, they can submit PIT-2 with up-to-date data or 'cancel' previously submitted PIT-2. This is important because if a tax relief is taken into account in two or more workplaces or from pension/disability pension or business activity, as a consequence the employee will have a high additional tax resulting from the annual settlement.

### 4. No possibility to deduct the health contribution from the tax [PIT]

The Polish Deal introduces a change in the calculation of the personal income tax advance. **The possibility to deduct the health contribution of 7.75% is liquidated. These provisions apply to all taxpayers, i.e. employees, contractors, members of supervisory boards, members of the management board, commercial proxies, persons receiving pension or disability pension and persons conducting business activity.**

**IMPORTANT! This change is crucial at the turn of 2021 and 2022. Only remuneration paid by 31/12/2021 can include deductions of the health contribution from PIT advances. In the case of entrepreneurs, only health contributions paid by 31/12/2021 will reduce their PIT for 2021.**

### 5. Relief for the middle class [PIT]

**The relief for the middle class will be granted only to persons earning revenue from the employment relationship (under an employment contract) and persons conducting business activity taxed according to the tax scale (17%/32%).** Its purpose is to eliminate differences in the net remuneration due to the abolition of the possibility to deduct health contributions from tax.

The method of calculating the remuneration and the application of an appropriate algorithm will depend on the amount of the employee's **revenue** from the employment relationship (under an employment contract), including the social security contributions, which they will achieve in a given month (we will take into account the month in which the remuneration is paid, and in the case of revenue in kind: the month in which it is made available to the employee). **The new method of calculating the remuneration will also apply to the remuneration for December 2021 or for earlier months, which will be paid starting from 1 January 2022, i.e. usually the remuneration paid 'by the 10th day of a month'.**

The legislator differentiates the method of calculating the remuneration depending on the employee's monthly revenue (at the stage of collecting the tax advance) and, as a consequence, the employee's annual revenue (the final settlement will be made in the annual tax return).

#### Monthly revenue up to the gross amount of PLN 5,700.99

For employees earning monthly revenue in 2022 up to the amount of 5,700.99, the net remuneration will increase in relation to the regulations in force until the end of 2021. Employees who submitted PIT-2, due to the application of the increased monthly amount reducing the tax advance, will not suffer negative consequences of lack of possibility to reduce the advance payment by the health contribution of 7.75%.

Apart from the monthly threshold, an annual revenue threshold has been also introduced and it amounts to PLN 68,412.00 gross.

#### Monthly revenue between PLN 5,701.00 and PLN 8,549.00 gross

To employees who earn monthly revenue from the employment relationship between PLN 5,701.00 and PLN 8,549.00 gross, the so-called **relief for the middle class will be applied**. The remuneration will be calculated with the use of **the [ALG\_1] algorithm**, calculating the amount of this additional relief reducing the tax base, which is to roughly eliminate the difference in net remuneration in 2021 and from 2022.

Apart from the monthly threshold, an annual revenue threshold has been also introduced and it is from PLN 68,412.00 to PLN 102,588.00 gross.

#### Monthly revenue between PLN 8,549.01 and PLN 11,141.00 gross

To employees who earn monthly revenue from the employment relationship between PLN 8,549.00 and PLN 11,141.00 gross, **the relief for the middle class** will be also applied. The remuneration will be calculated with the use of **the [ALG\_2] algorithm**, calculating the amount of this additional relief. In this case a different algorithm is used. It is to roughly eliminate the difference in net remuneration in 2021 and from 2022.

Apart from the monthly threshold, an annual revenue threshold has been also introduced and it is from PLN 102,588.01 to PLN 133,692.00 gross.

The **algorithms** referred to above are as follows:

**ALG\_1**  $(A \times 6,68\% - \text{PLN } 4,566) \div 0.17$ , for A from PLN 68,412 to PLN 102,588,

**ALG\_2**  $(A \times (-7.35\%) + 9,829) \div 0.17$ , for A from PLN 102,588 to PLN 133,692,

where A means the sum of revenue obtained by the taxpayer in the tax year and subject to taxation, from a business relationship, employment relationship, home work and cooperative employment relationship, as well as revenue obtained during the year from non-agricultural business activity, less the costs of conducting this activity (excluding social security contributions of the taxpayer and persons cooperating with them).

#### Monthly revenue of more than PLN 11,141.00 gross

To employees who earn monthly revenue of more than PLN 11,141.00 gross, **the relief for the middle class will not be applied**. In this case, the net remuneration of the employee will be usually decreased compared to the rules applicable in 2021.

Apart from the monthly threshold, an annual revenue threshold has been introduced and it amounts to more than PLN 133,692.01 gross.

**IMPORTANT!** After exceeding in a given year the gross revenue of PLN 133,692.01, employees who at the stage of collecting the tax advance benefit from the relief for the middle class will have to 'return this relief' in the nearest remuneration settlement, after exceeding this limit (as a consequence they will receive lower remuneration). Prior

to the first calculation of remuneration in a given tax year, the employee may submit a statement on resignation from the relief for the middle class, if they expect that their annual revenue may exceed the amount of PLN 133,692.00. After the submission of this statement, the relief for the middle class will not be taken into account, which will increase the monthly tax advance and reduce the net remuneration amount. The employee who will submit to the employer the resignation from the relief for the middle class, and will not exceed in 2022 the revenue amount of PLN 133,692.01, will not lose the relief for the middle class. They will settle it in the annual tax return. Submitting the statement on not taking into account the relief for the middle class is a safe variant for employees estimating their annual revenue from the employment relationship above PLN 133,692.01 gross.

## 6. Exemption from tax for persons up to the age of 26 [PIT]

The exemption covers persons employed on the basis of an employment contract, cooperative employment relationship, employment relationship as well as home work, mandate contract, graduate traineeships and student internships. The amount of the exemption has not been changed and includes revenue from the above-mentioned titles up to the amount of PLN 85,528 per year.

## 7. Relief for return from emigration [PIT]

As of 2022, for taxpayers earning revenue from the employment relationship (employment contracts) but also from mandate contracts and non-agricultural business activity, the legislator has introduced the so-called relief for return from emigration, i.e. exemption from tax of revenue up to the limit of PLN 85,528 per year. The condition for the application of this exemption is the submission of a statement by the taxpayer in which the year of commencement and termination of the exemption is indicated. **The taxpayer submits the statement under pain of criminal liability.**

The exemption applies for a period of 4 tax years, provided that:

- the taxpayer is subject to an unlimited tax obligation in connection with return from emigration,
- the taxpayer did not have the place of residence in Poland for 3 years preceding the year of moving the place of residence to Poland and the period from the beginning of the year in which the taxpayer moved their place of residence to Poland to the day preceding the date of change in the place of residence to Poland,
- the taxpayer has Polish citizenship or the Pole's Card or the citizenship of another EU or EEA Member State or the Swiss Confederation, or
- had the place of residence:
  - continuously for 3 years in EU or EEA member states, the Swiss Confederation or other countries listed in the Polish Personal Income Tax Act, certified by a certificate of residence or another document, or
  - on the territory of Poland for at least 5 calendar years prior to moving abroad,
- holds a certificate of residence,
- has not previously benefited from this exemption in whole or in part.

## 8. Tax exemption for persons bringing up at least 4 children [PIT]

As of 2022, for taxpayers earning revenue from the employment relationship (employment contracts), but also from mandate contracts and non-agricultural business activity, bringing up at least 4 children, the taxpayer's revenue up to the amount not exceeding PLN 85,528.00 in the tax year will be free from tax.

The relief will be granted in the case of bringing up minor children, adult children receiving attendance benefit or social pension, children up to the age of 25 who continue education in accordance with provisions on higher education in Poland and abroad, in the case of not earning taxable income of up to PLN 3,089.00; except for the family pension. The taxpayer who wishes to benefit from this relief is obliged to submit information, according to the

established template, containing data on the number of children and their PESEL numbers, and in the absence of this number, children's first and last names and dates of birth.

### 9. Tax exemption for working pensioners and disability pensioners [PIT]

The condition for exemption from tax of revenue from the employment relationship (employment contracts) but also from mandate contracts and non-agricultural business activity up to the revenue limit of PLN 85,528.00 is the resignation from receiving the disability pension or pension. If a person receiving the pension or disability pension receives at the same time these benefits and is employed under an employment contract, they are not entitled to a tax exemption under an employment contract. Additionally, if at the settlement of remuneration the so-called monthly tax relief on the basis of PIT-2 submitted is taken into account, it is advisable for the employee to submit a statement on resignation from the relief. Otherwise, the relief will be calculated by the authority paying the pension/disability pension and by the employer. Double calculation of the relief in the amount of PLN 425 per month will result in the necessity to pay the tax resulting from the annual settlement in the amount of PLN 5,100 (425 x 12 months).

### 10. Resignation from tax deductible costs for persons with more than one employment contract [PIT]

In accordance with the regulations in force until the end of 2021, employees employed under more than one employment contract have tax deductible costs calculated under each contract. As of January 2022, the employee can resign from taking these costs into account when calculating the remuneration to be paid. The condition is to submit a request for non-application of tax deductible costs.

### 11. Elimination of joint taxation for single parents [PIT]

The legislator has abolished the possibility of joint taxation for single parents. Employees will no longer have the possibility to make declarations on joint taxation with their child, as a result they will be settled according to the scale and there will be no possibility to include the tax relief in the double amount when calculating the tax advance (currently PLN 43.76 x 2).

The relief for single parents will be granted in the amount of PLN 1,500 per year.

### 12. Joint taxation of spouses [PIT]

The legislator has retained the possibility of joint taxation with the spouse. The condition for applying a lower PIT rate (17%) for the purposes of monthly PIT advances is the submission to the employer of a declaration on joint taxation in which the taxpayer will declare that their income in a calendar year will not exceed the upper limit of the first tax threshold, i.e. PLN 120,000 and the spouse does not receive any income or income of the spouse falls within the lower range of the tax scale, and the advances for the entire calendar year are 17%.

### 13. Use of company cars for private purposes [PIT]

According to the regulations in force until 31 December 2021, persons using company cars for private purposes have the amount of PLN 250 gross or PLN 400 gross added to the revenue, depending on the engine capacity.

As of 1 January 2022, a distinction is introduced between cars with electric engines and combustion engines. Regardless of the engine capacity, for electric cars it is the gross amount of PLN 250, for vehicles with combustion engines it is the gross amount of PLN 400. As before, the car lump sum is still subject to social security contributions and tax advance.

#### 14. Changes in the settlement of revenue from mandate contracts [PIT]

As of 1 January 2022, the settlement of remuneration under a mandate contract is subject to a significant change.

The possibility to deduct the health contribution from the tax advance is eliminated. In practice, the 'noticeable' health contribution will increase from 1.25% to 9%.

Taxpayers may **request that no personal income tax advances be deducted**. The cessation of deducting tax advances will be applied from the month following the month in which the request is submitted to the taxpayer (the employer). The right to submit the request will be vested in **persons whose annual revenue will not exceed PLN 30,000 gross** and do not receive other income from which tax advances are calculated taking into account the amount reducing the tax, or income from business activity. Due to this solution, the taxpayer will be able to use the tax-free amount during the year (5,100.00), not only in the annual tax return.

#### 15. Health contribution of persons conducting business activity [ZUS]

As of 2022, the amount of the health contribution for persons conducting business activity is changed.

**The amount of the health contribution will depend on the form of taxation of the activity and on the amount of revenue or income earned by the entrepreneur.**

A significant change also concerns the health contribution assessment base. **The basis for calculating health contributions will be income from business activity**. Therefore, the annual health contribution assessment base will be calculated analogically to the tax base and will constitute the difference between revenue and tax deductible costs reduced by the paid social security contributions of the entrepreneur.

The entrepreneur pays the health contribution from the monthly assessment base constituting income from business activity obtained in the month preceding the month for which the contribution is paid in the following manner:

- the income for the first month of being subject to insurance is the income from business activity determined in accordance with PIT, less social security contributions paid in that month;
- the income for the following months is the difference between the sum of revenue less the sum of costs earned from the beginning of the year and the income determined for the previous months and the difference between the sum of contributions paid from the beginning of the year and the sum of contributions deducted in the previous months.

The assessment base may not be lower than the minimum wage applicable as of 1 January of a given contribution year.

The determination of the monthly health contribution will require monthly calculation of income from business activity, regardless of whether we apply monthly or quarterly income tax settlements or whether we apply simplified advance payments.

Article 81(2h) of the Polish Health Act provides for a simplified method of calculating the health contribution – the basis for calculating the monthly contribution is the amount of revenue for the previous calendar year, reduced by the amount of social security contributions paid in the previous year.

**In order to eliminate the increased burden with the health contribution, in the case of entrepreneurs settling on the basis of the tax scale (17%/32%), it is possible to use the so-called relief for the middle class in PIT, on the same terms as for employees (see point 5 of the brochure).**

**The list below presents the rules for determining the health contribution for basic forms of business activity.**

Form of taxation	Monthly contribution	Annual contribution
Tax scale	9% of income, not less than PLN 270.90 (PLN 3,010 x 9%)	9% of income, not less than PLN 3,250.80 (PLN 3,010 x 12 x 9%)
Flat-rate tax	4.9% of income, not less than PLN 270.90	4.9% of income, not less than PLN 3,250.80
Fixed amount tax	PLN 270.90 (PLN 3,010 x 9%)	PLN 3,250.80 (PLN 3,010 x 12 x 9%)
Lump-sum tax on registered revenue	9% of the monthly assessment base (see below)	9% of the annual assessment base (see below)

As a rule, the contribution year covers the period from 1 February of a given year to 31 January of the following year.

#### **Enterprises taxed with flat-rate tax (19%) and according to the tax scale (17%/32%)**

The health contribution assessment base will be the income from business activity, i.e. revenue minus tax deductible costs, obtained in the month preceding the month for which the health contribution is paid. If the income obtained is lower than the minimum wage applicable on 1 January of the contribution year, or the entrepreneur has incurred a loss, the monthly health contribution will be PLN 270.90.

The annual health contribution assessment base will be the income from business activity determined for the calendar year.

The contribution paid will not be deducted from the income tax.

#### **Fixed amount tax**

The health contribution assessment base for persons conducting non-agricultural activity to whom the taxation in the form of the fixed amount tax is applied is the amount of the minimum wage applicable as of 1 January of a given year (in 2022 – PLN 3,010). The contribution will amount to 9% of the assessment base.

#### **Lump-sum tax on registered revenue**

In the case of the lump-sum tax on registered revenue, the health contribution will amount to 9% of the assessment base.

The monthly health contribution assessment base will be:

- a) 60% of the average monthly remuneration\* if the revenue from business activity achieved since the beginning of the calendar year did not exceed PLN 60,000 (assuming that the average monthly remuneration in the enterprise sector in Q4 2021 is PLN 6,000, the contribution will be **PLN 324**),
- b) 100% of the average remuneration\* if the revenue from business activity achieved since the beginning of the calendar year exceeded PLN 60,000 and was not higher than PLN 300,000 (assuming that the average monthly remuneration in the enterprise sector in Q4 2021 is PLN 6,000, the contribution will be **PLN 540**),
- c) 180% of the average monthly remuneration\* if the revenue from business activity achieved since the beginning of the calendar year exceeded PLN 300,000 (assuming that the average monthly remuneration in the enterprise sector in Q4 2021 is PLN 6,000, the contribution will be **PLN 972**).



The annual health contribution assessment base will be:

- a) the product of the number of months in a calendar year and the amount equal to 60% of the average monthly remuneration\*, if the revenue from business activity achieved did not exceed PLN 60,000 in that period,
- b) the product of the number of months in a calendar year and the amount equal to the average monthly remuneration\*, if the generated operating revenues in that period exceeded PLN 60,000 and did not exceed PLN 300,000,
- c) the product of the number of months in a calendar year and the amount equal to 180% of the average monthly remuneration\*, if the revenue from business activity achieved exceeded PLN 300,000 in that period.

\* average monthly remuneration in the enterprise sector in the fourth quarter of the previous year, including distributions from profit, published by the President of the Central Statistical Office in the Official Journal of the Republic of Poland 'Monitor Polski'

After the end of a calendar year, an entrepreneur conducting business activity taxed in the form of a lump-sum tax on registered revenue is obliged to pay the difference between the sum of contributions paid for individual months of this calendar year and the annual contribution determined on the basis of the annual contribution assessment base. The additional payment should be made **within one month** from the expiry of the deadline for submitting the PIT-28 tax return.

**Business activity conducted in the form of a single-person limited liability company, a general partnership (if it is a CIT payer), a limited partnership**

The health contribution assessment base will be the average monthly remuneration in the enterprise sector in the fourth quarter of the previous year, distributions from profit, published by the President of the Central Statistical Office. The value of the contribution will amount to 9% of the assessment base. The contribution is effective from 1 January to 31 December.

**More about your health contribution:**

- [Article on the Social Insurance Institution website](#)
- [Article on business.gov.pl](#)

**16. Social security contributions of persons conducting business activity [ZUS]**

As of 2022, the amounts of social security contributions for persons conducting business activity are changed.

Pension contribution	Disability pension contribution	Sickness contribution (voluntary)	Accident contribution	Labour Fund
<b>Standard assessment base: PLN 3,553.20</b>				
PLN 693.58	PLN 284.26	PLN 87.05	PLN 59.34	PLN 87.05
Total social security contributions with sickness insurance PLN 1,124.23 Total social security contributions without sickness insurance PLN 1,037.18				
<b>Preferential assessment base: PLN 903.00</b>				
PLN 17.27	PLN 72.24	PLN 22.12	PLN 15.08	-
Total social security contributions with sickness insurance PLN 285.71 Total social security contributions without sickness insurance PLN 263.59				

### 17. Deadline for submission of settlement documents and payment of contributions [ZUS]

As of 1 January 2022, the deadline for submitting settlement documents and the payment of contributions to the Social Insurance Institution is changed. The following deadlines will apply:

- by the 5th day of the following month – for budgetary and local government units of budgetary entities,
- by the 15th day of the following month – for payers with legal personality,
- **by the 20th day of the following month** – for other contribution payers, i.e. for natural persons and entities without legal personality.

### 18. Remuneration for performing functions of members of the management board and commercial proxies on the basis of an appointment [ZUS]

As of 2022, revenue received on account of performing duties on the basis of an appointment will constitute the basis for compulsory health insurance. As of 2022, members of the Management Board and commercial proxies receiving remuneration on the basis of an appointment will be reported to the Social Insurance Institution on the ZUS ZZA form (within 7 days from the date of the obligation occurrence). This will entail the necessity to pay health contribution of 9% of the gross remuneration and to include such a person in monthly reports sent to the Social Insurance Institution. The entity paying the remuneration (the company) will report for insurance and pay contributions, while the cost of the health contribution will reduce the net remuneration of the member of the management board and the commercial proxy.

Entities that by 31 December 2021 were not obliged to report the company to the Social Insurance Institution on the ZPA form (application of the contribution payer), and in 2022 they will pay the remuneration on account of the appointment, will be obliged to report the company to the Social Insurance Institution within 7 days from the date of the obligation occurrence, i.e. by 7 January 2022.

The change in the obligation to pay the health contribution applies only to persons performing the function on the basis of an appointment who receive remuneration on this account. Persons who perform duties without remuneration will still not be covered by the health insurance obligation.

### 19. Amount of limitation of the basis for calculating the pension and disability pension contribution [ZUS]

In 2022, the annual base of pension and disability pension contributions above which pension and disability pension contributions will not be calculated will amount to PLN 177,660 gross.

### 20. Public holidays in 2022

In 2022, public holidays are Sundays and the following days:

- 1 January** (Saturday) – New Year's Day
- 6 January** (Thursday) – Epiphany
- 17 April** (Sunday) – Easter (Easter Sunday)
- 18 April** (Monday) – Easter (Easter Monday)
- 1 May** (Sunday) – Labour Day
- 3 May** (Tuesday) – Constitution Day
- 5 June** (Sunday) – Whit Sunday
- 16 June** (Thursday) – Corpus Christi
- 15 August** (Monday) – Assumption Day
- 1 November** (Tuesday) – All Saints' Day

- 11 November** (Friday) – Independence Day
- 25 December** (Sunday) – Christmas Day
- 26 December** (Monday) – 2nd Day of Christmas

Employees should be granted an additional day off for a public holiday on Saturday, i.e. for 1 January 2022. A day off should be granted in the settlement period applicable at a given workplace (e.g. one-month, three-month period).

#### **21. Recalculation of sickness benefit base [ZUS]**

As of 2022, the base of sickness benefits will be recalculated if the interval between the periods of absence for which the sickness benefit is due is longer than 1 full calendar month (currently 3 months).

#### **22. New benefit period [ZUS]**

Currently, the benefit period is 182 days and covers uninterrupted periods of disease or the sum of periods of disease with intervals when the interval was shorter than 60 days and related to the same disease. As of 2022, the new benefit period will start only if the interval between sick leave periods is at least 61 days. It will be irrelevant that the disease after an interval of less than 61 days will be a different disease. After the 182-day benefit period has been exhausted, as before the insured person will be allowed to apply to the Social Insurance Institution for a rehabilitation benefit.

Pregnant women are the exception. In their case, if there is an interval in sick leaves, even if the interval is shorter than 60 days, then if after the interval the incapacity for work occurs during pregnancy, the benefit period starts from the first day of the sick leave during pregnancy. For pregnant women, the 270-day benefit period remains unchanged, and after it has been exhausted, they are entitled to apply for a rehabilitation benefit.

#### **23. Shorter benefit period after the cessation of employment [ZUS]**

For persons after the cessation of employment, as of 2022 the benefit period will be 91 days.

#### **24. Sickness benefit for the period of hospitalisation [ZUS]**

As of 2022, the provision that differentiated the amount of sickness benefit depending on whether the patient was at home or in hospital will be removed. Currently, the benefit for the period of hospitalisation amounts to 70% of the sickness benefit assessment base. As of 2022, the sickness benefit for the period of hospitalisation will amount to 80% of the sickness benefit assessment base.

#### **25. New entitlements of the Social Insurance Institution**

The provisions according to which the Social Insurance Institution may request additional information when determining the right and the amount of benefits have been regulated to a greater extent. After the submission of the requested information and documents, the Social Insurance Institution will have 30 days to pay the benefit.

#### **26. Voluntary sickness insurance of a person conducting business activity and late payment of contributions [ZUS]**

As of 2022, the delay in the payment of health contributions will not cause automatic deregistration from sickness insurance and the necessity to submit applications for the 'reinstatement of the deadline'. If a person conducting

business activity pays contributions after the deadline, they will continue to be subject to sickness insurance and the Social Insurance Institution will claim outstanding contributions. When paying the benefit to such a person, the Social Insurance Institution will first check the amount of outstanding contributions. If the outstanding contributions exceed 1% of the lowest remuneration (in 2022: 3,010 x 1% = PLN 30), the Social Insurance Institution will not pay the benefit. The entrepreneur will have 6 months to settle the outstanding contributions, if they fail to do so, their right to the benefit will expire.

## 27. Lower lump sum taxes on registered revenue for certain industries [PIT]

The Act amending the Polish Act of 20 November 1998 on lump sum income tax on certain revenue obtained by natural persons introduced **a reduction in tax rates on revenue from selected forms of activity, including:**

- from 15% to 12% for some IT services,
- from 17% to 14% for health, architectural, engineering and specialist design services.

The new regulations do not extend the period during which the taxpayer has the right to change the form of taxation to a registered lump sum. The deadline depends on the taxation form – in the case of a change in the taxation form to the flat-rate tax or registered lump sum, the entrepreneur may change the taxation form **by the 20th day of the month following the month in which the taxpayer generated the first revenue in the tax year** or by the end of the tax year if the first such revenue was earned in December of the tax year.

The revenue limit determining the choice of the lump-sum tax on registered revenue has not changed and remains in the amount of EUR 2 million. The limit for using the lump sum taxation in 2022 – revenue in 2021 may not exceed PLN 9,188,200.

The limit for flat-rate tax payers wishing to use the quarterly settlement is EUR 200,000. Therefore, in 2022 taxpayers whose revenue in 2021 will not exceed **PLN 918 820** will be allowed to settle with the tax office on a quarterly basis.

## 28. Obligation to send books to the tax office [PIT, CIT]

Entities keeping books in a simplified form (revenue and expense ledger), accounting books or records of fixed assets and intangible assets are obliged to keep these books and records with the use of computer programmes and to send them to the tax office as at the last day of:

- the month – if they form the basis for determining monthly advances,
- the quarter – if they are the basis for determining quarterly advances

**by the 20th day of the month following the end of that month or quarter respectively, and after the end of the tax year by the date of the expiry of the deadline specified for submitting the annual PIT or CIT returns.**

Reporting must take place through electronic means of communication, in an electronic form corresponding to the logical structure, i.e. in the form of JPK file.

The same rule applies to entities settling in the form of a lump sum tax – in this case reports in JPK will include the record of revenue or list of fixed assets and intangible assets.

**This provision enters into force on 1 January 2023.**

## 29. Depreciation of residential premises as non-tax cost [PIT, CIT]

The amended provisions introduce the exclusion from tax deductible costs of depreciation costs of residential buildings together with their lifts, residential premises constituting a separate real property, cooperative ownership

right to residential premises and the right to a single-family house in a housing cooperative used for business activity or leased or rented under an agreement (Article 22c(2) of the Polish PIT Act and Article 16c(2a) of the Polish CIT Act).

At the same time, transitional provisions were introduced. They allow taxpayers to include depreciation write-offs for the above-mentioned real properties purchased or generated before 1 January 2022 in tax deductible costs, but only until the end of 2022.

### 30. Illegal employment [PIT, CIT, ZUS]

The new regulations introduce a number of sanctions related to illegal employment within the meaning of the Polish Act on employment promotion and labour market institutions.

In the case of detecting illegal employment or understating the employees' contribution base, the income tax (PIT), pension and disability pension contributions and sickness contributions on the remuneration for illegal employment and on the part of undisclosed remuneration are not charged to the insured (employee) and will be paid in full from own funds by the contribution payer (employer).

The equivalent of the employee's revenue from illegal employment or part of the employee's revenue in which the employer has not disclosed it to competent authorities will be recognised as the employer's tax revenue.

Benefits paid or other amounts due on account of illegal employment and in the part in which the employer has not disclosed remuneration to competent authorities, as well as due (outstanding) social and health contributions on the remuneration of an illegally employed employee or reduced remuneration will be financed in full by the employer and will not become tax deductible costs in CIT or PIT for them.

### 31. Sale of fixed assets withdrawn from operations [PIT]

According to the amended regulations, revenue from business activity also includes revenue from the sale of movable assets for consideration, used for business purposes under an operating lease agreement. If the taxpayer decides to withdraw the assets from business activity, the sale of these assets before 6 years from the date of withdrawal will be included in the revenue from business activity. The 6-year period starts on the first day of the month following the month in which these assets were withdrawn.

This change is of significant importance, in particular in the case when entrepreneurs buy things from leasing for their private assets (e.g. cars).

### 32. Minimum income tax [CIT]

The CIT Act (Article 24ca) introduced a **minimum income tax** (hereinafter referred to as **the MIT**), which will cover some taxpayers.

As a rule, the MIT applies to taxpayers who:

- 1) **incurred a loss** from the source of revenue other than capital gains or
- 2) **achieved the share of income** from the source of revenue other than capital gains, determined in accordance with Article 7(1) of the CIT Act, **in revenue** other than revenue from capital gains **in the amount not exceeding 1%**.

**Note!** For the purpose of calculating the loss and the share of income in revenue, depreciation and costs resulting from acquisition, manufacture or improvement of fixed assets are not taken into account.

The minimum income tax is **10% of the MIT tax base**.

Example

In 2022 company X generated revenue in the amount of PLN 100,000,000. After excluding the depreciation, the company's income amounted to PLN 500,000, i.e. less than 1% of revenue. Therefore company X is subject to the minimum tax.

The tax base will amount to 4% of revenue, i.e. PLN 4,000,000 (we assume that there were no elements indicated in points 2-4 below).

The minimum tax will be  $10\% \times \text{PLN } 4,000,000 = \text{PLN } 400,000$

Thus, the MIT will effectively amount to **0.4% of revenue**.

The MIT base is the sum of:

- 1) **the amount corresponding to 4% of the revenue** from the source other than capital gains earned by the taxpayer in the tax year and
- 2) **financing costs incurred for the benefit of related entities in the part in which these costs exceed the amount calculated according to the following formula  $[(R - IR) - (C - DWO - CDF)] - 30\%$ ,**
- 3) the value of deferred income tax resulting from the disclosure in tax settlements of the intangible assets not yet amortised in the scope on which it results in an increase in gross profit or a decrease in gross loss, and
- 4) costs (**the so-called redundancy passive payments**):
  - a) advisory, market research, advertising, management, control and data processing services, insurance, guarantees and sureties as well as services of a similar nature,
  - b) any types of charges and receivables for using or the right to use rights or assets referred to in Article 16b(1)(4-7) (copyrights, licences, etc.),
  - c) transfer of the debtor's insolvency risk related to loans other than loans granted by banks and credit unions, including within liabilities resulting from derivative financial instruments and performances of a similar nature

– incurred directly or indirectly for the benefit of related entities or entities having their registered office or management board in the so-called tax havens, **in the part in which these costs in total in a tax year exceed by PLN 3,000,000 the amount calculated according to the following formula  $[(R - IR) - (C - DWO - I)] \times 5\%$ .**

Explanations of symbols used in the above formulae:

R – the total value of revenue from all sources of revenue from which income is subject to income tax,

IR – interest revenue,

C – total tax deductible costs without deductions resulting from Article 15c(1) of the CIT Act (interest limit)

DWO – depreciation write-offs recognised in a tax year as tax deductible costs,

CDF – costs of debt financing recognised in a tax year as tax deductible costs, not included in the initial value of fixed assets and intangible assets, before making deductions resulting from Article 15c(1) (interest limit)

I – interest recognised in a tax year as tax deductible costs, without deductions resulting from Article 15c(1) (interest limit)

**The MIT does not include taxpayers:**

- 1) **in the tax year in which they began business activity, and in the following two years,**
- 2) being **financial undertakings** within the meaning of Article 15c(16) of the CIT Act,
- 3) whose **revenue was at least 30% lower** in comparison with the previous year,
- 4) **whose shareholders or business partners are exclusively natural persons and if the taxpayer does not hold shares in the capital of another company**, participation units in the investment fund (...),
- 5) whose prevailing activity includes international maritime transport, aviation or mining activities,
- 6) members of the group of at least two companies (being taxpayers in Poland), in which one company holds directly throughout the entire tax year 75% share in the capital of other companies comprising this group, if

the tax year of the companies covers the same period and the share of total income of the companies in their total revenue calculated for the tax year is higher than 1%.

Taxpayers are obliged to pay to the bank account of the tax office the minimum income tax due by the end of the third month of the following year, while the amount of the minimum income tax to be paid is reduced by the tax due for the same tax year calculated in accordance with Article 19 (in line with general principles).

The amount of the minimum income tax paid for a given tax year is deducted from the tax calculated in accordance with Article 19 (in line with general principles). The deduction is made in the tax return for 3 consecutive tax years immediately following the year for which the taxpayer paid the minimum income tax.

With the introduction of the MIT and TPI (see next section of this document), the provisions of Article 15e of the CIT Act were repealed. These provisions limited the possibility to include expenditure on intangible services incurred in transactions with related entities to tax costs.

### 33. Tax on passed-on income [CIT]

The CIT Act (Article 24aa) introduced a **tax on passed-on income** (hereinafter **the TPI**), which will cover some taxpayers.

The passed-on income is deemed to include **costs incurred directly or indirectly for the entity related** to the company, constituting the receivables of that entity, if:

- 1) **the income tax actually paid by this related entity** for the year in which it received the receivables in the country of its registered office, management board, registration or location **is lower by at least 25% than the amount of income tax that would be due from it if the income of this entity was taxed with the application of the tax rate** referred to in Article 19(1)(19%), while the tax actually paid is understood as tax not refundable or deductible in any form, including for the benefit of another entity, and
- 2) **these costs:**
  - a) which are to be recognised in any form as tax deductible costs, deduction from income, tax base or tax of that related entity, or
  - b) paid by this related entity in the form of dividend or other revenue from share in profits of legal persons for the year in which it received the receivables

– **accounted for at least 50% of the value of revenue generated by this entity, determined in accordance with the income tax regulations or accounting regulations.**

**Passed-on costs include:**

- 1) costs of advisory, market research, advertising, management, control and data processing services, insurance, guarantees and sureties as well as services of a similar nature,
- 2) costs of any types of charges and receivables for using or the right to use rights or assets referred to in Article 16b(1)(4-7) (intangible assets),
- 3) costs of the transfer of the debtor's insolvency risk related to loans other than loans granted by banks and credit unions, including within liabilities resulting from derivative financial instruments and performances of a similar nature,
- 4) costs of debt financing related to obtaining and using funds, in particular interest, fees, commission, bonuses, interest part of the lease instalment, penalties and fees for delay in payment of liabilities and costs of securing liabilities, including costs of derivative financial instruments,
- 5) costs of fees and remunerations for the transfer of functions, assets or risks

– **if the sum of these costs incurred in a tax year for the benefit of entities, including unrelated entities, constitutes at least 3% of the sum of tax deductible costs incurred in that year in any form**, while Article 15c(1) does not apply to the determination of the sum of these costs.

The TPI regulations do not apply to the extent that the passed-on costs were incurred for the benefit of the related entity subject to taxation from the entirety of its income in the European Union or the European Economic Area member state and conducting significant real business activity in that state.

When assessing whether the related entity conducts real business activity, the following aspects are in particular taken into account:

- 1) whether the registration of the entity is connected with the existence of a company within which it actually performs activities constituting business activity, including whether the entity has premises, qualified personnel and equipment used in its business activity;
- 2) whether the entity has the possibility to take decisions on the purpose of the receivable received;
- 3) whether the entity bears the economic risk related to the loss of given receivables.

When assessing whether the real business activity is significant, the ratio of revenue earned by the related entity from the actual business activity conducted to its total revenue is taken into account.

### 34. Lump sum tax on income in companies [ESTONIAN CIT]

The lump sum on income of companies (hereinafter referred to as the 'lump sum tax'), i.e. the so-called Estonian CIT, is a voluntary and alternative way of taxation with corporate income tax in relation to the classic CIT and was introduced in 2021, but very few taxpayers applied this form of taxation. Amendments to the regulations are intended to encourage a wider range of taxpayers to choose the Estonian CIT.

#### More about the Estonian CIT

- [Article on business.gov.pl](#)
- [Draft of explanations of the Ministry of Finance](#)

The taxpayers eligible for CIT-LS are those defined in Article 3(1) of the CIT Act, meaning taxpayers with the registered office or management board in the territory of the Republic of Poland and with their entire income liable to taxation irrespective of the income generation location.

Moreover, to become eligible for the CIT in the form of the lump sum tax, the taxpayer **must meet all of the following conditions** determined in Article 28j(1) of the CIT Act:

- ~~1) the total revenue from business activity generated in the previous tax year did not exceed PLN 100,000,000, or the value of average revenue from business activity calculated on the last day of the previous tax year from the CIT-LS period did not exceed PLN 100,000,000, while this revenue is calculated taking into account the amount of the VAT due, [criterion removed as of 2022]~~
- 2) **less than 50% of the revenue from business activity generated in the previous tax year, calculated taking into account the VAT amount, comes from the so-called passive sources:**
  - a) Claims;
  - b) Interest and benefits from loans of any type;
  - c) The interest part of the lease instalment;
  - d) Sureties and guarantees;
  - e) Copyrights or industrial property rights, including their disposal;
  - f) Disposal and exercise of financial instrument rights;
  - g) Transactions with related entities within the meaning of Article 11a(1)(4) of the CIT Act – if commercial added value is not generated or is negligible in connection with these transactions;
- 3) The taxpayer:



- a) **employs at least 3 FTEs** who are not shareholders or business partners of this taxpayer, for at least 300 days in a tax year, and if the tax year is not the period of twelve consecutive months – for at least 82% of days in the tax year, or
  - b) incurs monthly expenses in the amount which is at least three times the average monthly remuneration in the corporate sector for the payment of remuneration for at least 3 natural persons hired on the basis of a contract other than an employment contract, not being shareholders or business partners of this taxpayer, if in connection with the payment of this remuneration the taxpayer is required by law to collect advances for PIT and contributions determined in the Polish Social Security System Act of 13 October 1998;
- 4) **conducts business activity in the form of a limited liability company, joint stock company, simple joint stock company, limited partnership, limited joint-stock partnerships [extension of the catalogue of companies that may apply the lump sum tax] whose shareholders or business partners are only natural persons** not possessing property rights related to the right to receive a benefit as founders or beneficiaries of a foundation, trust or another entity or legal relationship of a fiduciary nature,
  - 5) **has no shares in the capital of another company or participation units in the investment fund or mutual trust**, the total of rights and obligations in a company not being a legal person and other property rights related to the right to receive a benefit as founder or beneficiary of a foundation, trust or another entity or legal relationship of a fiduciary nature,
  - 6) **does not prepare financial statements for the CIT-LS period in accordance with IAS** on the basis of Article 45(1a and 1b) of the Polish Accounting Act;
  - 7) **submits the notification on the choice of CIT-LS according to the determined template to the competent head of the tax office by the end of the first month of the first tax year** in which the taxpayer wishes to be subject to CIT-LS.

The notification referred to in point 7 may also be submitted before the end of the tax year adopted by the taxpayer if, on the last day of the month preceding the first month of CIT-LS, the taxpayer closes accounting books and prepares the financial statement.

**The so-called Estonian CIT is addressed only to companies whose shareholders or business partners include natural persons.**

**Selected groups of taxpayers are not eligible for CIT-LS.** These include:

- 1) Financial companies;
- 2) Credit institutions;
- 3) Taxpayers who generate income in Special Commercial Areas (SSE) in Poland or from a commercial business defined in grant permits which are established in the Polish New Investment Aid Act;
- 4) Taxpayers who are officially bankrupt or in liquidation;
- 5) Taxpayers who have been established by merger, division, or under the special circumstances regulated by the amended CIT Act;
- 6) Taxpayers who were divided by divestment or contributed to another entity under special circumstances indicated in the Act.

**The essence of CIT-LS is to tax corporate income when it is decided to pay out the income to the partners or shareholders. The definitions of CIT-LS-liable corporate income and of the tax basis are much more complicated and in practical terms, partial corporate income tax will apply even if the income is not distributed to partners or shareholders.**

Pursuant to Article 28m(1) of the CIT Act, **the corporate income liable to CIT-LS is:**

- 1) Equal to the **net profit generated in the CIT-LS period and only in the part in which this profit was allocated by a resolution on the distribution or coverage of the net financial result to:**

- a) be paid to the shareholders or business partners (income from distributed profit), or
- b) cover losses generated before the CIT-LS period (income from the profit allocated to cover losses);
- 2) Equal to the hidden profits (and constitutes the income on hidden profits);
- 3) Equal to the non-business expenditures (and constitutes the income on non-business expenditure);
- 4) Equal to the market value of the assets of an estate which is taken over or which is a non-monetary contribution above the tax value of the same assets (and constitutes the income from the assets value change) by way of merger, division, or transformation or entities, or by way of non-monetary contribution being a business or its organised part;
- 5) Equal to the net profits generated in every CIT-LS year in the part in which these profits were not distributed profits or were not allocated to cover the loss (income from net profit) – in the case of the taxpayer who ended their CIT-LS liability;
- 6) Equal to the value of revenue and costs which, pursuant to the Polish Accounting Act, shall be accounted for in the tax year and included in the net profit (loss) if not included therein (and constitutes **the income from undisclosed commercial operations**).

Pursuant to Article 28n(1) of the CIT Act, **the CIT-LS base** shall be:

- 1) The total of the income from dividend and from the profit intended to offset losses, determined in the months in which the respective bylaw was passed to make dividend or to offset the net financial result;
- 2) The total of the income on hidden profits and on non-business expenditure, determined in the month of rendition of the benefit or the pay-out or the expense;
- 3) The income from the assets value change generated in the month of respective merger, division, or transformation of entities or of the non-monetary contribution;
- 4) The net profit income generated in the final CIT-LS,
- 5) The income from undisclosed business operations earned in the tax year.

**Only the profits generated in the CIT-LS period are liable to CIT-LS** (this also applies when the profits are allocated to cover losses from before the CIT-LS period). Hence, **the CIT Act requires each taxpayer who wished to be liable to CIT-LS and all its legal successors to itemize the profit and loss items generated from before the CIT-LS liability in the equity featured in the financial statements made in compliance with the Polish Accounting Act. The profits and losses generated and incurred, respectively, in the CIT-LS years, shall be itemized analogically.**

**Hidden profits are a significant category to CIT-LS.**

Pursuant to Article 28m(3) of the CIT Act, hidden profits are construed as benefits which are monetary, non-monetary, fully or partially payable, rendered in relation to the right to the share in profit, other than dividends, whose direct or indirect beneficiaries can be shareholder or business partner or entity related directly or indirectly to the taxpayer, or this shareholder, business partner(...).

**The premiums paid to partners or shareholders and equal to more than five times the mean monthly salary paid in the previous month in the company concerned (and with the maximum limit being the five times the mean monthly salary in the corporate sector) will, aside from the standard PIT liability, trigger identification of a hidden profit and a CIT-LS liability.**

**Hidden profits do not include:**

- 1) **Remuneration** on account of titles referred to in Article 12(1) or Article 13(7, 8 and 9) of the Polish Personal Income Tax Act of 26 July 1991 or social security financial benefits paid to a natural person – **in the part in which the sum of this remuneration and benefits paid in a given month to this person does not exceed five times the average monthly remuneration paid by the taxpayer** on account of the titles referred to in Article 12(1) and Article 13(7, 8 and 9) of the Polish Personal Income Tax Act of 26 July 1991, **however no more than**

- five times the average monthly remuneration in the corporate sector**, while the average monthly remuneration is determined for the month preceding the month of the payment to the natural person;
- 2) The depreciation expenses and write-offs and property loss write-offs related to operation of passenger vehicles, aircraft, water/sea vessels and other assets and in the following amounts:
    - a) The full amount, which applies to the assets used strictly for the commercial business of the company;
    - b) 50% of the amount, which applies to the assets not used strictly for the commercial business of the company;
  - 3) The amount of loan (credit) returned by the taxpayer to its partner or shareholder or an affiliate, with the exception of the applicable interest, commission, pay, and charges.

Pursuant to Article 28o of the CIT Act, **the CIT-LS level** shall be:

- 1) **10%** of the tax base – in the case of a **small taxpayer** and a taxpayer commencing business activity,
- 2) **20%** of the tax base for taxpayers other than those identified in item (1) above.

**The basic collectible CIT-LS payment is the 20th day of the seventh month of the fiscal year.**

**Example**

*In June 2023, the meeting of shareholders of a limited liability company being a small taxpayer passed a resolution to the distribution of the profit for 2022, allocating for the payment of dividend the amount of PLN 1,000,000. The tax will be PLN 100,000 and will be due by 20/07/2023.*

The taxpayer is obliged to pay:

- 1) **the lump sum tax on the income from the distributed profit and the income from profit allocated for covering losses – by the 20th day of the seventh month of the tax year;**
- 2) the lump sum tax on the distributed income from the net profit – by the 20th day of the month following the month in which this income was paid in whole or in part or it was distributed in any other form, no later than by the 20th day of the seventh month of the tax year in which this instruction was made,
- 3) the lump sum tax on the income from undisclosed commercial operations – by the end of the third month of the tax year after the year in which the revenue or costs should be accounted for,
- 4) **the lump sum tax on the income from hidden profits and the income on non-business expenses – by the 20th day of the month after the month in which the payment, expense or benefit was made,**
- 5) the lump sum tax on the income from the change in the assets value – by the 20th day of the month following the month of takeover, transformation or making the non-cash contribution.

Pursuant to Article 28f(1) of the CIT Act, CIT-LS applies to **an uninterrupted period of 4 fiscal years** specified in the Notice to Exercise CIT-LS Eligibility made by the taxpayer. The CIT-LS period is renewed every four fiscal years until the taxpayer serves a notice of CIT-LS resignation in the tax return filed for the last CIT-LS year applicable to the taxpayer.

**The decision on choosing the CIT-LS is generally binding for the period of 4 years. The use of the CIT-LS may be extended for further four-year periods.**

The partners or shareholders of a CIT-LS liable company enjoy preferential PIT on dividends. The dividend PIT is 19% of the gross dividend amount is reduced by:

- 90% of the amount corresponding to the product of the percentage share of the shareholder or business partner in the company's profit on the date on which they acquire the right to dividends – in the case when the CIT-LS is calculated according to the rate of 10% (small taxpayer),
- 70% of the amount corresponding to the product of the percentage share of the shareholder or business partner in the company's profit on the date on which they acquire the right to dividends – in the case when

the revenue from the dividends paid from the company's profits taxed at 20% CIT-LS on income of joint-stock companies (taxpayer other than a small taxpayer);

The following **example** illustrates the operation of the CIT-LS applied with the preferential (reduced) dividend PIT in comparison to the standard taxation model based on 9% or 19% CIT and the 19% dividend PIT. The assumption for this example that there is no other reason for CIT-LS than assignment of the gross profit for the payment of dividends, particularly where the partners have not collected a salary of more than five times the mean salary (otherwise the CIT-LS for hidden profits would apply).

	SMALL NON-SMALL	
	TAXPAYER	TAXPAYER
Gross profit allocated to dividend payment (GP)	100 000	100 000
<b>LUMP SUM TAX (SO-CALLED ESTONIAN CIT)</b>		
Lump sum rate	10%	20%
Lump sum tax (LS.CIT)	10 000	20 000
Net profit	90 000	80 000
Dividend paid	90 000	80 000
PIT rate on dividends	19%	19%
PIT on dividend before deduction	17 100	15 200
Preferential deduction ratio	90%	70%
Amount of deduction	9 000	14 000
PIT on dividend after deduction (PIT.PREF)	8 100	1 200
Total taxation (R.CIT + PIT.PREF)	18 100	21 200
<b>Effective rate of taxation of gross profit</b>	<b>18,10%</b>	<b>21,20%</b>
<b>STANDARD TAXATION ( CIT RATE 9% or 19%)</b>		
CIT rate	9%	19%
CIT amount (CIT.9/19)	9 000	19 000
Net profit	91 000	81 000
PIT tax base on dividends	91 000	81 000
Pit rate on dividends	19%	19%
PIT on dividend after deduction (PIT.19)	17 290	15 390
Total taxation (CIT.9/19 + PIT.19)	26 290	34 390
<b>Effective rate of taxation of gross profit</b>	<b>26,29%</b>	<b>34,39%</b>

### 35. Hidden dividends as non-tax cost [CIT]

With effect as of **1 January 2023**, the provisions on hidden dividends not constituting tax costs for the company in CIT will enter into force. Pursuant to the new regulations, costs incurred by a taxpayer being a company in connection with the performance carried out by an entity related to this company or with a business partner (shareholder) of this company are not considered as tax deductible costs.

Costs referred to in section 1(15b) of the CIT Act constitute hidden dividend if:

1. the amount of these costs or the date of incurring them depends in any way on the generation of profit by the taxpayer or the amount of this profit or
2. a rationally acting taxpayer did not incur such costs or could incur lower costs in the case of a comparable performance by an unrelated entity or
3. these costs include remuneration for the right to use assets that were owned or jointly owned by a business partner or an entity related to this business partner before the establishment of the taxpayer.

The regulations on hidden dividends are not applied if the sum of costs incurred in a tax year by the taxpayer, constituting hidden dividends under these regulations, is lower than the amount of gross profit within the meaning of accounting regulations, obtained in the financial year in which these costs were included in the taxpayer's financial result.

### 36. Costs of debt financing of equity transactions [CIT]

Pursuant to the new provision (Article 16(1)(16f) of the CIT Act), debt financing costs obtained from a related entity do not constitute tax deductible costs in the part in which they were allocated directly or indirectly for equity transactions, in particular purchase or acquisition of shares, acquisition of all rights and obligations in a company not being a legal person, payment of additional contributions, increase of share capital or redemption of own shares for their redemption.

### 37. Holding company [CIT]

Pursuant to the new provisions (Articles 24n-24p of the CIT Act):

- revenue from dividends obtained by a holding company (meeting certain conditions) obtained from a domestic subsidiary or a foreign subsidiary is exempt from the income tax in the part corresponding to 95% of the amount of such dividends,
- the income earned by a holding company on account of the sale of shares of a domestic subsidiary or a foreign subsidiary to an unrelated entity is exempt from the income tax, provided that the holding company submits to the competent head of the tax office, at least 5 days prior to the date of sale, a declaration on the intent to benefit from the exemption.

### 38. Discounts – R&D, prototype, innovative employees, robotisation, IP-Box and other [CIT, PIT]

The amended provisions include:

- R&D relief,
- relief for a prototype,
- relief for support for innovative employees,
- relief for robotisation,
- possibility to use simultaneously the R&D discount and the IP-Box discount,
- relief for sports and cultural activities as well as activities supporting higher education and science,
- relief for expansion (increase in revenue from sales of products),
- relief for IPO.

More about reliefs in CIT and PIT

- [Article on business.gov.pl](#)

### 39. Withholding tax on payments above PLN 2 million [WHT]

As of 1 January 2022, a new mechanism for collecting withholding tax, the so-called *pay and refund*, in relation to **payments in excess of PLN 2 million** to the same related entity, in the tax year applicable at the payer's company (from the surplus above PLN 2 million) enters into force. This mechanism applies to WHT on royalties, dividends or other revenue and income from participation in profits of legal persons.

### 40. VAT group

With effect as of 01/07/2022, provisions allowing the establishment of a VAT Group were introduced – chapter 2b of the Polish Value Added Tax Act.

The VAT Group is a group of financially, economically and organisationally related entities registered as a taxpayer. The Group is established for a minimum period of 3 years and the Representative represents the VAT group in terms of its rights and obligations.

Taxpayers are financially related if one of the taxpayers (Group members) owns directly 50% of the shares or voting rights/share in the profit of each of the other members.

Economic relation: the object of business activities of the Group members is the same, types of activities are complementary and interdependent or the Group member conducts activity from which to other members of the Group benefit to a large or full extent.

The organisational relation arises from the fact of joint management – directly or indirectly or from the organisation of activities agreed in whole or in part.

The above-mentioned condition of relations between members of the Group must be met throughout the duration of the Group (the Group must have the status of a taxpayer).

The supply of goods and the provision of services by a Group member to another member is not subject to VAT.

The authority competent for the Group is the head of the tax office competent for the representative.

The entity may be the member of only one VAT Group.

Members of the VAT Group are jointly and severally liable for their VAT obligations both during the possession of the Group status and after its expiry.

#### 41. Alternative method of taxation of selected financial services [VAT]

Taxpayers gain the possibility to choose the taxation of financial services released so far from VAT pursuant to Article 43(1)(7), (12) and (38)-(41) (e.g. currency and banknote transactions, investment fund management services, granting loans and borrowings, coverage of guarantees and other collaterals, deposit services, services whose objects are shares in companies, services whose objects are financial instruments).

The choice of taxation is possible on the condition of having the status of an active VAT payer and submitting to the head of the tax office a written notification on the choice of taxation of these services before the beginning of the settlement period from which it resigns from the exemption. It is possible to return to the exemption from taxation after 2 years from the beginning of the period in which the taxpayer chose the taxation.

#### 42. National System of e-Invoices [Krajowy System e-Faktur – KSeF]

As of 01/01/2022, the possibility to use voluntarily e-invoices via the functionality of the National System of e-Invoices (KSeF) is introduced.

The definition of a structured invoice was introduced – it is an invoice issued with the use of KSeF together with the number assigned to it in the system.

The receipt of structured invoices requires the recipient's consent; in the absence of such a consent – the invoice may be sent to the recipient in the form agreed with it.

The Ministry of Finance foresees the introduction of the obligation to use e-invoices from 2023.

**A structured invoice is deemed to be issued on the date of sending it to KSeF. It is deemed to be received on the day on which it has an identification number assigned in the KSeF system.**

The taxpayer issuing a corrective invoice in the form of a structured invoice is released from the obligation to have documentation confirming the agreement to reduce the tax base. The buyer receiving the corrective correction in

the form of a structured invoice reduces the amount of input tax in the settlement for the period in which it received the invoice with the use of KSeF.

**The legislator has shortened the standard deadline for returning VAT from 60 days to 40 days in the case of issuing only e-invoices**, subject to e.g. the limit of the amount of VAT surplus from previous periods in the amount of PLN 3,000 and the obligation to have the status of an active VAT payer and to submit VAT returns for the previous 12 months.

Invoices in the KSeF system are stored for 10 years.

#### 43. VAT refund within 15 days for a narrow group of entities [VAT]

Provisions accelerating the VAT refund date refer to taxpayers making sales registered with the use of cash registers, accepting non-cash payments.

The possibility to submit the request for a VAT refund within 15 days was introduced if a number of conditions are met, including:

1. For the period of three preceding months:
  - a. the share of sales recorded at cash registers in the total sales is not lower than 80%,
  - b. non-cash payments received on account of sales recorded at the cash register in relation to the total value of sales recorded using cash registers constitute no less than 80% (in the period 1 January 2022 to 31 December 2023, if the receipt includes the indication from which the form of non-cash payment results, the required minimum share of non-cash sales is 65%)
2. For each of the 12 months preceding the request for the reimbursement, the value of sales registered with the use of cash registers was no lower than PLN 50 thousand.
3. The tax difference (surplus to be refunded) shown by the taxpayer does not exceed twice the tax resulting from sales recorded in a given period with the use of cash registers
4. The amount of VAT surplus from previous periods does not exceed PLN 3,000.

#### 44. JPK\_V7 without voluntary disclosure [VAT]

**As of 1 October 2020**, VAT payers are obliged to send by means of electronic communication JPK\_VAT files together with the VAT return, consisting of the record and return parts.

The current provision from Article 16a of the Polish Fiscal Penal Code Act requires the submission of a voluntary disclosure practically in the case of each type of error in the record part of the JPK\_V7 file, because the provision referred to below refers only to the fact that only an error made in the return part of the JPK\_V7 file is not subject to a fine.

*The entity that has submitted **the amended tax return** legally effective within the meaning of the provisions of the Polish Tax Ordinance Act or within the meaning of the provisions of the Polish National Revenue Administration Act, and immediately or within the deadline set by the competent authority paid in full public-law receivables reduced or at risk of being reduced, is not subject to the fine for a tax crime or a tax offence.*

**As of 1 January 2022** this provision is replaced as follows:

*the perpetrator of a prohibited act concerning **the submission of the return or accounting book** is not subject to the fine for a tax crime or a tax offence if, after committing it, a legally effective adjustment of the return or accounting book concerning the obligation whose improper performance constitutes this prohibited act has been submitted to the tax authority.*

At the same time it is necessary to pay the public-law liability immediately if it has been reduced.

It is worth noting that the above provision does not apply if, prior to the submission of the adjustment of the return or accounting book, preparatory proceedings for a tax crime or a tax offence was initiated or in the course of the pending preparatory proceedings this tax crime or tax offence was disclosed.

#### 45. Transfer pricing documentation and penal and fiscal sanctions [TP]

As of 1 January 2022, penal and fiscal sanctions for non-compliance with tax obligations in the scope of transfer pricing documentation are changed.

As the amended provisions of the Polish Fiscal Penal Code Act indicate:

- The entity that contrary to the obligation **does not prepare local transfer pricing documentation or does not attach group transfer pricing documentation to the local transfer pricing documentation or prepares this documentation inconsistently with the actual status, or does not submit** to the competent tax authority **information about transfer prices, or while submitting it includes in it data inconsistent with local transfer pricing documentation or with the actual status**, is subject to the fine of up to 720 daily rates.
- The entity that contrary to the obligation **prepares documentation after the deadline or submits the information after the deadline**, is subject to **the fine of up to 240 daily rates**.

In cases of a lesser significance, it is subject to the fine for a tax offence.

#### 46. New limits for cash transactions for entrepreneurs and consumers

As of 1 January 2022, the limit for making or accepting payments related to the business activity via the entrepreneur's payment account will be reduced **from PLN 15,000 to PLN 8,000.00**, in each case when:

- another entrepreneur is the party to the transaction from which the payment results and
- the one-off value of the transaction, regardless of the number of payments resulting from it, **exceeds PLN 8,000 or the equivalent of this amount**.

The above-mentioned change in the limit will also have an effect in the adjustment of tax costs in the personal and legal income tax.

As of 1 January 2022, as a result of amendments to the Polish Act on consumer rights, there will be also **a limit of cash transactions for consumers**. According to the wording of Article 7b of this Act:

*The consumer is obliged to make **payments via the payment account** if the one-off value of the transaction with the entrepreneur, regardless of the number of payments resulting from it, **exceeds PLN 20,000 or the equivalent of this amount**.*

These amendments to the Polish Act on consumer rights will result in changes in the personal and legal income tax, consisting in **recognising as income from business activity the amount of the payment concerning the transaction between the consumer and the entrepreneur received without via the payment account in the case of exceeding the statutory limit**.

#### 47. Obligation to have a payment terminal

Another significant **change as of 1 January 2022**, introduced in the Polish Entrepreneurs Act, **consists in ensuring by the entrepreneur of the possibility to make payments** in any place where business activity is actually performed, in particular at the premises, outside the premises of the enterprise or in a vehicle used for the provision of passenger transport services, with the use of a payment instrument (within the meaning of the Polish Act on Payment Services).



However, this provision **does not apply to** an entrepreneur that is not obliged to keep sales records with the use of cash registers referred to in the Polish Value Added Tax Act.

For **failure** to ensure the possibility to make payments with the use of a payment instrument, **sanctions** will be introduced **to the Polish Value Added Tax Act** in the form of the exclusion of:

- possibility to use quarterly settlements,
- the right to receive the VAT refund within an accelerated time period of 25 days.

The consequence of the above changes will be the introduction as of **1 July 2022 of the necessity to ensure** by the entrepreneur obliged to have a payment terminal **the cooperation of the cash register with the payment terminal** pursuant to technical requirements for cash registers.

At the same time, pursuant to the amendment to the Polish Value Added Tax Act, in the case of detecting that a taxpayer maintaining sales records with the use of a cash register **does not ensure the cooperation of the cash register with the payment terminal** which it uses to ensure the possibility to accept payments in accordance with technical requirements for cash registers, the head of the tax office, by way of a decision, imposes on this taxpayer **a fine in the amount of PLN 5,000.00.**

#### 48. Check purchase as a new form of control of taxpayers

The amendment to the Polish National Revenue Administration Act introduces **as of 1 January 2022** a new control activity of tax authorities called 'check purchase'.

**The check purchase** will consist in purchasing goods or services in order to check the compliance of the entrepreneur with the obligations resulting from the provisions of tax law in the scope of:

- recording sales with the use of a cash register,
- issuing a fiscal receipt to the buyer.

This purchase will be made at the place of sale of goods or provision of services by the entrepreneur. The check purchase will be made on the basis of the official ID card and permanent authorisation granted by the head of the tax office or the head of the customs and tax office.

Consequently, **new sanctions** have been introduced to the Polish Fiscal Penal Code Act. The entity that **refuses** the person entitled to make the check purchase:

- the acceptance of returned goods purchased in the course of the check purchase,
- the acceptance of the fiscal receipt documenting the sale of the returned good or service not provided in the course of the check purchase, issued to that person in the course of the check purchase, or
- the reimbursement of the payment received for the returned goods bought in the course of the check purchase or service not provided in the course of the check purchase,

**is subject to a fine for a tax offence.**

#### 49. Other changes

Apart from the above-mentioned changes, which in our opinion are significant, a number of other modifications in regulations were introduced, including:

- the provisions introduced previously by the so-called SLIM VAT packages were clarified,
- Annex no. 10 (list of goods and services taxed at 5%) and Annex no. 12 (list of goods to which subjective exemptions do not apply) in the VAT Act were modified,
- the wording of Article 15c of the CIT Act (costs of debt financing, the so-called thin capitalisation) was changed.

Moreover, we would like to point out that according to the planned amendment of regulations, not adopted on the date of this brochure preparation, as of 2022 the amount of remuneration of foreigners cannot be lower than the amount of the minimum wage for work regardless of the working time and type of legal relationship constituting the

basis for performing work by a foreigner (the Polish Act of 17 November 2021 amending the Act on Foreigners and certain other acts).

\* \* \*

### Legal notice

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