

Dear All,

Please find below information on selected and, in our opinion, most significant **amendments in provisions on taxation of business activity entering into force in 2023**.

We hope that you find the information useful.

The Mac Auditor Team

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Main legal acts on which this brochure is based:

- the [Act of 9 June 2022](#) amending the Corporate Income Tax Act and certain other acts
- the [Act of 7 October 2022](#) amending the Corporate Income Tax Act and certain other acts
- the [Act of 4 November 2022](#) amending the act on counteracting excessive delays in commercial transactions and the public finance act
- [Regulation of the Minister of Family and Social Policy of 25 October 2022](#) amending the Regulation on receivables due to an employee of a budget-related, state or local government unit for business travel

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1. Minimum income tax – deferral until 2024 and other changes [CIT]

By the amendment of the Act of 7 October 2022 amending the Corporate Income Tax Act and certain other acts, **the legislator postponed the entry into force of the provisions concerning the minimum income tax until 1 January 2024** and introduced a number of changes in the current provisions in this scope (i.e. Article 24c of the CIT Act).

The general assumptions concerning the **minimum income tax** (hereinafter referred to as **MIT**) in the wording effective as of 1 January 2023 are presented below.

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 a 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 2%**.

For the purpose of calculating the loss and the share of income in revenue, the following is not taken into account:

- 1) costs resulting from the acquisition, manufacture or improvement of fixed assets, charged in a tax year to the tax deductible costs, including through depreciation write-offs, or the use of fixed assets under a lease agreement, if, in accordance with the applicable provisions, the user makes the depreciation write-offs;
- 2) revenues and tax deductible costs directly or indirectly related to these revenues, appropriately achieved or incurred in connection with the transaction, if:
 - a) the price or method of determining the price of the object of the transaction results from the provisions of acts or regulations issued thereunder, and
 - b) the taxpayer in a tax year incurred a loss on the source of revenue other than from capital gains from the transaction referred to in point (a), or achieved the share of income from the source of revenue other than from capital gains in revenues other than from capital gains resulting from such a transaction in the amount of not more than 2%, where the calculation of the loss and share of income in revenue is made separately for transactions of the same type;
- 3) fees on account of the fixed assets lease agreement, recognised as tax deductible costs during the tax year;
- 4) revenues and tax deductible costs directly related to these revenues from the sale of claims to entities from the factoring sector;
- 5) increase in tax deductible costs on account of the purchase of electricity, heat or conductivity gas, constituting a positive difference between the tax deductible costs incurred in this respect in a tax year for which the minimum income tax is due and the tax deductible costs incurred in this respect in a tax year directly preceding that year;
- 6) the amount of excise duty, tax on retail sale, tax on gambling, fuel surcharge, emission fee paid by the entity obliged to do so;
- 7) the amount of excise duty included in the price of excise products purchased and sold by the taxpayer trading in those products recognised as revenue or tax deductible costs, as appropriate;
- 8) 20% of tax deductible costs related to salaries and social security contributions from the employer.

The MIT base is the sum of:

- 1) **the amount corresponding to 1.5% of the revenue** from the source of revenue other than capital gains earned by the taxpayer in a 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 $[(R - IR) - (C - DWO - CDF)] \times 30\%$** , and
- 3) 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 minimum income tax is **10% of the MIT tax base.**

Example

Company X generates revenue in the amount of PLN 100,000,000 in 2024. After excluding the depreciation, the company's income amounts to PLN 500,000, i.e. less than 2% of revenue. Therefore company X is subject to the minimum tax.

The tax base is 1.5% of the revenue, i.e. PLN 1,500,000 (we assume that there were no excessive funding costs or redundancy passive payments).

The minimum tax is $10\% \times \text{PLN } 1,500,000 = \text{PLN } 150,000$

Thus, the effective MIT amounts to 0.15% of revenues.

A taxpayer may choose a simplified method of determining the taxable amount constituting the amount corresponding to 3% of the value of revenue generated by the taxpayer in a tax year from the source of revenue other than from capital gains, where the taxpayer's choice of such method of determining the tax base is indicated in the annual CIT-8 tax return submitted for the tax year for which they make such a choice. **In this case, the tax rate is also 10% of the tax base.**

The MIT does not include taxpayers:

- 1) in the tax year in which they begin 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 partners are only natural persons and if the taxpayer does not hold, directly or indirectly, more than 5% of the shares in the capital of another company, or 5% of all rights and obligations in a company which is not a legal person, or other property rights connected with the right to receive the benefit as a founder (sponsor) or a beneficiary of a foundation, trust or other entity or legal relationship of a trust nature,
- 5) whose prevailing business activity includes international maritime transport, aviation, mining or healthcare activities,
- 6) who are members of the group of at least two companies (being taxpayers in Poland), in which one company holds, directly or indirectly, 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 2%.

- 7) **being a small taxpayer,**
- 8) being municipal management companies referred to in a separate act,
- 9) who have achieved the share referred to in section 1(2), in one of the three tax years immediately preceding the tax year for which the minimum income tax is due, in the amount of at least 2%;
- 10) put into bankruptcy, liquidation or covered by restructuring proceedings,
- 11) being a party to a cooperation agreement,
- 12) being mining businesses receiving public aid,
- 13) being a financial institution in the factoring sector.

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.

2. 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.

By the amendment of the Act of 9 June 2022 amending the Personal Income Tax Act and certain other acts, the legislator postponed the entry into force of the obligation of the above-mentioned reporting.

The obligation to report the accounts in an electronic form will be enforced for the first time for settlement periods starting after:

- 1) **31 December 2023** in the case of tax capital groups and CIT taxpayers whose value of revenue earned in the previous tax year exceeded the equivalent of EUR 50 million,
- 2) **31 December 2024** in the case of CIT taxpayers (other than those listed in item 1), obliged to send the JPK_V7 and PIT taxpayers (including those who settle in the form of a lump sum) obliged to send the JPK_V7,
- 3) **31 December 2025** for other CIT and PIT taxpayers.

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

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 comes into force in 2023 (Article 22c(2) of the PIT Act and Article 16c(2) and (2a) of the CIT Act).

4. Tax on passed-on income [CIT]

On 1 January 2022, the CIT Act (Article 24aa) introduces a **tax on passed-on income** (hereinafter the **TPI**), which covers some taxpayers. By the amendment of the Act of 7 October 2022 amending the Corporate Income Tax Act and certain other acts, the legislator changed the provisions on tax on passed-on income.

The passed-on income is deemed to be costs incurred by a taxpayer, recognised as tax deductible costs, for an entity related with the taxpayer within the meaning of the CIT Act, which does not have a registered office or management in the territory of the Republic of Poland, if the following conditions are met jointly:

- 1) according to the tax law in force in the country of the registered office, management, registration or position of the related entity, income (revenue) of that entity obtained on one of the accounts of the passed-on income listed below is subject to taxation at the rate of income tax lower than 14,25%, calculated in accordance with the provisions of the CIT Act, or exemption, or exclusion from taxation of this tax;
- 2) that related entity obtains from a taxpayer or other companies related with the taxpayer within the meaning of the CIT Act, on accounts of passed-on income listed below, at least 50% of the total revenue determined in accordance with the income tax provisions or the accounting provisions;
- 3) that related party transfers, in any form, at least 10% of the revenues referred to in point 2, to another entity:
 - a) thus recognising the expenses as costs to be settled for the purposes of income tax or deducts these expenses or revenues from income, tax base or tax in any form, or
 - b) if these revenues make up the profit intended to be paid, regardless of the date, in the form of dividends or other revenues from share in profits of legal persons;
- 4) **the sum of the passed-on costs defined below incurred by the taxpayer in a tax year for the benefit of entities related with the taxpayer within the meaning of the CIT Act, recognised in the tax year as tax deductible costs of the taxpayer, constitutes at least 3% of tax deductible costs of the taxpayer for the year.**

The burden of proof that at least one of the conditions listed above is not met lies with the company which recognises the costs determined below as passed-on costs as tax deductible costs. **In practice, it is the easiest for majority of taxpayers to document the fulfilment of the last condition, i.e. not exceeding 3% of the passed-on costs (definition below) in total tax deductible costs.**

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.

The tax on passed-on income amounts to 19% of the tax base. The tax on passed-on income is reduced by the amount of the flat-rate income tax referred to in Article 21 of the CIT Act, collected from distributions on account of the costs included in the tax base, under the conditions specified in the CIT Act.

The tax base for the passed-on income tax is the sum of the income passed on in a tax year, and in the case of a tax capital group – the sum of the income passed on in a tax year of the companies forming the group.

The taxpayer of the passed-on income tax is the company, and in the case of a tax capital group – this group.

Taxpayers of the passed-on income tax are obliged to calculate this tax for a tax year in the annual return (CIT-8) and pay it to the tax office at the time of filing this return. This means that the TPI will be shown for the first time in CIT-8 return, which will be submitted in 2023 for 2022.

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.

5. 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.

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.

We wrote more about the lump sum on company income in a [brochure concerning changes in taxes for 2022](#).

By the amendment of the Act of 7 October 2022 amending the Corporate Income Tax Act and certain other acts, the legislator introduced a number of amendments to the provisions concerning the lump sum tax on company income applicable from 1 January 2023, which are presented below.

1) Remuneration condition

One of the conditions entitling to taxation on a lump sum basis was modified, that is, the condition concerning incurring expenses on account of remuneration, which states that the taxpayer bears monthly expenses in the amount constituting at least three times the average monthly remuneration in the enterprise sector due to the payment of remuneration to at least 3 natural persons employed on the basis of a contract other than an employment contract, who are not shareholders or partners of that taxpayer if, in connection with the payment of such remuneration, the taxpayer is a remitter of personal income tax or the remitter of the contributions specified in the Act of 13 October 1998 on the social security system or the Act of 27 August 2004 on healthcare benefits financed from public funds;

2) Expiry of the initial adjustment obligation condition

The provision relating to the expiry of the initial adjustment obligation reads as follows:

The taxpayer would pay the tax due at the end of the first month following the last year of taxation on a lump sum basis of companies' income if the taxpayer had applied this taxation for less than four years, where in the case of applying taxation on a lump sum basis of companies' income for a **continuous period of at least four tax years**, the tax liability would fully expire.

3) Time limit for payment of the tax on transformation income

The provision concerning the deadline for payment of the tax on income from transformation has been clarified and the provision reads as follows:

The taxpayer pays the tax due on the income from transformation by the end of the third month of the first year of taxation on a lump sum basis of the companies' income or in parts within a period of no more than 2 years, counting from the end of the first year of lumps sum taxation on the companies' income, and the method of settlement adopted is communicated by the taxpayer in the annual CIT return, submitted to the end of the third month of the first year of taxation on a lump sum basis of the companies' income.

4) Selection of taxation on a lump sum basis of the companies' income during the tax year

The provision which allows the choice of taxation on a lump sum basis of companies' income also in the course of the year has been clarified.

A taxpayer may opt for taxation on a lump sum basis also before the end of the tax year adopted by the taxpayer if, on the last day of the month preceding the first month of taxation on a lump sum basis, the taxpayer closes the accounting books and prepare the financial statements in accordance with the accounting regulations. In this case, the accounting books are opened on the first day of the month of the taxation on a lump sum basis.

Then, the taxpayer submits the notification on the choice of taxation on a lump sum basis (ZAW-RD) 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 taxation on a lump sum basis.

5) Non-business expenses

The catalogue of non-business expenses constituting income subject to a taxation on a lump sum basis has been extended.

These expenses relate to expenses and depreciation write-offs and impairment losses related to the use of passenger cars, air transport means, vessels and other assets for non-business purposes by entities other than a shareholder or partner or an entity related directly or indirectly with a taxpayer or the shareholder or partner (e.g. by employees of the taxpayer).

In the case of assets (as listed above), which are not used exclusively for business purposes, 50% of their value is treated as non-business expenses and is subject to taxation on a lump sum basis.

According to the current position of tax authorities, when determining the value of non-business expenses in the case of passenger cars used for mixed purposes by shareholders or employees of the company, the gross value of such expenses resulting from an invoice should be taken into account, i.e. taking into account the value added tax disclosed in this invoice. Consequently, the tax basis of the taxation on a lump sum basis of companies' income in the scope of income from hidden expenses not related to business activity is expenditure in the gross value.

What is important, pursuant to the Act of 7 October 2022 amending the Corporate Income Tax Act and certain other acts (Dz. U. [Journal of Laws] of 2022 item 2180), **the provisions concerning the deadline for submitting the CIT-8E return and the payment of the lump-sum tax have been changed.**

These provisions entered into force on 26 October 2022 and they apply to income earned after 30 June 2022 by taxpayers with lump sum tax on the companies' income whose tax year started after 31 December 2021.

Amending provisions specify that:

The lump sum tax base is, for example, the sum of income on account of the divided profit and income on account of profit intended to cover losses established in the tax year in which the resolution on the division or coverage of the net financial result (Article 28n(1)(1) of the CIT Act) is adopted.

At the same time, the provision, which stated that the division or coverage of the taxpayer's net financial result is made by the end of the sixth month following the last day of the tax year for which the financial statements are prepared, has been repealed. If the resolution on the division or coverage of the net financial result is taken at a later date, it is assumed that the resolution was adopted on the last day of the sixth month (Article 28n(2) of the CIT Act).

The taxpayer, subject to the provision specified in the CIT Act, who achieved income on account of the net profit and, in the period following the end of the application of the lump sum tax, distributes this income in whole or in part, is obliged to submit to the tax office a return (CIT-8E) and pay the lump sum tax due on the value of the distributed income on account of the net profit by the end of the third month of the tax year following the year in which the distribution is made (Article 28r(3) of the CIT Act).

The taxpayer is obliged to pay (Article 28t(1)(1) and (2) of the CIT Act):

1) a lump sum tax on the income on account of the distribution of profit and income on account of profit intended to cover losses – by the end of the third month of the tax year following the year in which the resolution on the division or coverage of the net financial result is adopted;

2) a lump sum tax on the distribution of income on account of net profit – by the end of the third month of the tax year following the year in which the income is paid in whole or in part or distributed in any other form.

6. Repealing provisions on hidden dividends [CIT]

By the amendment of the Act of 7 October 2022 amending the Corporate Income Tax Act and certain other acts, provisions on hidden dividends, which were supposed to not constitute tax deductible costs in CIT, have been repealed.

7. Debt financing costs [CIT]

The tax provisions in the scope of debt financing costs applicable as of 1 January 2022 (Article 15c of the CIT Act) define the method of calculating the limit of debt financing costs as tax deductible costs.

Pursuant to this provision, taxpayers are obliged to exclude from the tax deductible costs the debt financing costs in the part in which the surplus of debt financing costs exceeds:

- 1) the amount of PLN 3,000,000 or
- 2) the amount calculated according to the following formula:

$$[(R - IR) - (C - DWO - CDF)] \times 30\%$$

where:

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

IR – interest revenue,

C – the sum of the tax deductible costs without deductions resulting from this section and Article 15e,

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 this section and Article 15e of the Act

The amendment of the provisions from 1 January 2023 introduces a clarification that debt financing costs in the part in which the surplus of debt financing costs exceeds the higher of the above-mentioned amounts are excluded from tax deductible costs.

The clarification of this provision applies to the costs of debt financing incurred as of 1 January 2022.

8. Holding company [CIT]

According to the new provisions (Article 24m – 24p of the CIT Act), the following changes have been introduced:

- changes in the definition of a holding company,
- changes in the definition of a subsidiary,
- changes in the exemption from income tax of dividends received by a holding company (total tax exemption in place of the current exemption at the level of 95%).

9. Bad debt relief [CIT, PIT]

Pursuant to the applicable regulations (Article 18f(19) of the CIT Act; Article 26i(19) of the PIT Act), taxpayers making appropriate increases or reductions resulting from the bad debt relief are obliged to demonstrate claims or liabilities with which those increases or reductions are related in the annual tax return. For this purpose, the CIT-ZW (PIT-ZW) was attached to the annual tax return.

The amendment to the Act applicable as of 1 January 2023 repeals the obligation to attach this statement to the annual tax return.

Moreover, on 1 January 2023, Article 18f(1a) of the CIT Act will be added, which provides that if a taxpayer obtains income taxed at different rates, increases and reductions, referred to in Article 18f(1) of the CIT Act, are made on each tax base in the proportion that income taxed at different rates remains to the total amount of income in the tax year.

10. Social security contributions (ZUS) contributions and tax deductible costs [CIT, PIT]

The current provision of Article 15(4h) of the CIT Act is amended on 1 January 2023, i.e. the regulations on the moment of recognising social security contributions in the part financed by the contribution remitter, contributions to the Labour Fund, the Solidarity Fund and the Guaranteed Employee Benefits Fund in the tax deductible costs are harmonised.

The new wording of the provision specifies that the above-mentioned contributions constitute tax deductible costs in the month for which they are due, provided that the contributions are paid within the deadline resulting from separate provisions.

The new provision in the wording effective as of 1 January 2023 applies to contributions due from 1 January 2023.

Importantly, CIT taxpayers whose tax year is different from the calendar year and started before 1 January 2023 and will end after 31 December 2023 apply the provisions of the Act applicable until 31 December 2022 by the end of the tax year.

The similar change concerns PIT taxpayers.

11. Withholding tax. Change of the date of submission and validity of the original WHT-OSC [CIT-WHT] statement.

Pursuant to the wording of new provisions, the benefit should be submitted no later than on the last day of the second month following the month in which the limit of PLN 2 million is exceeded.

If the remitter, after submitting the original statement, makes subsequent payments to the same counterparty, the preferential rules of withholding tax (on the basis of the first statement) may be applied by the remitter to the last day of the tax year in which the statement is made. The obligation to submit a follow-up statement arises only by the last day of the month following the end of the tax year.

12. Selected amendments to transfer pricing regulations [CIT, PIT]

The documentation thresholds for the local transfer pricing documentation have been raised:

In the case of controlled transactions with an entity having their place of residence, registered office or management in the territory or in a country applying harmful tax competition or a foreign establishment situated in the territory or in a country applying harmful tax competition, the documentary threshold is:

- PLN 2,500,000 – in the case of financial transaction;
- PLN 500,000 – in the case of a transaction other than a financial transaction.

The local transfer pricing documentation must also be prepared by taxpayers and companies that are not legal persons carrying out a transaction, other than a controlled transaction, with an entity having a place of residence, registered office or management in the territory or in a country applying harmful tax competition or a foreign establishment situated in the territory or in a country applying harmful tax competition, if the value of this transaction for the tax year and, in the case of companies other than legal persons, for the financial year exceeds:

- PLN 2,500,000 – in the case of financial transaction;
- PLN 500,000 – in the case of a transaction other than a financial transaction.

The provisions of Article 11o(1a) and (1b) of the CIT Act have been repealed. They stated that local transfer pricing documentation must be prepared by taxpayers and companies that are not legal persons carrying out a controlled transaction or a transaction other than a controlled transaction if the beneficial owner has their place of residence, registered office or management in the territory or in a country applying harmful tax competition and the value of that transaction for the tax year and, in the case of companies not being legal persons, for the financial year, exceeds PLN 500,000.

Pursuant to the wording given by the Act of 7 October 2022 amending the Corporate Income Tax Act and certain other acts, in the case of controlled transactions and transactions, other than controlled transactions, with an entity having a place of residence, registered office or management in the territory or in a country applying harmful tax competition, the above-mentioned provisions apply to those transactions initiated and not completed before 1 January 2021 in respect of that part of those transactions which are carried out in the tax year starting after 31 December 2020 or commenced after 31 December 2020.

13. VAT group

With effect as of 01/01/2023, provisions allowing the establishment of a VAT Group are introduced – chapter 2b of the Value Added Tax Act. Originally in accordance with the regulations of the Polish Deal (Polski Ład), the amendments were to enter into force on 01/07/2022. At the initiative of the Ministry of Finance, the above-mentioned deadline was postponed.

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 exists when the object of business activities of the Group members is of the same nature, types of activities are complementary, interdependent or the Group member conducts an 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).

In a VAT group, 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 a member of only one VAT group.

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

14. Change of tax rates [VAT]

The basic rate of VAT is restored on 01/01/2023 – 23%, for example, for the supply of electricity and heat (change from 5%) and motor fuels (change from 8%). In addition, the rate of 0% for the delivery of selected food products is extended to 30/06/2023.

15. SLIM VAT 3 – proposed changes from 1 April 2023 [VAT]

As at the date of this information, legislative works on the “SLIM VAT 3” package are in progress. The changes are planned to be introduced on 1 April 2023. We would like to list the following changes from among the key ones:

1. change of the date of settlement of the intra-Community supply of goods (WDT) in the event of the failure to collect the required documentation prior to the submission of JPK_V7M/VAT-UE for the period in which the tax obligation arose. The proposed changes are intended to simplify the adjustment of transactions – the taxpayer will have the right to demonstrate the WDT in the period when the tax obligation arises, i.e. in principle, at the moment of issuing the invoice;
2. changes in the rules of settlement of the intra-Community acquisition of goods (WNT) in the scope of tax neutrality. A formal premise of deduction of input tax – receipt of the invoice is no longer valid, moreover, WNT adjustments are fully neutral (the output tax and input tax in the same period);
3. currency exchange rates for corrective invoices. For both plus and minus adjustments, as a rule, the exchange rate adopted for the original transaction will be used. The proposed regulations also provide for the adjustment of more than one invoice at the same time. The exchange rate is the exchange rate on the business day preceding the date of issue of the corrective invoice (collective invoice). At the same time, if the entity uses exchange rates for VAT purposes that are in line with the rules for income tax purposes – it does not change the exchange rate used to date;
4. increase of the amount limit for determining the status of a small taxpayer from EUR 1,200,000 to EUR 2,000,000;
5. extension of the list of possible payments from the VAT account, e.g. fees from foodstuffs, retail sale, resulting from the Act on raising in the sobriety (...), the tax on minerals;

6. increasing the amount limiting the simplification in the scope of establishing the coefficient for mixed sales from PLN 500 to PLN 10,000 if the proportion exceeds 98%;
7. VAT sanctions – they are to be imposed not at a fixed rate but at 30%/20%/15% of the amount of the tax incompatibility, depending on the factors influencing the occurrence of the error in the VAT settlement.

16. Cash registers

Changes in the cash registers – i.e. withdrawal of devices with an electronic record of copies in favour of online cash registers takes place in stages, in the first place concerned entities from industries recognised by the Ministry of Finance as more susceptible to abuse, such as repair of vehicles, catering, hairdressing, legal services. Other businesses were able to purchase cash registers with an electronic record of copies until the end of 2022.

two types of cash registers have been used since 2023: current, i.e. with an electronic record of copies acquired until the end of 2022 and online cash registers.

17. New limits for cash transactions for businesses and consumers – postponed

Postponement until 1 January 2024 of the reduction of the limit for making or accepting payments related to the business activity via the business's account **from PLN 15,000 to PLN 8,000**, whenever:

- another business 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 therefrom, **exceeds PLN 8,000 or the equivalent of this amount.**

The above-mentioned change in the limit also has an effect in the adjustment of tax costs in the personal and corporate income tax, starting from 1 January 2024.

As a result of amendments to the Act on consumer rights, there is 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 business, regardless of the number of payments resulting from it, **exceeds PLN 20,000 or the equivalent of this amount.***

The entry into force of this provision is postponed to 1 January 2024. The effect of introducing such changes to the Act on consumer rights are changes in the personal and corporate income tax, consisting in **recognising as income from business activity the amount of payment related to transactions between the consumer and the business obtained without intermediation of a payment account in the case of exceeding the statutory limit.**

18. Prolongation of the epidemic emergency

The Regulation of the Council of Ministers of 23 December 2022 amending the Regulation on the establishment of certain restrictions, imperatives and prohibitions due to the occurrence of the epidemic threat (Dz.U. of 2022, item 2736) extends the epidemic emergency by 31 March 2023.

Therefore, the following provisions are also extended:

- **the validity of certificates of residence** – up to 2 months after the cancellation of the epidemic emergency, the remitter may use the certificate of residence of the taxpayer covering 2019 or 2020 subject to obtaining a taxpayer's statement that the data contained therein have not changed,
- **deadline for submitting a payment to an account outside the white list of VAT taxpayers** – extended from 7 to 14 days – until the epidemic emergency is cancelled,

- **suspension in the scope of MDR reporting** - in the case of a national scheme, MDR deadlines do not commence and the commenced ones are suspended until the 30th day following the date of epidemic emergency cancellation,
- **waiting time for an individual interpretation** - extended by 3 months until the epidemic emergency is cancelled,

19. Counteracting payment bottlenecks – changes in reporting

Large companies will still have to report on the practices on the timeliness of payment, but they will have more time to do. Entities referred to in Article 27b(2)(2) of the Corporate Income Tax Act of 15 February 1992 (Dz. U. of 2021, item 1800, as amended) whose individual data were made available to the public within the time limit specified in Article 27b(1) of that Act, excluding public entities which are healthcare entities and entities referred to in Article 6(1)(1) and (2)(1) of the Act of 15 April 2011 on healthcare activity, submit to the minister competent for economic matters, by electronic means, by 30 April of the year immediately following the year in which their individual data were made available to the public, a report on the payment dates in commercial transaction used by these entities in the previous calendar year.

The new provisions remove this obligation from insurance and reinsurance activities and reduce the obligations for capital groups and reduce the scope of reporting.

Pursuant to Article 4c of the Act of 4 November 2022 amending the Act on counteracting excessive delays in commercial transactions and the Public Finance Act, the business submits to the other party of a commercial transaction a statement of the possession, obtaining or loss of the status of a large business if it has, obtained or lost that status, as appropriate.

20. Allowances

As of 1 January 2023, a higher business travel allowance is applicable. Pursuant to the [Regulation of the Minister of Family and Social Policy of 25 October 2022](#) amending the Regulation on receivables due to an employee of a budget-related, state or local government entity on account of a business trip, the national allowance amounts to PLN 45 per day of trip (from 28 July to 31 December 2022, the allowance was PLN 38). The change of the rate also entails the increase of the accommodation allowance to PLN 67.50 and local travel to PLN 9, as well as the accommodation limit up to PLN 900. The amended rates also apply indirectly to entities other than the budgetary entities.

21. Tax reliefs – reminder [CIT, PIT]

CIT and PIT provisions provide for a number of tax reliefs, including:

- R&D relief,
- relief for a prototype,
- relief for supporting innovative employees,
- relief for robotisation,
- R&D relief and the IP-Box relief, as well as the possibility of simultaneous use of both of these reliefs,
- 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.

On the biznes.gov.pl website you may find the article dedicated to selected reliefs.

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Share Capital: PLN 100,000; Auditing Company no 244