



Tax Code

– a way to fight the effects of coronavirus

The deadline for tax settlements and related obligations of keeping records is approaching. We are aware that timely submission of tax returns or settlement of tax liabilities may be significantly difficult in the existing situation.



What if the company cannot pay its tax in due time?



What to do if for technical or organizational reasons it will not be possible to submit a tax return, Standard Audit File for Tax (JPK file) within the applicable deadline?

Noticing problems that companies/taxpayers may face, we present below the remedies that can be applied on the basis of current regulations.

In the existing situation, in our opinion, tax remitters/taxpayers have reasonable grounds to apply for:



deferral of tax payment/tax advance payment deadline, splitting tax or tax arrears into installments



cancellation of tax arrears, part of arrears, default interest

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In individual cases, at the request of the tax remitter/taxpayer, the tax authority may postpone the deadlines provided for in the tax law, such as the deadline for submitting a tax return, JPK file, if the entitlement results from Article 48 of the Tax Code and if they have not been deferred by the Minister of Finance in a separate act. In order to have the payment deadline postponed, the tax remitter/ taxpayer needs to demonstrate essential interest of the taxpayer or the public interest in the application. It is noteworthy that the deadline can only be postponed in relation to liabilities that have not yet been settled. We point out, however, that the tax authority has full discretion to recognize whether the application was duly justified and to determine a new deadline for a given activity.

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Similarly, based on the submitted application justified by the taxpayer's essential interest or the public interest, the tax authority may postpone tax payment deadlines, split the amount of tax into installments (this right arises from Article 67a of the Tax Code). If the tax authority issues a positive decision, a new tax/tax advance payment deadline will be determined. The authority may also split payment of tax into installments, as well as defer or split into installments payment of tax arrears along with default interest, or in justified cases cancel the tax arrears along with interest.

What is worth noting is that pursuant to the Act of 31 March 2020 amending the Act on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, as well as some other acts, when granting taxpayers the "reliefs" referred to in above, the authorities will not charge a prolongation fee.

It should also be noted that if the taxpayer takes actions to the specified extent, he will also be protected against any negative consequences under fiscal penal liability.

We underline that it is necessary to demonstrate the existence of the essential taxpayer's interest or the public interest in the application submitted by the tax remitter/taxpayer in relation to the presented options. Owing to many years of our experience we know that - due to the lack of statutory definitions of these terms - demonstrating the existence of one of these interests is not easy. We assume, however, that due to the existing situation related to the epidemic situation and its consequences suffered also by taxpayers, tax authorities will treat these issues with greater understanding. We are ready to assist you in the implementation of any of these solutions.

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