


TAX CHANGE PACKAGE: what can business count on?

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On 31 March 2020, the President of the Republic of Poland signed into law an amendment to the Act on Special Solutions Related to the Prevention, Counteracting and Combating of COVID-19, Other Infectious Diseases and Crisis Situations caused by them; and to other acts (referred to as the Special Act). We provide a study presenting the changes introduced.

We present amended or newly introduced tax regulations aimed at supporting business and enterprise throughout the difficult times of the epidemic. We also point out solutions addressed to tax authorities which, at the same time, have an impact on the situation of the taxpayer. Within this study you will also find information regarding suspension of all tax and inspection proceedings and the extension of deadlines for issuing an individual tax ruling.

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Procedural and judicial time limits

During the period of the epidemic emergency or the state of the epidemic announced due to COVID, procedural and judicial time limits do not commence and any time limits pertaining to the following proceedings in progress become suspended for this time:

- 1) court proceedings, including administrative court proceedings,
- 2) enforcement proceedings,
- 3) criminal proceedings,
- 4) criminal fiscal proceedings,
- 5) proceedings in petty offence cases,
- 6) administrative proceedings,
- 7) proceedings and inspections conducted on the basis of the Act of 29 August 1997, the Tax Code,
- 8) customs and fiscal inspections,
- 9) proceedings in cases referred to in Article 15f paragraph 9 of the Act of 19 November 2009 on gambling (Journal of Laws of 2019, item 847, as amended),
- 10) other proceedings conducted on the basis of laws.

During this time, tax authorities will be able to issue a decision taking into account a request of a party to or a participant in the proceedings, a certificate of no grounds to object, express a position or issue an individual tax ruling.

Tax authorities conducting tax proceedings or inspections will not be obliged to **notify a party to or a participant in the proceedings that the case will not be settled in due time.**

Similarly, time limits related to the so-called 'silent settlement of the matter' (tacit agreement) get suspended. However, This does not apply to individual tax rulings issued under the provisions of the Tax Code for which the time limit for issuing such individual tax ruling has been extended by another 3 months.

Extension fee

If a tax office extends the time limit for payment of tax or divides arrears into installments, there will be no need to pay the extension fee. This applies to decisions on assistance that will be issued on the basis of an application

submitted during the period of the state of epidemic or epidemic emergency, or 30 days following cancellation thereof.

New JPK file and VAT matrix

The new JPK, being the combination of a uniform control file with a VAT return, was to apply to large companies from 1 April this year and to small and medium-sized companies from 1 July this year. The entry into force of the new uniform control file for all businesses has been postponed to 1 July 2020.

However, the Act in question shows that large taxpayers will be able to voluntarily settle in the new format for April 2020, i.e. to submit the new JPK_VAT file in May 2020. We recommend great caution in implementation of this obligation earlier than necessary since, in the case of submitting a file containing errors and failure to rectify them within 14 days from the date of being contacted by the tax office, the taxpayer may be subject to penalties referred to in the Act on Tax on Goods and Services.

The entry into force of the new VAT matrix has also been postponed until 1 July this year. The matrix is to introduce uniform rates for entire groups of goods, which means that rates for some goods will be increased and for others, reduced. Introduction of the matrix is aimed at replacing the Polish Classification of Products and Services (PKWiU 2008) with the EU Combined Nomenclature (CN) in the field of goods and with the current Polish Classification of Products and Services (PKWiU) in the field of services.

Financial penalty for an error in the records

Instead of the obligatory imposition of a PLN 500 fine for each error in the VAT sales record, which has not been corrected in due time despite a respective call, a discretionary right will be introduced for the head of a tax office to impose this penalty on the taxpayer.

E-receipts

Upon consent of a purchaser, an option of issuing electronic receipts (e-receipts) has been introduced by sending this document in the manner agreed with the purchaser. However, this applies only to taxpayers using online cash registers.

Temporary reduction to 0% of the VAT rate on donations of medicinal products, specialized diagnostic tests, and other selected products

From 25 March 2020 to 31 August 2020, a reduced 0% VAT rate will apply in respect of the donation of selected products, including medicinal products, disinfectants, specialist diagnostic tests and face masks.

However, application of the reduced 0% VAT rate to such donations requires compliance with the following additional conditions:

- 1) the donation must be intended for purposes related to combating infection, preventing the spreading of, prophylaxis and combating the effects of the infectious disease caused by SARS-CoV-2 virus;
- 2) the donation must be made to one of the following entities:
 - Material Reserves Agency – for the implementation of its statutory tasks;
 - Central Sanitary and Anti-Epidemic Reserves Base – for the implementation of its statutory tasks;
 - So-called isolation hospitals (intended solely for treatment of infectious diseases).
- 3) a written donation agreement must be concluded between the taxpayer supplying the goods and the abovementioned entity to whom the donation is made which shows that the donated goods will be used for purposes related to combating infection, preventing the spreading of, prophylaxis and combating the effects of an infectious disease caused by SARS-CoV-2 virus.

White list*

The deadline for submitting a notification of making payment to an account not included in the white list will be extended from 3 to 14 days. This applies to payments for transactions in excess of PLN 15,000.

**The white list is an online register of VAT payers containing contractors' business information, for example: business name, address, VAT number (NIP), status as*

VAT registered or VAT exempted taxpayer, date of registration for VAT, and deregistration and re-activation for VAT purposes.

Losses due to coronavirus

Taxpayers who incur losses in 2020 due to coronavirus will be able to deduct such losses retrospectively from income for 2019 (up to PLN 5 million) as a single-time deduction. To this end, following determination of the amount of loss for 2020, a correction to their tax return for 2019 needs to be submitted.

What needs to be remembered, however, is that in order to benefit from this tax credit, the taxpayer must demonstrate reduction of the total revenues by at least 50% in relation to the revenues generated in the previous year.

Personal Income Tax (PIT) advances

The deadline for payment of PIT advances payments for March and April this year will be postponed to 1 June this year. This applies to advances:

- due from employers on revenues from a service relationship, employment relationship, outwork, cooperative employment relationship, as well as social insurance benefits/allowance,
- due from payers deducting advances under mandate contracts and specific work contracts, as well as revenue from property rights.

Relief for bad debts in PIT and CIT

New regulations will release businesses in 2020 from the obligation to include amounts not paid to their contractors within 90 days from the date of payment specified in an invoice (bill) or contract in the base for calculation of the income tax advance.

A condition for benefiting from this relief is that the economic consequences of COVID-19 are negative in a given settlement period and that the revenues of the business decrease by at least 50% compared to the same period in the previous

tax year, and in the case of a debtor who commenced business in 2019, as compared to its average revenues obtained this year.

The condition of the decrease in revenues by at least 50% does not apply to debtors who commenced business in the last quarter of 2019 and did not generate revenues during this period and to debtors who commenced business in 2020.

This form of assistance also applies to taxpayers paying a lump sum tax on registered revenues. Taxpayers of corporate income tax whose tax year ends before 1 October 2020 will be able to include unpaid amounts in the tax base only at the time of settling a first advance for the following tax year.

One-off depreciation

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Taxpayers will be allowed to make one-off depreciation write-offs on the initial value of fixed assets that were acquired for the production of goods related to counteracting COVID-19 and entered into the asset register in 2020.

In particular, this applies to goods such as: protective masks, respirators, disinfectants, medical protective clothing, shoe protectors, gloves, glasses, goggles, hand disinfectant and hygiene products.

R&D relief

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The Special Act will introduce an option of immediate deduction of costs incurred on developing products needed to counteract COVID-19 from the income being the basis for calculating the income tax advance.

Taxpayers will be able to deduct costs incurred in 2020 on research and development activities which aim is to develop products necessary to counteract COVID-19 directly from the income being the basis for calculating the income tax advance (both in the case of PIT and CIT).

In addition, it will be possible to apply a preferential 5% income tax rate when calculating income tax advances on qualified intellectual property rights used to counteract COVID-19. PIT and CIT taxpayers achieving qualified revenues from qualified intellectual property rights in 2020 (i.e. in particular, patents, industrial design right, software copyright), which are used to counteract COVID-19, may apply a preferential 5% tax rate during tax year to calculate income tax advances. What is important, this right may also be exercised by a taxpayer who does not have a qualified intellectual property right or the expectation of obtaining a

qualified right, provided that they submit or register an application for such protective right to the competent authority within 6 months from the end of the month, for which the taxpayer applied the 5% tax rate when calculating the tax advance. There is no restriction that qualified intellectual property rights should apply to medicine in the strict sense and therefore other intellectual property rights, e.g. in the field of information technology, can also be qualified, provided they are used to counteract COVID-19. The application of the preferential 5% income tax rate when calculating income tax advances on qualified income from qualified intellectual property rights will enable reduction of income tax advances in 2020, which may have a positive impact on the taxpayer's financial liquidity.

Simplified PIT or CIT advances

Small businesses who have chosen the simplified form of PIT or CIT advances this year will be able to opt out of this form of payment for the months March – December 2020. Taxpayers are required to notify the tax authority of their decision to opt out from the simplified form in their annual tax return for 2020.

Exemptions and deductions

Taxpayers will not have to account for the guarantee support, credit subsidies and interest on loans received in 2020 under the Special Act. Furthermore, they will have the opportunity to reduce the tax base or income tax advances by the amount of donations made to designated entities to counteract COVID-19. Taxation will also not apply to the so-called waiting time allowance paid in connection with the inability to provide services/work, despite readiness, by persons running sole proprietorship businesses and persons providing work on the basis of contracts of mandate or specific work contracts. A specified decrease in earnings due to idle time caused by the epidemic will be the condition for receiving such payment.

Revenue generated from exemption from social security (ZUS) contributions

Revenues generated by the exemption from the obligation to pay ZUS contributions will not constitute a revenue within the meaning of PIT. This applies to contributions due for the period from 1 March 2020 to 31 May 2020 from persons conducting non-agricultural business activities and persons cooperating

with them, employees and persons performing work on the basis of an agency contract, contract of mandate or other service contract.

Limits of transaction exemptions in PIT

The Special Act also increases the limits of transaction exemptions in PIT:

- 1) from PLN 1,000 to PLN 3,000 in respect of allowances received in 2020, paid out of the funds of the company or inter-company trade union organization to employees belonging to that organization,
- 2) from PLN 6,000 to PLN 10,000 in respect of allowances received in 2020, paid out in the case of individual random events, natural disasters, long-term illness or death, financed from sources other than the social fund, the Company Social Benefits Fund (ZFŚS), trade union funds or pursuant to separate regulations issued by the competent minister,
- 3) from PLN 1,000 to PLN 2,000 in relation to in-kind benefits (other than vouchers, coupons or other items entitling to be exchanged for goods or services) and in-cash benefits received by the employee in 2020 and 2021 in connection with the financing of social activities referred to in the regulations on the Company Social Benefit Fund financed in full from financial resources of this Fund;
- 4) from PLN 2,000 to PLN 3,000 in respect of subsidies obtained in 2020 and 2021 for organized recreation of children and adolescents under 18 years of age, financed from sources other than the social fund, the Company Social Benefit Fund or pursuant to separate regulations issued by the competent minister.

Increase in the limits will allow providing employees with the abovementioned allowances and benefits in higher amounts, exempt from PIT taxation.

Accommodation and catering

Employees of enterprises whose activities are necessary for the functioning of critical infrastructure will obtain the right to accommodation and meals provided by employers. These benefits are to be exempt from PIT and not included in the basis for calculating social security contributions.

Retail sales tax

Retail sales tax, which mainly concerns supermarkets, is to be deferred until the end of 2020.

Donations to counteract COVID-19

This regulation enables deduction of donations to counteract COVID-19 from income (revenue). The deduction will apply to cash or in-kind donations (in full amounts) made in favour of:

- 1) entities performing medical activities listed in Annex 7 to the Act,
- 2) Material Reserves Agency,
- 3) Central Sanitary and Anti-Epidemic Reserves Base.

In the case of a donation made:

- 1) until 30 April 2020 – the amount corresponding to 200% of the donation value will be deductible;
- 2) in May 2020 – the amount corresponding to 150% of the donation value will be deductible;
- 3) from 1 June 2020 to 30 September 2020 – the amount corresponding to the donation value will be deductible.

Taxes on revenues from buildings

Owners of shopping centres, department stores, office buildings, other buildings rented, given to tenancy or leased may count on the extension of the deadline for payment of PIT and CIT tax on revenues from buildings – in the months from March to May this year – until 20 July 2020.

Extension of the payment deadline applies to businesses whose total revenues will be at least 50 percent lower as compared to the same month of the previous year.

Property tax

The proposed changes give municipalities an opportunity to exempt certain groups of businesses facing a problem with liquidity from property tax. A definition of the group of businesses to be covered by the exemption is discretionary and results from a voluntary decision of a given municipality, and specifically the municipal council, which decides on this by means of a resolution. In addition,

municipal councils will be able, by resolution, to extend deadlines for payment of property tax installments payable in April, May and June 2020 to certain groups of businesses, up to a maximum of 30 September this year (instead of by the 15th of each month in the case of entities submitting property tax returns).

Trading in heating oils

Companies have obtained additional time to adapt to changes in the trading of heating oil. According to the draft Special Act, they have time until the end of August to replace paper declarations and monthly statements with electronic submissions.

Financial statements

According to the Regulation issued on March 27 this year, the Minister of Finance extended the deadline for submitting a statement on the amount of income achieved (losses incurred) and payment of due tax by some CIT taxpayers.

All taxpayers will have an option to postpone the date of filing the CIT-8 return and make payment of due tax until 31 May this year. In the case of taxpayers who achieved only tax-free income pursuant to Article 17 paragraph 1 of the CIT Act or whose revenues from public benefit activities constituted at least 80% of the total revenues obtained by such taxpayer this year, until 31 July 2020.

The existing maximum period of 5 years of uninterrupted duration of audit engagements carried out by the same audit firm was repealed.

Extension of deadline for IFT-2R submission

The deadline for submitting information on the amount of revenues (income) obtained by taxpayers of corporate income tax having no registered office or management board in the territory of the Republic of Poland (IFT-2R) will be extended until the end of the fifth month of the year following the tax year on which

payments were made in respect thereof. This applies to taxpayers whose tax year ended in the period from 31 December 2019 to 31 January 2020.

Extension of deadline for ORD-U submission

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The deadline for submitting information on contracts concluded with non-residents within the meaning of the foreign exchange law (ORD-U) will be extended up to the fifth month from the end of the tax year for which such information is prepared. The extension will apply to deadlines expiring in the period from 31 March 2020 to 31 May 2020.

Extension of the deadline for reporting to CRBR Register

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The deadline for submitting information on the beneficial owner to the Central Register of Real Beneficiaries was extended in respect of companies registered in the National Court Register before 13 October 2019 – until 13 July 2020.

Tax schemes, transfer prices

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The deadlines for reporting tax schemes do not start running and those started are suspended in the period from 31 March 2020 until the date of the cancellation of the state of epidemic emergency and the state of epidemic announced in connection with COVID-19, however, by no longer than until 30 June 2020.

The deadline for submitting local transfer pricing files to the head of the National Fiscal Authority (KAS) is to be postponed until 30 September this year. This will apply to entities whose tax year or financial year started after 31 December 2018 and ended before 31 December 2019.

Delegated legislation – extension of time limits

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Pursuant to the Act, the Minister of Finance may, by regulation, specify other time limits for fulfilling obligations in the field of recording and within the scope of preparation, approval, disclosure and submission to a competent register, unit or authority of reports or information referred to in:

- 1) the Accounting Act of 29 September 1994 and in secondary legislation issued on the basis of this Act,
- 2) the Act of 27 August 2009 on Public Finance and in secondary legislation issued on the basis of this Act,
- 3) Article 45 paragraph 5 of the Act of 26 July 1991 on Personal Income Tax

– taking into account the need to ensure proper performance of these obligations.

We would like to advise that our lawyers are ready to assist in all areas of activity that may be affected by the coronavirus epidemic. We are always at your disposal, ready to answer questions, solve problems and provide support in every legal and tax matter.