

Estonian CIT



On 31 July 2020, Ministry of Finance has published a draft bill introducing into CIT Act the new rules of taxation called: "Estonian CIT". According to principles of the bill, the Estonian CIT will be introduced for the capital companies ("spółka z ograniczoną odpowiedzialnością, spółka akcyjna") starting from 1 January 2021.

MAIN PRINCIPLES

The introduced new rules are based on the Estonian principles, which provide the taxation of the company's income only at the moment of its distribution (the achieved income is not taxed until the moment of its distribution).

In this case, according to the draft bill, the following types of income may be subject to tax:

- income from distributed profits,
- income from profit transferred to cover the disclosed tax losses (if these losses arose in the period preceding the application of the Estonian CIT),
- income from so called: "hidden profits",
- income attributable to expenses not related to conducted business activity,
- income resulting from changes in the value of assets,
- income from undisclosed business operation.

CONDITIONS

According to the draft bill, the new rules of taxation will be applicable to the capital companies in the case of fulfilment of the following conditions:

- ➔ the achieved revenues (calculated along with the sum of the value added tax) do not exceed the amount equal to 50 mln PLN,
- ➔ less of the 50 % of the achieved income has been derived from the following types of income:
 - receivables,
 - interest and benefits from all types of loans,
 - interest part of leasing instalment,
 - bailments and guarantee,
 - copyrights or industrial property rights including the sale of these right,
 - financial instruments,
 - transactions with the relates entities, in the case when in the results if these transaction the so called: "economic added value" has not been generated or the mentioned value is limited.
- ➔ the shareholders of these companies are only the individuals who do not possess the property rights to received benefits as the as founders or beneficiaries of a foundation, trust, other entity, or legal relationship having the trust characterization,
- ➔ these companies have not possess any shares in the capital of the other companies including: participation units in the investment funds or collective investment institutions, all right and obligation in the entities which are not subject to CIT in Poland and the property rights to received benefits as the as founders or beneficiaries of a foundation, trust, other entity, or legal relationship having the trust characterization,

- ➔ the number of the employees is equal to at least 3 persons (excluded the shareholders) employed based on the full-time employment contract, while numbers of the part-time employees should be calculated considering the conversion of their contracts into full-time agreements,
- ➔ these companies report the investment expenditure,
- ➔ these companies in the period of application of the Estonian CIT do not prepare the financial statements based on the International Accounting Standards (IAS) under the article 45 section 1a and 1b Polish accounting Act.

The mentioned conditions should be jointly fulfilled at the moment of application of the new taxation rules.

In order to properly apply the Estonian CIT, the companies will have to submit a notification in which they decided to choose these taxation to the competent Head of the tax office by the end of the first month of the first tax year of taxation.



EXCLUSIONS

The following entities will not be entitled to apply the Estonian CIT:

- entities participating in divisions, mergers and in transactions including the in kind contributions in the form of the enterprise or organised part of the enterprise (the mentioned entities will be entitled to choose the new taxation option in their second tax year, afterwards the commencement of the business activity in the result of the occurrence of the above-mentioned events),
- entities generating income from business activities conducted within the Special Economy Zone (SEZ) or Polish Investment Area,
- entities which declared bankruptcy or liquidation.



PERIOD OF VALIDITY

Estonian CIT may be chosen only for selected four-year period (afterwards the end of the four-year period, the taxpayer is entitled to extend the mentioned period for a further four years, if they fulfil the statutory conditions).

In the case of exceeding the revenue threshold entitling to apply the Estonian CIT in the course of the four-year period, the tax authorities may determine the additional tax obligation with this respect.

In the period of application of Estonian CIT, the shareholders will be obliged to submit the declarations to the company regarding the direct and indirect possession of the shares, all rights and obligations in the entities which are not subject to CIT in Poland and the property rights to received benefits as the founders or beneficiaries of a foundation, trust, other entity, or legal relationship having the trust characterization.

Any questions?

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