



Effects of the anti-crisis shield: PIT, CIT

Bearing in mind the fact that on 31 March 2020, the President of the Republic of Poland signed the Act 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 (referred to as the Special Act), we provide you with a study presenting the changes introduced. We have supplemented the main solutions with our comments on effects and benefits, if any, of the new regulations.

In order to improve the situation of businesses affected by the spread of the coronavirus, enable maintaining financial liquidity by companies who run business operation in the area particularly exposed to economic losses related to the epidemic, maintain jobs and minimize other negative effects of the epidemic, the following, but not limited to, solutions were proposed:

AMENDMENTS TO PIT/CIT REGULATIONS

1. Postponement of the date of payment of income tax advances on salaries paid in March and April 2020.

AMENDMENT

Payer's obligations: an extension of the deadline for transferring income tax advances from broadly understood work collected for March and April 2020 will be introduced. This deadline will be postponed until 1 June 2020. This applies to:

- advances collected by the employer on income generated from the service relationship, employment relationship, outwork, cooperative employment relationship, and social security allowances
- advances withheld by payers from commission and specific work contracts as well as from property right revenues.

In order to benefit from the postponed payment deadline, the payer needs to demonstrate negative economic consequences of COVID-19.

EFFECT

The purpose of the regulation is to help ensure financial liquidity of companies employing employees and to protect jobs. Advances for March and April 2020 paid by 1 June 202 will be treated as made "in due time" and will not result in negative consequences for payers (they will not be treated as tax arrears, on which interest is accrued as a rule).

2. (Optional) postponement of the deadline for payment of tax on income from buildings

AMENDMENT

The deadline for paying the minimum tax on commercial real estate for the months March-May 2020 will be extended to 20 July 2020. This applies to both PIT and CIT taxpayers.

This option is addressed to taxpayers who meet all of the following conditions:

- they suffered negative economic effects/consequences due to COVID-19
- their revenues in a given month as compared to the same period of the previous tax year are lower by at least 50% and in the case of a taxpayer who started running a business in 2019 – in relation to the average revenues obtained this year, as referred to in Article 14 PIT/Article 12 CIT.

Tax will also be due at the later date from those taxpayers who:

- in 2019 used a form of taxation in the case of which no revenues are determined
- started running business activity in the last quarter of 2019 and did not receive the revenues referred to in Article 14 PIT/Article 12 CIT in this period
- started business activity in 2020.

In these cases, only the condition of bearing negative economic consequences in connection with the coronavirus will need to be met to apply the postponed payment deadline.

EFFECT

The solution may prove beneficial for owners of office buildings, shopping centers, department stores and other facilities provided on the basis of rental, tenancy or lease. In the event of problems with maintaining financial liquidity, the postponed tax payment deadline will result in no interest being charged due to late payment.

3. Deduction of previous years' loss

AMENDMENT

It will be possible to deduct loss incurred in 2020 from operating income earned in 2019, however in the amount not exceeding PLN 5 million. To this end, it will be necessary to submit a correction to the tax return for 2019.

This method of loss settlement will be available to taxpayers who in 2020 will obtain revenues from business activities at least 50% lower than revenues obtained from these activities in 2019.

The amount of the loss not subject to deduction (exceeding the limit specified in the Special Act) will be settled by PIT and CIT taxpayers according to the existing rules.

According to the draft Special Act, the deduction concerns losses caused by COVID-19, which is a condition that the taxpayer will be required to demonstrate. In addition, if the deadline for payment of income tax for the tax year has expired or the taxpayer has submitted a tax return for that year, in order to settle the loss, the taxpayer will have to submit a correction of the return for the year for which this deduction will be made.

EFFECT

The proposed amendment will enable accelerated – one-time – deduction of a loss up to PLN 5 million, without the need to settle losses in subsequent years.

4. Option to resign from simplified advances in 2020 and calculate monthly advances on current revenues

AMENDMENT

Small taxpayers who chose a simplified form of PIT or CIT advances for 2020 will be able to resign from this form of payment for March-December 2020. The option of resigning from the simplified form of PIT or CIT advances has been reserved for small taxpayers who suffer negative economic consequences due to COVID-19. At the same time, from a formal point of view, there is no presumption in the Special Act that any taxpayer suffers negative economic consequences due to COVID-19, although the right to benefit from many tax credits provided for in this Act depends on this condition. In order to resign from the simplified form of settling advances on PIT or CIT, the taxpayer should notify of this resignation in the annual tax return for 2020.

EFFECT

Small taxpayers will calculate monthly income tax advances on monthly revenues actually achieved in 2020 on a general basis, instead of settling them on the basis of "profitable" months from two years ago (settled in the annual tax return submitted in 2019). This will enable payment of income tax advances on the basis of current/real income for 2020, which may affect their liquidity. Unfortunately, this amendment is of direct relevance for small taxpayers only.

5. Exclusion of the application of the so-called bad debt regulations to income tax

AMENDMENT

Under current regulations, a debtor who is late with his payment by at least 90 days must increase his income by an unpaid amount (which is the basis for calculating the PIT or CIT advance) after the 90th day.

Under the Special Act, the debtor will be released from this obligation when calculating advances for PIT or CIT for individual settlement periods, however under condition that the debtor suffered negative economic consequences in this settlement period due to COVID-19, and revenues of such debtor obtained in this period fell by at least 50% as compared to the same period of the previous year.

Debtors settling on a lump-sum basis on recorded revenues will also be entitled to the exemption.

EFFECT

Lack of obligation to increase debtor's income, while maintaining creditor's right to reduce revenues as a result of delays in payments.

6. Revenue generated as a result from the exemption from ZUS contributions is not subject to personal income tax

AMENDMENT

Revenues generated from the exemption from the obligation to pay ZUS contributions will not constitute revenues within the meaning of PIT. This applies to contributions due for the period from 1 March 2020 to 31 May 2020 of persons conducting non-agricultural activities and persons cooperating with them, employees and persons performing work on the basis of an agency contract, mandate contract or other service provision contract.

EFFECT

Exemption from the obligation to pay ZUS contributions for the period from 1 March 2020 to 31 May 2020 will not result in an increase in revenues taxable with personal income tax of persons for whom the payer will not have to pay ZUS contributions for this period – and therefore PIT will not be deducted from these revenues.

7. Amendment to income tax exemption limits in respect of certain benefits

AMENDMENT

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.

EFFECT

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

8. Exemption of waiting time allowance and accommodation and catering allowance from income tax

AMENDMENT

Pursuant to the Special Act, the following allowances received or made available to the taxpayer in 2020 shall be exempt from income tax:

- 1) waiting time allowance, and
- 2) allowances consisting in providing accommodation and meals, related to a change in the working time system or schedule, or ordering an employee to work overtime to the extent necessary to ensure continuity of operation of a company or a station.

EFFECT

The waiting time allowance and the accommodation and catering allowance will not be subject to PIT taxation and no income tax will be charged on these allowances.

9. Possibility of deducting costs incurred for developing products necessary to counteract COVID-19 directly from income when calculating income tax advances

AMENDMENT

Under the Special Act, the taxpayer obtained possibility to deduct costs incurred in 2020 for research and development activities aimed at the development of products necessary to counteract COVID-19 directly from the income being the basis for calculating the income tax advance (both in terms of PIT and CIT).

EFFECT

The envisaged possibility of deducting costs incurred in 2020 for research and development activities aimed at the development of products necessary to counteract COVID-19 directly from the income being the basis for calculation of the income tax advance (both in PIT and CIT) has not been limited to medicines or medical devices. Therefore, according to the abovementioned rules, costs incurred in 2020 for research and development activities aimed at the development of products necessary to counteract COVID-19, also in fields other than medicine, e.g. IT products, can be deducted directly from the income being the basis for calculation of the income tax advance. Quicker (because already at the moment of calculating the income tax advance) deduction of costs for research and development activities from income will allow reducing the income tax advance in 2020, which may have a positive impact on the taxpayer's financial liquidity.

10. Possibility of applying – when calculating income tax advances – a preferential 5% income tax rate on income from qualified intellectual property rights, used to counteract COVID-19

AMENDMENT

Taxpayers (both PIT and CIT taxed) 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.

EFFECT

The abovementioned right to apply the preferential 5% income tax rate when calculating income tax advances applies to qualified income from qualified intellectual property rights used to counteract COVID-19. At the same time, there is no restriction that these qualified intellectual property rights must apply to medicine in the strict sense and therefore they may also be qualified intellectual property rights in such field as information technology, 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.

11. Single-time depreciation

AMENDMENT

Taxpayers will be allowed to make single-time 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 register of fixed assets and intangible assets in 2020. This applies in particular to goods such as: protective masks, respirators, disinfectants, medical protective clothing, shoe protectors, gloves, glasses, goggles, hand disinfection and hygiene products.

EFFECT

Regardless of the initial value of this category of fixed assets, the taxpayer will be able to make depreciation write-offs on them in one time.

12. Extension of deadline for submitting CIT-8 return

AMENDMENT

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

All taxpayers will be given 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.

EFFECT

CIT taxpayers gained more time to file the annual CIT-8 tax return, namely by 31 May 2020 and in some cases by 31 July 2020, respectively.

13. Extension of deadline for submitting IFT-2R

AMENDMENT

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.

EFFECT

The deadline for submitting information on the amount of revenues (income) obtained by non-residents was postponed until the end of the fifth month of the year following the tax year in which the payments were made to them.

14. Extension of deadline for reporting to CRBR Register

AMENDMENT

The deadline for submitting information on the real beneficiary 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.

EFFECT

The deadline for submitting information on the real beneficiary to the Central Register of Real Beneficiaries was changed from 13 April 2020 to 13 July 2020.

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

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