

JULY | 2020

SHIELD 4.0 – changes to tax regulations

Last Friday, on 19 June 2020, the Sejm passed the Act on subsidies to interest on bank loans provided to COVID-19-affected entrepreneurs and on simplified procedure for approval of a composition in connection with COVID-19 (hereinafter “the Act”), also known as Shield 4.0. The Act also amends tax regulations. Presented below are the major changes which affect tax settlements, which are planned to take effect as part of “Shield 4.0”. The Act has already been signed by the President and it is going to take effect on the day following its promulgation in the Journal of Laws; the regulations concerning tax schemes will be effective from 31 March 2020. The Act was promulgated on 23 June 2020 in the Journal of Laws under item 1086.

CHANGES TO TAX REGULATIONS

I. Mandatory Disclosure Rules (MDR)

A change consisting of suspension of the time limits applicable to mandatory disclosure of tax schemes. So far, the time limits did not start running or were suspended if commenced in the period from 31 March until revocation of the state of epidemics, no later than by 30 June 2020. (Art. 77(60) of the Act – change to Art. 31y of the COVID-19 Act)

- According to the new wording, the suspension is to last until the 30th day following the end of the state of epidemics (30 days longer than the state of epidemic threat and epidemics, the deadline of 30 June 2020 was cancelled).
- Cross-border tax schemes are an exception (Art. 86a §1(12) of the Tax Code) – suspension according to the old rules, i.e. no later than by 30 June 2020.

II. Changes to VAT

Postponement of the effective date of the regulations governing JPK_VDEK until 1 October 2020 (Article 72 of the Act)

III. Changes to PIT and CIT

WHT – certificates of residence (Art. 77(61) of the Act)

- The validity of certificates of residence referred to in Art. 26 (1i) of the CIT Act and Art. 41 (9a) of the PIT Act is prolonged. If a certificate has no

specified period of validity (and the period of 12 months provided for in the above regulations ends during the epidemics or epidemic threat), the remitter is entitled to use the certificate for tax collection throughout the period of the epidemics and 2 months after revocation thereof.

- During the period of epidemic threat or epidemics administered in connection with COVID-19, and during the subsequent 2 months following revocation thereof, the place of residence and the registered office of the taxpayer for tax purposes can be confirmed with a copy of the certificate of residence.
- During the period of epidemic threat or epidemics administered in connection with COVID-19, and during 2 months following revocation thereof, the requirement of obtaining the certificate of residence from the taxpayer is deemed satisfied also if the remitter holds a certificate of residence of that taxpayer for 2019 and the taxpayer’s statement confirming that the details shown in the certificate remain valid.

Bad debt relief easier to be used with respect to payment backlogs by taxpayers who suffer adverse economic effects of COVID-19 (Art. 30 and Art. 32 of the Act – 52w of the PIT Act and 38o of the CIT Act)

- A relief for taxpayers who have chosen a simplified form of making income tax prepayments in 2020.
- The possibility to reduce income which is the base for prepayment calculation with respect to a debt during the account period in which 30 days lapsed from the end of the payment term (so far it was 90 days).

Exemption of income from buildings from PIT and CIT (Art. 30 and Art. 32 – Art. 52pa PIT, Art. 38ha CIT), with respect to taxable income for a period from 1 March to 31 December 2020 (previously, the Anti-Crisis Shield provided for a prolonged term for payment of the tax only).

Extension of the list of donations to be deducted from the base for CIT and PIT (applies to donations given from 1 January 2020 until 30 September 2020) (Art. 30 and Art. 32 and Art. 42 of the Act – Art. 52n(4) added to the PIT Act; Article 38g(4) added to the CIT Act; Art. 52x – PIT, Art. 38p – CIT; Article 57e added to the Flat-rate Income Tax Act)

- In-kind donations in the form of laptops or tablets (usable and not older than 3 years) made in the period from 1 January 2020 to 30 September 2020 to certain entities, such as educational institutions.
- Donations made to social welfare centers (e.g. to a house for mothers with minors and pregnant women or night shelters) – also if the donation is made via a public benefit organisation.

Exemption from the tax on inheritance and donations applicable to natural persons with respect to donations referred to in 4 above to natural persons who are donees according to the above conditions (Art. 77(55) of the Act – Art. 15zzzzzza of the COVID-19 Act)

The cost of manufacturing or price of acquisition of things or rights donated from 1 January 2020 until 30 September 2020 can be recognized as deductible costs. (Art. 30 and Art. 32 of the Act – Added Art. 52z – PIT Art. 38r – CIT)

- Applies to donations referred to in 4 above

(computers for educational institutions, donations to social welfare centers), which have so far been governed by the anti-crisis regulations (for the purposes of combatting COVID).

Taxpayers can recognise liquidated damages and compensation paid in connection with the state of epidemic threat or epidemics announced due to COVID-19 as deductible costs (Art. 30 and Art. 32 of the Act – Adding Art. 52zb – PIT Art. 38t-CIT).

Exemption of taxpayers who are taxed according to the tax card and who cannot operate their business due to the temporary lockdown imposed by public authorities due to COVID-19 from the obligation to notify the head of the tax office about the period of break in the business activity (Art. 38 of the Act – adding Art. 57g of the Act on flat-rate income tax):

- As a result of the change, by operation of law, taxpayers taxed according to the tax card will not be obliged to pay income tax for the period in which they did not operate the business due to the lockdown.

IV. Changes to transfer prices

As regards transfer pricing: extension of the reporting periods (the extensions introduced so far applied to those entities only which operated according to a shortened tax year starting after 31 December 2018 and ending before 31 December 2019). **Two categories of deadlines with respect to the obligation to submit the transfer pricing information (TPR) and a statement on preparation of a local file** (Art. 77(62) of the Act):

- if the deadline ends in the period from 31 March to 30 September 2020 – extension until 31 December 2020
- if the deadline ends in the period from 1 October to 31 September 2021 – extension by 3 months.

As regards attaching the group's transfer pricing documentation to the local file – if the deadline for submission of the statement on preparation of the local file is extended:

- until the end of the third month starting from the day following the date ending the extended time limit for submission of the statement on preparation of the local file.

The above changes do not apply to those taxpayers who have chosen to prepare the transfer pricing documentation according to the provisions of the CIT Act in force until the end of 2018 (i.e. Art. 9a of the CIT Act currently repealed).

V. Special Economic Zones

A change was made to the Act on Special Economic Zones (Art. 34 of the Act):

the change is of organisational nature – as there is no possibility to change the borders of special economic zones (SEZ), the act provides for repealing the provision (Article 5(4) of the SEZ Act) which enables establishing specific criteria for inclusion of land under SEZ upon a regulation.

VI. Reliefs in repayment of tax liabilities

Changes to the act on income of local government units (Article 48 of the Act) whereby the financial effects of the use of reliefs in repayment of tax liabilities consisting of postponement of tax payments and their spread into installments, provided for in the tax law, need not be taken into account for calculation of subventions and payments. This may be of essence when applying to commune authorities for reliefs in payment of tax liabilities.

VII. Remote audits

A possibility was implemented to **carry out an audit** (Art. 65 of the Act) or any of the audit procedures **remotely** through the postal service operator or via means of electronic communication, if this will facilitate the audit and the nature of the business activity operated by an entrepreneur supports this choice (a change to the regulations of the Law on Entrepreneurs).

Should you need our assistance, we will be happy to discuss further details of the above issues.



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