February 2025

What is changing in taxes in 2025

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2025 has brough a number of important changes to the tax system with a significant impact on doing business in Poland. BDO experts have analyzed the most important new developments, the most noteworthy of which are: the introduction of cash-based PIT for small businesses (with a revenue limit of PLN 1 million), reduction in minimum health insurance premium (calculated on 75% of the minimum salary), implementation of JPK CIT for the largest entities (with revenues in excess of EUR 50 million), introduction of a global top-up tax (Pillar 2), as well as changes to the tax haven list. In the area of VAT, the most significant modifications consist of new exemption rules for small entities operating in the EU, changes in the taxation of remote events and postponed integration of cash registers with payment terminals. Major changes have also been made to property tax with the introduction of new definitions of taxable structures. Presented below is a brief analysis of all the changes along with practical guidelines on their implementation. We encourage you to review the different sections and to use the support of our experts in areas that raise your concern.

PERSONAL INCOME TAX (PIT)

Small businesses can already apply cash-based PIT

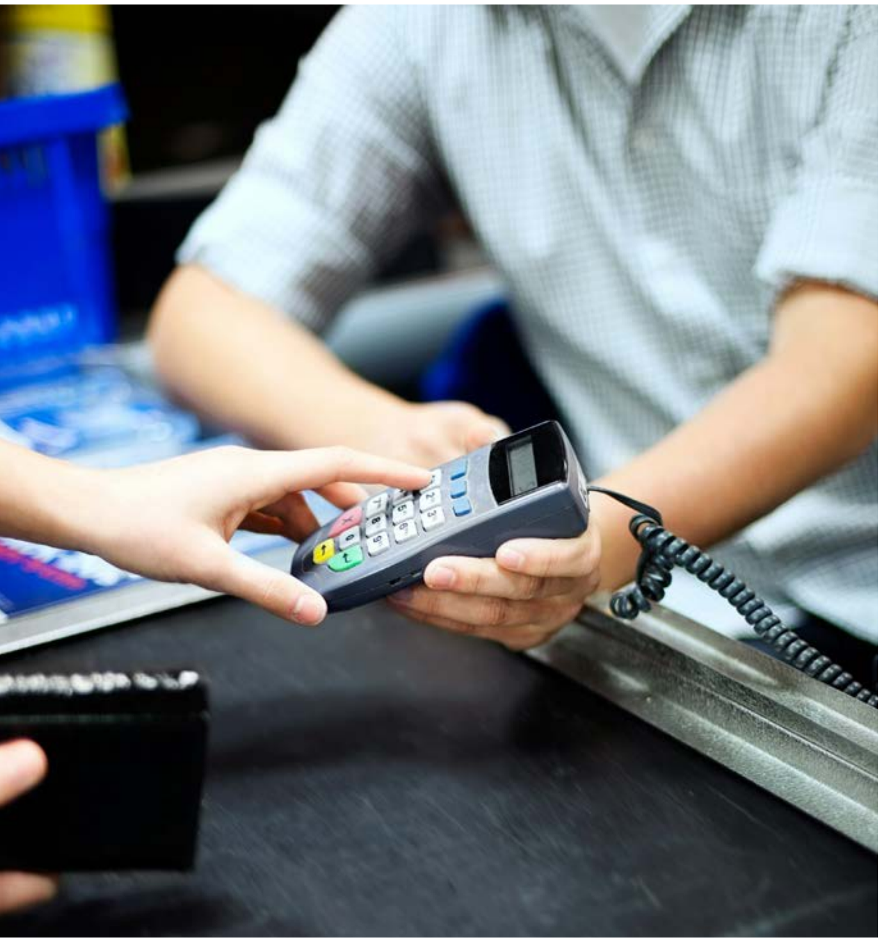
1 January 2025 was the effective date of a long-awaited change to the tax system – the so-called cash-based PIT. The solution introduces a major modification to the way businesses account for income tax.

The main advantage of cash-based PIT is the ability to defer the payment of tax until payment is received from the customer. Traders will no longer have to pay tax for the period in which services or goods are supplied, but rather only in the reporting period in which payment for them is received. The same rule applies to costs – purchase invoices can be claimed as tax-deductible only after payment is made.

This is a major change given that a fundamental rule of accounting for personal income tax (PIT) states that the tax point for the trader arises at the time of sale, i.e. when the goods or services are supplied (also partially). It cannot be later than the invoice issue date or the amount due payment date.

The new solution is available to sole proprietorships that meet specific conditions:

- previous year's revenue of no more than PLN 1 million;
- no keeping of books of account;
- timely filing of a relevant statement with the tax office (by 20 February for a given tax year).



HEALTH INSURANCE

Lower minimum health insurance premium for small businesses

The first changes in the health insurance premium system for traders have been in effect since January. They have introduced two major modifications: an optional exclusion of revenue from the sale of fixed assets and a reduction in the minimum calculation base.

Key changes:
- minimum premium calculated on 75% of the minimum salary;
- new minimum premium amount in 2025: PLN 314,96 per month;
- resulting savings for traders: PLN 104,98 per month;
- voluntary inclusion of revenue from the sale of fixed assets.

Exclusion from the premium calculation base of the revenue and costs associated with selling fixed assets is voluntary; traders will have the option to decide for themselves whether including revenue from the sale of a fixed asset, and therefore also the non-deductible (non-depreciated) portion the costs of acquiring that asset, would be more beneficial. If so, they can include it, if not they will not have to include revenue from the sale of fixed assets in the premium calculation base.

The following are the challenges faced by traders in this area:
- analyzing the profitability of including the sale of fixed assets in the premium calculation base;
- adapting accounting systems to the new rules;
- verifying the impact of changes on financial liquidity;
- updating depreciation plans;
- modifying fixed asset sale policies.

The actions we recommend taking:
- review fixed assets held;
- calculate premium base variants;
- update accounting documentation;
- verify planned sales transactions;
- adapt payment schedule.

The changes are particularly important for:
- low income traders;
- companies planning to sell fixed assets;
- entities that incur losses;
- tax card traders.

Changes to health insurance premiums are two take place in two stages. In the first stage, in 2025, those taxed on the tax scale and with the flat rate of 19% will pay a lower premium. The changes will also include the sale of fixed assets. But those subject to lump-sum taxation will see no changes in 2025.
Greater changes in the payment of health insurance premiums by traders are planned for 2026, which will result in more options to choose the most favorable form of taxation.
Due to the complexity of the changes we recommend that you consult a tax advisor. As applying the new rules incorrectly could result in errors in your ZUS accounts, proper preparation for the changes is vital.

Challenges and risks:
- need to keep an additional record of invoices and monitor payment dates;
- automatic taxation of unpaid amounts after 2 years;
- method cannot be used on transactions with related parties;
- revenue from the sale of fixed assets excluded.

Changes in the health insurance premium calculation base apply to traders, but not all of them. Certain groups of traders will not be affected:
- creators and artists;
- partners in single-member limited liability companies;
- partners in limited partnerships;
- general partners in limited joint-stock partnerships;
- shareholders of simple joint-stock companies making a contribution in the form of work or services.

Experts point out the need to perform a detailed analysis of the company's financial position before choosing this method. Decisions to change over to cash-based PIT should take into account the specific nature of the company's business, the timeliness of contractors' payments and the organizational capacity to keep additional records and monitor the low revenue threshold.
A tax advisor who will help you assess the risks and benefits applicable to your specific business should be consulted before making a decision.
To start applying cash-based PIT you need to file a statement with the tax office by 20 February 2025 or within 20 days of commencing business operations if the company is formed in the course of the year.

CORPORATE INCOME TAX (CIT)

First group of taxable persons required to file JPK CIT

Regulations that introduce the Standard Audit File for CIT (JPK CIT) and thus fundamentally change the method of reporting financial data for the largest businesses went into effect at the beginning of 2025. The obligation applies to companies with revenues in excess of EUR 50 million and to groups.

JPK CIT, comprising the JPK_KR_PD (books of account) and JPK_ST_KR (fixed assets) schemas, requires that books be kept exclusively in electronic form. For the first group of taxable persons the first reporting deadline is 31 March 2026.

The following are the key challenges associated with implementing JPK CIT:

- adapting IT systems to generate XML files compliant with Ministry of Finance requirements;
- enabling detailed identification of vendors through NIP and invoice numbers in KSeF;
- implementing markups for specific taxable person groups (banks, insurers, NGO);
- modifying accounting policies and charts of accounts;
- providing qualified signature infrastructure.

Among other things, the books of account will have to include: the tax identification (NIP) numbers of vendors, the identification numbers of invoices in KSeF, as well as detailed information from tangible and intangible fixed asset records.

Additional groups of taxable persons will join the system in the years 2026-2027. As of January 2026 JPK CIT reporting will apply to all taxable persons required to submit JPK VAT, and as of 2027 it will cover all the remaining CIT taxable persons.

Due to the complexity of the changes, we recommend:

- performing an audit of the existing accounting systems;
- consulting accounting software providers;
- training for accounting personnel;
- working with tax experts during implementation;
- verifying the compliance of accounting and tax records with new tax and legal regulations.

We urge you to contact our experts to properly prepare for the new requirements. We will help you safely navigate the reporting system transformation process.

Exemptions from the JPK CIT requirement apply to, among others, those subjectively exempt from CIT (aside from family foundations) and entities that keep simplified records.

Failure to comply with the new requirements can lead to serious consequences, so it is a good idea to start the preparations as soon as possible.

As of January some taxable persons subject to new top-up tax

Starting from January 2025 the largest groups in Poland must account for top-up tax. Polish regulations on global minimum tax (Pillar 2) have just become effective and introduce an effective tax rate of a minimum level of 15%. Where a company's effective tax rate is lower than 15%, the company may be required to pay the difference to reach the minimum tax rate of 15%. The amount of top-up tax due will depend on the difference between the actual rate and the threshold of 15%, as well as the income subject to taxation under the new regulations.

The new regulations will apply to around 7000 entities in Poland, mainly subsidiaries of multinational groups. The qualifying criterium is consolidated revenue of more than EUR 750 in two out of the last four tax years.

The top-up taxation system consists of three pillars. The first is the global top-up tax (IIR) imposed on parent companies. The second, of key importance from Poland's perspective, is a domestic top-up tax (QDMTT), calculated in the local jurisdiction. The third pillar is the undertaxed profits tax (UTPR), which plays the role of a backup mechanism.

Special attention should be given by companies that apply tax relief. Preferences such as IP Box, R+D relief or operating in Special Economic Zones and the Polish Investment Zone (PSI) can lower the effective tax rate below the required 15% thus generating an additional tax liability.

Implementation of the new regulations involves considerable administrative challenges. Entities will be required to report more than 240 different pieces of data in their Global Information Returns.

Top-up tax information must be filed by the 15th month following the end of the year, and the tax return – by the 18th month.

The regulations provide for certain mitigating mechanisms. Temporary exemptions apply to entities with revenue under EUR 10 million and income under EUR 1 million in a jurisdiction. It is also possible to apply simplified calculation methods.

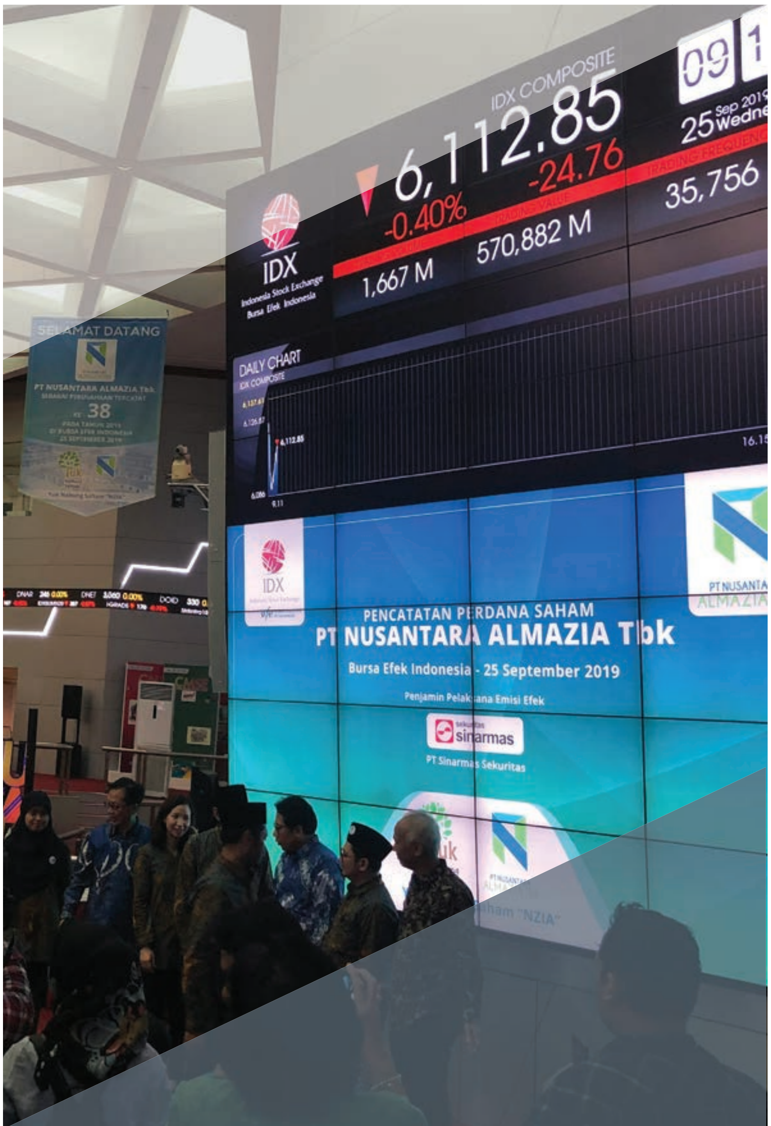
Companies can decide to apply the regulations early – from the beginning of 2024. This requires the submission of a notary certified statement between 1 March and 30 May 2026. This is caused by the delay with which Poland implemented the top-up tax provisions.

Due to the complexity of the new regulations it is imperative that preparations begin as soon as possible. Companies will need to audit their finance and accounting systems, review the types of tax relief they apply and implement appropriate reporting procedures. It is also a good idea to analyze the applicability of the available mitigating mechanisms and perform group level consultations.

The following are the key challenges for businesses:
- getting IT systems ready to collect and process 240+ data;
- modifying accounting and tax procedures;
- verifying the impact of relief (R+D, IP Box, SSE) on the effective rate;
- implementing new reporting processes;
- coordinating actions at group level:
- providing financial and administrative resources to adapt to new requirements.

What requires immediate attention:
- audit of existing systems and procedures;
- review of current tax relief;
- assessment of risk of exceeding ETR of 15%;
- preparation of an implementation schedule;
- secure resources to meet new requirements.

We recommend that you contact our experts to help you properly prepare for the new requirements. Our experts will assist you with:
- analyzing the impact of the regulations on your organization;
- preparing an implementation strategy;
- optimizing reporting processes;
- training teams;
- ongoing compliance support.



TRANSFER PRICES

Changes to the list of tax havens and safe harbors as of 2025

As of this year changes were made to regulations on transfer prices and to the list of countries that apply harmful tax competition. A key change is the removal of the Duchy of Andorra from the list of tax havens and modification of safe harbor benchmarks.

The most important changes are:
- the new list includes 25 countries and territories (without Andorra);
- LIBOR USD 3M and LIBOR GBP 3M replaced with SOFR and SONIA;
- update of base rates and margins for financial transactions.

As of 1 January 2025 the base lending rate:
- in US dollars – is the 90-day Average SOFR;
- in euro – is EURIBOR 3M;
- in Swiss franks – is the SARON 3 months Compound Rate;
- in pound sterling – is the SONIA 3M Compound Rate.

Under the new regulations, as of 1 January 2025 the margin:
- for the borrower amounts is a maximum of 2,6 percentage points;
- for the lender is a minimum of 2,0 percentage points;
- is the total of the absolute value of the base interest rate and the value stated in either the first or second point above, if the value of the base interest rate stated in point 1 is less than zero.

In accordance with Polish regulations, documentation requirements cover all transactions concluded with a tax haven entity with an annual value in excess of: PLN 2,5 million for financial transactions and PLN 500 thousand for other transactions. The requirement applies to both controlled transactions, i.e. those concluded with related parties, and to transactions concluded with unrelated parties (other transactions).

The most significant challenges for businesses in connection with the changes include:
- verifying transactions with entities from Andorra;
- updating transfer pricing documentation;
- updating group lending policies;
- modifying financial agreements using old benchmarks;
- reviewing existing transactions with tax havens.

The actions we recommend taking:
- analyze the impact on changes on current transactions;
- update counterparty verification procedures;
- review transfer pricing documentation;
- update financial agreements with new benchmarks;
- verify documentation thresholds.

Please remember that the documentation requirement applies to transactions with related parties, as well as unrelated parties in tax havens. Due to the complexity of the changes we recommend consulting an advisor specializing in transfer prices and international tax law. As failure to properly comply with the new regulations can lead to serious tax consequences, it is essential to appropriately prepare and implement relevant changes in processes and documentation.

VALUE ADDED TAX (VAT)

New VAT exemption rules for small businesses operating in the EU

New regulations on VAT exemptions for small businesses operating in the EU went into effect at the start of 2025. They are meant to simplify procedures and reduce the administrative burden for traders conducting cross-border activities.
The most important change is the ability to apply the VAT exemptions in different EU states without the need to register for tax purposes in each of those states. This applies to companies from other member states operating in Poland, as well as to Polish traders selling in the EU.
In 2025 the VAT subjective exemption limit remained at PLN 200 000 per year. As a result, eligible for the exemption are traders whose 2024 taxable sales did not exceed PLN 200 000. Those taxable persons can, however, choose voluntary taxation with VAT. For companies commencing operations the limit is calculated in proportion to the period of conducting operations during the year.

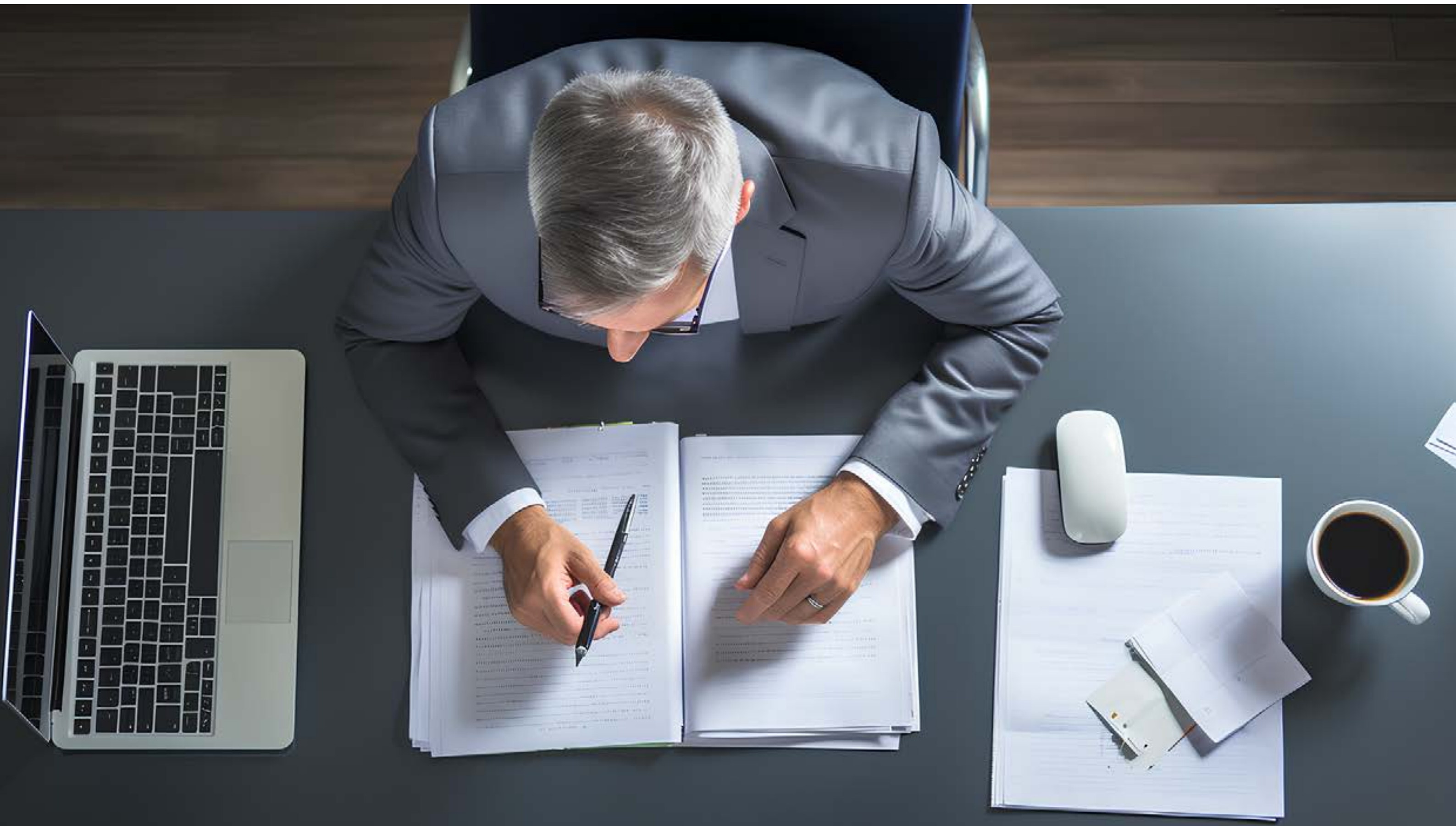
To apply the exemption in different EU member states, companies will have to meet specific conditions:
register for the exemption in the state of the company's place of establishment;
annual revenue in all EU member states cannot exceed EUR 100 000 in the previous or current tax year;
sales in a given state cannot exceed the VAT subjective exemption limit that applies in that state (PLN 200 000 in Poland);
must file quarterly turnover information in each state of business operation.
In practice it is therefore necessary to comply with two exemption limits: the EU's and the Polish limit.

To apply the new solution, traders must obtain a special EX identification number. The procedure to obtain it starts with notifying the head of the relevant tax office. The document should contain:
- the company's full identification information;
- list of the states in which the company intends to apply the exemption;
- detailed information on turnover in the EU;
- declaration of having met the conditions to apply the procedure.

In consequence, the key challenges associated with the new regulations include:
- monitoring total revenue in all EU member states for the EUR 100 thousand limit;
- tracking individual exemption limits in the various member states;
- correct reporting of quarterly turnover to the relevant tax office;
- verifying fulfillment of conditions in each state of business operations;
- adapting accounting systems to new reporting requirements.

The actions we recommend taking:
- analyze current and planned turnover in EU member states;
- update accounting and reporting procedures;
- verify exemption thresholds in states where sales are made;
- prepare registration documentation for the Second Tax Office Warszawa-Śródmieście;
- implement a system to monitor sales limits per state.

Due to the complexity of the new regulations and their effect on cross-border operations, we recommend consulting a tax advisor specializing in international VAT. They will help analyze the company's specific situation and propose an optimal solution adapted to its operations.
Please note that failure to correctly apply the new regulations can lead to serious tax consequences, which is why it is so important to properly prepare for their implementation.



Changes in the taxation of remote events

Significant changes went into effect this year in the taxation with VAT of services supplied remotely in the area of culture, art, sports, science and education in cases where presence is virtual. The new regulations introduce a rule of taxation based on the place of establishment or residence of the service recipient rather than, as was the case before – the place of service performance.
Importantly, the changes also include supplies of admission to such events in the form of access to a stream transmission.
Admission service is a service based on which the buyer is granted a right to take part in an event, be present where the event is taking place, in exchange for a ticket or another payment or charge, including in the form of a subscription, season ticket or season fee.

Key changes:
- for B2B transactions - VAT reported at the buyer's place of establishment through reverse charge;
- for B2C transactions - VAT according to consumer residence;
- ability to apply the OSS system for reporting VAT in the EU;
- elimination of requirement to register in each state where services are supplied.

Challenges faced by companies:
- identifying the status and location of service recipients;
- adapting IT systems to new invoicing requirements;
- correctly determining VAT rates in different states;
- implementing procedures to verify the residence of consumers;
- updating regulations and price lists to reflect different VAT rates.

Recommended actions:
- audit of supplied services for compliance with new regulations;
- verification of sales processes and accounting systems;
- preparation of documents for OSS purposes;
- training of personnel in the new VAT accounting rules;
- updating price policies to reflect differences in VAT.

In particular, the changes apply to the organizers of:
- online conferences;
- remote training courses;
- concert streaming;
- virtual fairs;
- online educational events.

Due to the complexity of the new regulations and their effect on business operations, we recommend consulting a tax advisor specializing in VAT and e-commerce. Our experts will help analyze the company's specific situation and propose an optimal solution.
Failure to correctly apply the new regulations can lead to serious tax consequences, which is why it is so important to properly prepare for the changes and make the necessary modifications to business processes.

Changes in accounting for VAT margin on works of art

New rules on the application of the VAT margin procedure went into effect at the beginning of this year for works of art, collectors' items and antiques. A key change pertains to the conditions for the application of the margin procedure on imports and purchases from creators.
There are two methods of accounting for VAT on the sale of works of art, collectors' items and antiques, i.e. general terms or the so-called margin procedure, consisting of taxing the difference between the amount of sale and the amount of purchase, less the amount of output VAT.
Taxpayers applying the vat margin procedure under the new rules from 1 January 2025 should have submitted a new notice to the head of the relevant tax office by 31 December 2024, which is valid for 2 years, starting from the end of the month in which the taxpayer notified the head of the tax office.
As of 1 January 2025 the rules changed to allow for the application of the margin procedure to the supply of works of art, collector's items or antiques in cases where the taxable person personally imports these goods or purchases works of art from their creators, their legal successors or from taxable persons who do not apply the margin procedure.
Under the new regulations, the application of the margin procedure will be possible in such cases if the import of the works of art, collectors' items or antiques or the supply of works of art was not subject to a reduced rate.
The new regulations do not change the VAT rate applicable to those goods under either the general rules or the margin procedure (in both cases the entities that deal in those goods professionally apply the standard rate to their resale).
Because in Poland import of works of art, collectors' items and antiques is subject to taxation at a reduced VAT rate of 8%, as of 1 January 2025

the sale of those items cannot be covered by the margin procedure. In such cases, the taxable person will be required to apply general rules of taxation with VAT, i.e. taxation of the entire value of the good being sold. Importantly, if the general rules are applied, the taxable person is eligible to deduct the input VAT on the import of the goods.

Challenges faced by traders:
- verifying existing VAT settlements;
- changing the method of taxation of imported goods;
- adapting accounting systems;
- analyzing the effect on financial liquidity;
- reviewing agreements with suppliers.

Recommended actions:
- file a new notification on applying the margin procedure;
- update accounting procedures;
- verify the goods covered by the change;
- review previous accounts;
- calculate the effect on sales prices.

The change is particularly significant for those who sell silver collector coins – import taxed at 8% precludes the application of the margin procedure. Instead, taxable persons can deduct input VAT on import. Due to the complexity of the changes we recommend consulting a tax advisor specializing in VAT.

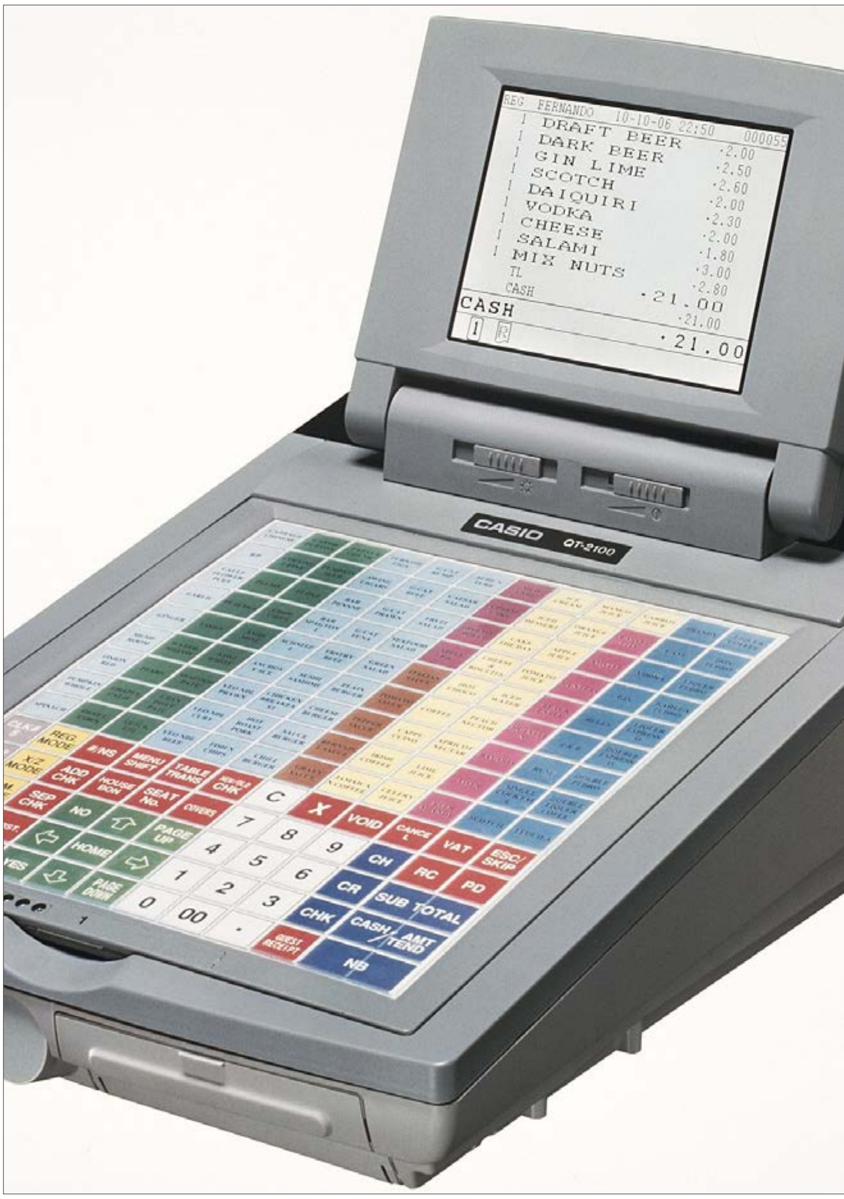
Integration of cash registers with payment terminals postponed

The requirement to integrate online cash registers with payment terminals has been postponed until the end of March 2025. This is the last such postponement, as the Ministry of Finance plans to completely opt out of this requirement in favor of direct reporting by clearing agents. The decision is important for traders who as a result will avoid financial penalties of PLN 5 thousand for failure to perform the required integration.
The postponement pertains not only to the requirement to integrate cash registers with terminals, but also to the related obligation for clearing agents to forward payment data to the Head of National Tax Administration. This is yet another postponement, which shows the complexity of the process of implementing new technical solutions in the fiscal area.
A clearing agent is a provider of payment services who based on an agreement with the acceptor (e.g. store or service point) enables the acceptance of payment cards and other payment instruments. It is the clearing agents who supply businesses with payment terminals and are responsible for the correct processing of cashless transactions, and in the future will be obligated to report data on those transactions to the tax authorities.
At the same time work is underway on a target solution that is to completely eliminate the requirement to integrate cash registers with terminals. A draft bill amending the Value Added Tax Act (UD125) is in the final stage of legislative work. Instead of integrating cash registers with terminals the bill calls for the implementation of a system of indefinite reporting of payment transaction data by clearing agents.
This change is important for the trade and services industry, especially small and medium businesses for whom the implementation of an integrated cash register system could pose a significant organizational and financial burden. The postponement gives businesses more time to adapt to the possible new requirements, while at the same time allowing for refining the target legal solutions.

The greatest challenges associated with the actions taken by the Ministry of Finance:
- adapting systems to potential technical changes;
- uncertainty as to the final provisions of the regulations;
- coordinating with clearing agents;
- changing transaction reporting processes.

In view of this, we recommend:
- monitoring the progress of legislative work (paper UD125);
- consulting cash register suppliers;
- verifying agreements with clearing agents;
- reviewing payment systems;
- updating reporting procedures.

We also recommend that you consult our fiscal and payment system experts in order to optimally prepare for the coming changes.



PROPERTY TAX

Key changes in property tax for traders

Major changes were made as of January 2025 in property tax. The most important is the introduction of new definitions of taxable structures directly in the Local Tax and Charges Act, without the need to refer to Building Law.
Key changes relate to the definitions of building and construction. Building is defined as a structure permanently affixed to land, with a foundation and roof, separated by building dividers. Special attention was given to excluding structures used to store loose, liquid or gaseous materials.
Building – a structure erected as a result of construction work, along with systems that enable its intended use, permanently affixed to the ground, closed off with walls, which has a foundation and a roof, excluding a structure that is or could be used to store loose materials, materials that occur in pieces, or materials in liquid or gaseous form, for which capacity is the main technical parameter indicating its designation.
Buildings do not include structures with systems that enable their intended use, permanently affixed to the ground, closed off with walls and having a foundation and a roof, that are or could be used to store: loose materials, materials that occur in pieces, or materials in liquid or gaseous form, for which capacity is the main technical parameter indicating their designation.
Taxable structures are detailed in the new Appendix 4 to the Act, with particular attention given to energy, industrial and infrastructure facilities.

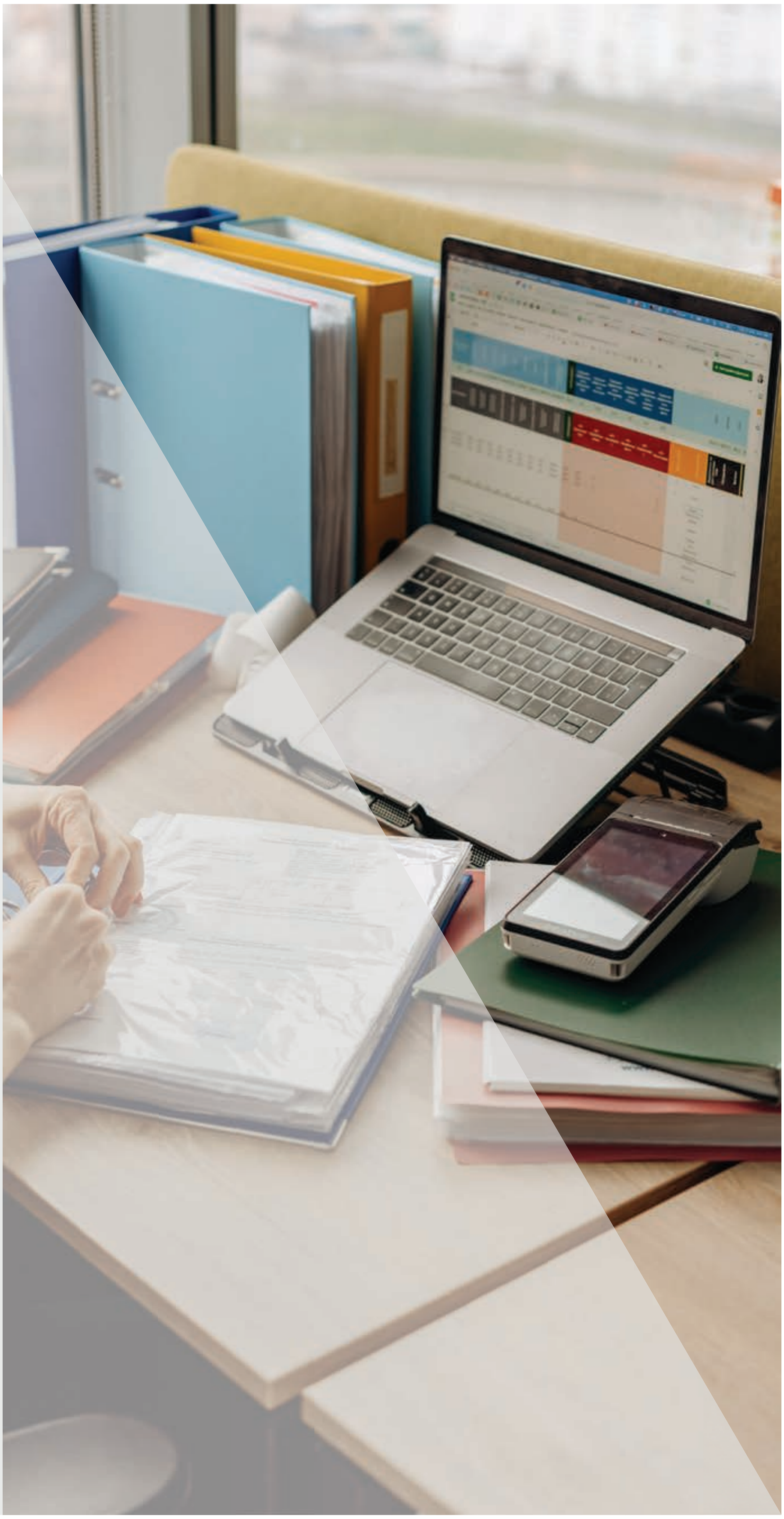
The challenges faced by business in connection with the new regulations include:

- the need to verify the classification of their structures;
- risk of change in tax burden;
- new deadlines for filing declarations and the ability to defer them;
- need to adapt accounting system to new requirements.

Document filing deadlines:

- sole proprietorships: updated IN-1 by 14 January 2025;
- companies: declaration DN-1 by 31 January 2025 or 31 March 2025 (after filing notification).

Tax installments for January, February and March 2025 should be calculated and paid based on the amount of tax for 2024. Payment of taxes as per declaration DN-1 in effect as of April. Where payments for the period from January to March are too low, the difference will have to be paid based on the amount of tax for 2025, by the declaration filing deadline, i.e. 31 March 2025.
Due to the complexity of the changes and their potential effect on the amount of tax, we recommend consulting a tax advisor. Our experts will help you properly classify your structures and estimate the financial effects of the new regulations.
Traders taking advantage of the filing extension must remember to pay any difference in payments for the first quarter of 2025.



ACCOUNTING

New limit for mandatory keeping of books of account

The limit above which traders must keep books of account has gone up as of 1 January 2025.
Individuals, partners in civil partnerships, general partnerships and limited liability partnerships will be required to keep books of account if they have revenues equal to or exceeding EUR 2,5 million. Until the end of 2024 the limit amounted to PLN 2 million. The new limits will apply to financial years beginning after 31 December 2024.
Amendments to the Accounting Act have also resulted in new definitions of micro and small entity. The definition of micro entity is based on three criteria: net revenue from the sale of goods for resale and finished products, total assets and average number of full time employees. It should be noted that some entities, such as trade unions, despite being excluded from the definition of micro entity, will be able to continue to apply simplifications unchanged.
In the case of the definition of small entity, the change consists of using this term only with respect to entities that meet specific threshold criterial, such as net revenue from the sale of goods for resale and finished products, total assets and average number of full time employees. The new definition follows the definition in the Accounting Directive, which aims to unify regulations on EU level. It should be noted that similarly to micro entities, the new definition of small entity is based on the same three criteria.
In accordance with the delegated directive, the financial thresholds for micro entities have been raised. The new thresholds are: PLN 2 000 000 for total assets at the end of financial year and PLN 4 000 000 for net revenue from the sale of goods for resale and finished products for the financial year. These are much higher than the previous thresholds, which amounted to PLN 1 500 000 for total assets and PLN 3 000 000 for net revenue. The employment threshold of 10 people remains unchanged. The amendments also increase by 25 percent the thresholds for the requirement to audit financial statements by so-called other entities. The changed amounts are:

- ✔ EUR 3 125 000 – for total assets at the end of the financial year and
- ✔ EUR 6 250 000 for net revenue from the sale of goods for resale and finished products for the financial year.

The financial thresholds for small entities have also increased. The new thresholds are: PLN 3 000 000 in total assets at the end of the financial year and PLN 66 000

000 in revenue from the sale of goods for resale and finished products for the financial year. These amounts are much higher than before, when they had amounted to PLN 25 500 000 for total assets and PLN 51 000 000 for net revenue. The employment threshold of 50 full-time employees remains unchanged.
These are obviously only the most significant changes arising from the amendments.

The others include:
- ✔ unifying the scope of net sales;
- ✔ changes in financial reporting for small and micro entities;
- ✔ the rules for obtaining and losing the status of small and micro entity;
- ✔ introducing the definition of large group;
- ✔ adding to the Accounting Act a new chapter on non-financial reporting (ESG).

Analysis of the new regulations points to the following challenges entities will have to face:
verifying the need to transform to full accounting;
- ✔ adapting accounting systems;
- ✔ meeting new reporting requirements;
- ✔ preparing for ESG reporting;
- ✔ classifying the company according to new definitions;
- ✔ updating accounting policies;
- ✔ training accounting staff.

Recommended actions:
- ✔ analyze revenue for new limits;
- ✔ verify fulfillment of micro/small entity criteria;
- ✔ review current accounting system;
- ✔ update accounting documentation;
- ✔ prepare change implementation plan;
- ✔ verify reporting requirements.

Due to the complexity of the changes, we recommend consulting our experts on:
- ✔ assessing the impact of changes on the company;
- ✔ choosing the best form of accounting;
- ✔ adapting systems and procedures;
- ✔ preparing new reports;
- ✔ implementing ESG reporting.

LATEST GENERAL INTERPRETATIONS

MDR reporting on operating leases

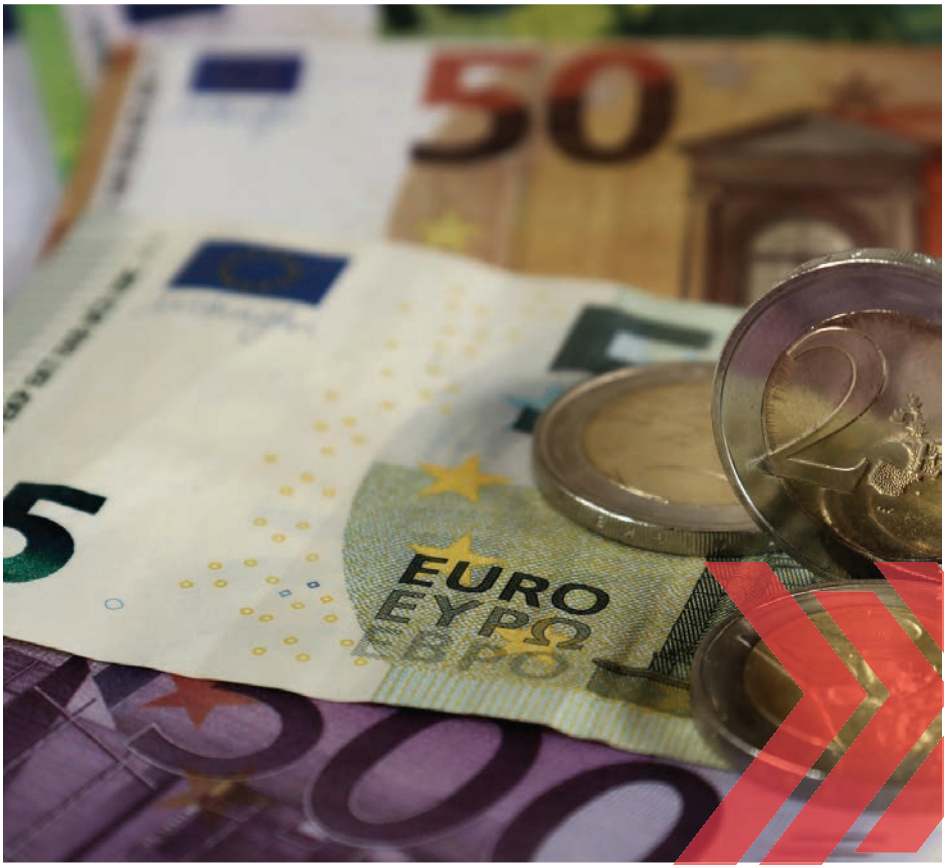
At the end of 2024 the Ministry of Finance issued a general interpretation on the classification of operating lease agreements under the provisions on tax schemes (MDR). The document of 24 December 2024 responds to the concerns of the leasing industry regarding the reporting of standard agreements (see general interpretation number DT S5.8092.4.2024; 2024 Official Journal of the Ministry of Finance, item 126).
According to the interpretation, the mere conclusion of a standard operating lease agreement does not qualify as a tax scheme subject to MDR reporting. It is essential to determine if the main benefit criterion is met. A standard lease agreement, although based on a standardized template, does not have to be reported if this form of financing was chosen for business rather than tax reasons.

The minister of finance has indicated that in the case of an operating lease, two situations may be considered a tax scheme:
- ➲ the conclusion of an operating lease agreement between related parties, instead of another agreement, if it leads to a circular flow of funds or a change in taxation methods;
- ➲ the payment of leasing fees to a non-resident, if the amount exceeds set limits: PLN 25 million in revenue for non-resident or PLN 5 million in hypothetical withholding tax.

A reporting obligation arises when:
- ➲ the lease is offered primarily for its tax advantages;
- ➲ the client is explicitly declaring a tax motivation;
- ➲ contractual terms are unusual and point to a tax objective;
- ➲ the qualified user threshold amounts are met.

The following issues may require consultation with an expert in connection with the interpretation:
- ➲ assessing the fulfilment of the main benefit criterion;
- ➲ analyzing the qualified user thresholds;
- ➲ verifying unusual contractual terms;
- ➲ obligations related to cross-border leases.

Please contact our experts for an individual analysis of your lease agreements for MDR obligations. Professional support will help you avoid the risks associated with incorrect tax scheme reporting.



Tax authorities explain the application of exemption for cross-border payments

The Minister of Finance has explained the rules for the application of an exemption from withholding tax for interest and royalties paid to entities from the EU/EEA. The interpretation of 20 November 2024 clarifies the requirement that the recipient "does not benefit from a tax exemption" and resolves differences in administrative court rulings (see general interpretation number DD9.8202.2.2024; 2024 Official Journal of the Ministry of Finance, item 111).
The minister confirms that the mere lack of an actual payment of tax by a payment recipient (e.g. due to loss) does not preclude an exemption from withholding tax. Whereas of key importance is whether in the state of residence the recipient does not apply a systemic exemption or special tax preferences to the interest/royalties being received.
The interpretation references Directive 2003/49/EC (IR Directive), the main objective of which is to ensure single taxation of interest and royalties in the EU. The Minister of Finance indicates that this needs to be considered when interpreting the condition of "not benefiting from a tax exemption" in Article 21 par. 3c of the CIT Act. In addition, the ministry cites the rulings of the CJEU (in cases C-115/16, C-118/16, C-119/16 and C-299/16), according to which the requirement not to benefit from an exemption is not met if the recipient is exempt from taxation on the interest received in their state of residence.

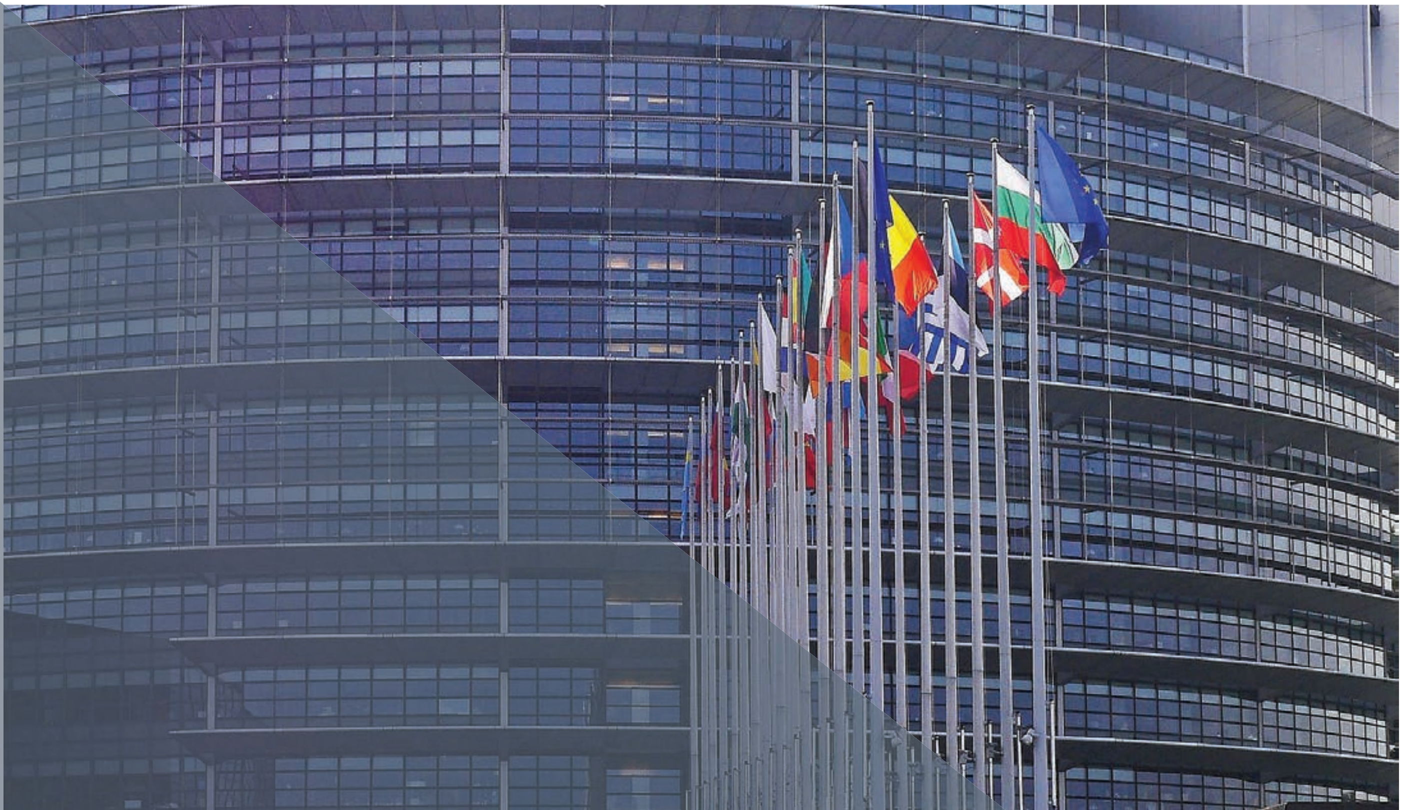
To apply the exemption the payment recipient must:
➲ be subject to unlimited taxation in an EU/EEA member state;
➲ not apply an exemption to all of their income in the state of residence;
➲ not apply an exemption to specific categories of income;
➲ not be subject to special rules of taxation of interest/royalties;
➲ be the beneficial owner of the payments received.

The following aspects require the support of an expert:
➲ assessing the status of the payment recipient as beneficial owner;
➲ verifying systemic exemptions in the recipient's state of residence;
➲ analyzing the recipient's special tax preferences;
➲ documenting the fulfillment of exemption conditions;
➲ examining the actual taxation of the payments in the recipient's state of residence;
➲ verifying double tax treaties;
➲ analyzing the risks associated with withholding tax.
Please contact our tax experts to help you safely apply the withholding tax exemption. Professional support will help you avoid the risk of your accounts being questioned by the tax authorities and properly document the fulfillment of all exemption conditions.

General interpretation on exemption of dividends from withholding tax

The Minister of Finance has explained the rules for the application of an exemption from withholding tax for dividends paid to entities from the EU/EEA. The interpretation of 15 November 2024 clarifies the requirement of "not benefiting from a tax exemption" and resolves differences in court rulings (see general interpretation number DD9.8202.1.2024; 2024 Official Journal of the Ministry of Finance, item 108).
The interpretation confirms that a withholding tax exemption for dividends may still be applied despite the recipient's application of an exemption implementing the Parent-Subsidiary Directive. The mere lack of an actual payment of tax (e.g. due to a loss) also does not preclude the application of the preference. The ministry references the CJEU's ruling in the case of Wereldhave (C-448/15), indicating that the exemption is only prevented by a subjective exemption from CIT or taxation with the rate of 0%.

The interpretation clarifies that:
➲ the recipient must be subject to unlimited taxation in an EU/EEA member state;
➲ the exemption implementing the PS Directive does not breach the condition of not benefiting from an exemption;



- claiming losses or generating only dividend income does not preclude exemption;
- lack of single taxation of a dividend in the EU/EEA may be examined for anti-avoidance provisions;
- the status of the recipient as EU/EEA tax resident is key;
- it needs to be determined that the recipient does not benefit from a systemic subjective exemption;

implementation of PS Directive is to ensure single taxation of profits distributed in a group.

In this case, the following aspects will, in our opinion, require the support of an expert:

- assessing the recipient's tax residence status;
- verifying the subjective exemptions in the recipient's state;
- analyzing the chain of dividend payments in the group;
- documenting the fulfillment of exemption conditions;
- verifying the beneficial owner of the payment;
- verifying the taxation of profits in the payment chain;
- assessing the risk of the exemption being challenged.

Please contact our tax experts to help you safely apply the withholding tax exemption. Professional support will help you avoid the risk of your accounts being questioned by the tax authorities, especially in the context of the pay & refund mechanism for payments in excess of PLN 2 million per year.
The conclusions from the general interpretation should attract the attention of all Polish entities with a foreign shareholding structure that have already acted, are acting or may in the future act as a withholding tax agent on the payment of dividends or other profits from legal entities.

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