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The Sejm has passed tax changes covered by the so-called Polish Deal

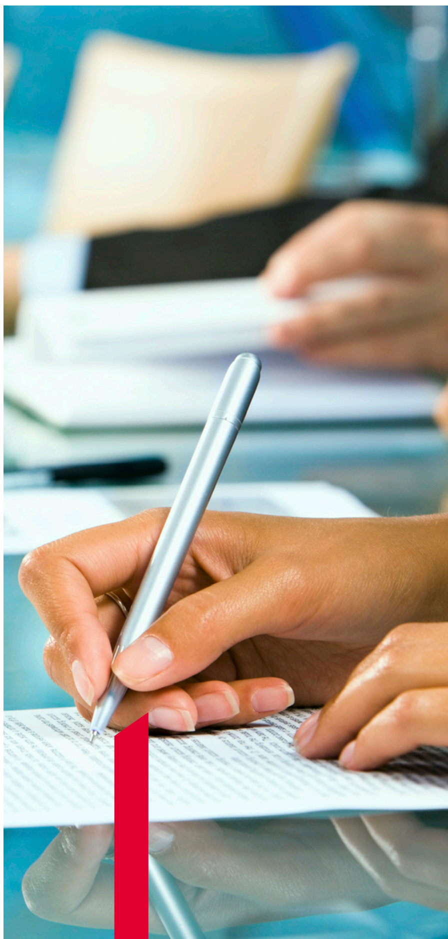
The Sejm has passed a package of tax changes that, among others, raise the tax-free amount, raise the second tax threshold and increase health insurance premiums paid by traders. The new regulations also widen the eligibility for the so-called Estonian CIT and formation of VAT groups.

I. The Sejm has passed a package of tax changes for the years 2022 and 2023

On Friday, 1 October 2021, the Sejm passed a package of tax changes as part of the so-called Polish Deal. Its provisions will now be sent to the Senate. The most important changes include raising of the tax-fee amount (the amount for which the tax amounts to zero) to PLN 30 thousand, as well as raising the second tax threshold (above which the rate of 17% increases to 32%) from the current PLN 85 258 to PLN 120 thousand. While working on the bill, the Sejm introduced additional relief for parents of four children. Under those solutions, every parent of at least four children, who earns no more than PLN 85 528 will pay no PIT. On the scale, parents will also be eligible for the increased tax-free amount of PLN 30 thousand, and this means no PIT on earnings of up to PLN 115 528. For married filing jointly, the PIT-fee amount will be PLN 231 056. Irrespective of the above, the bill provides for numerous changes in income tax and other taxes for traders.

II. There will be relief for the middle class for traders taxed on the scale

A new solution for businesses introduced by the Sejm is extending the so-called middle-class relief onto sole traders taxed in accordance with general regulations, i.e. those who pay tax on the tax scale. It will cover those traders whose income (i.e. revenue less operating costs excluding social insurance premiums) amounts to from PLN 68 412 to 133 692 per year, i.e. more than 11 thousand per month. The relief itself is quite difficult to calculate, as it boils down to using a special coefficient by which the tax base is adjusted. Its settlement is further complicated by the fact that many taxable persons will not find out if they qualify or not until the end of the tax year.



III. Health insurance premiums paid by traders to increase considerably

The regulations passed by the Sejm retain the unfavorable changes in the payment of health insurance premiums. All taxable persons, irrespective of source of income, will lose their right to deduct health insurance premiums. The method used to calculate health insurance premiums for traders will also change. Traders taxed on the tax scale will pay premiums at the rate of 9% of their income, but no less than 9% of the minimum monthly wage. Those who pay flat PIT will pay health insurance premiums at 4,9%. Lump-sum payers will pay the premiums at the rate of 4,9% of the calculation base that will depend on their revenues: for businesses with annual revenues of up to PLN 60 thousand, the monthly health premium calculation base will be 60% of the average monthly wage, for revenues of up to PLN 300 thousand – 100% of the average monthly wage, and for higher revenues – 180% of the average monthly wage. Whereas tax card payers will pay a fixed premium. Importantly, health insurance premiums will become mandatory also for those who hold their positions by appointment, such as members of management or supervisory boards. The premium payment due dates will also change.

IV. Traders will have to send their tax books to the tax authorities on a regular basis

Under the new regulations, taxable persons who conduct business operations will be required to keep books of account, a tax book of income and expenses, as well as a register of tangible and intangible fixed assets (tax books), using computer software. They will also be required to send them to the tax office in a structured form. The same will also apply to lump-sum tax payers. This means that when the income on which monthly tax advances are paid is determined based on tax books and records, then every month, by the 20th day of the following month, the books will be submitted to the tax office. Similarly, when the income on which quarterly tax advances are paid is determined based on tax books and records, the books will be submitted quarterly, by the 20th day of the month following the end of each quarter.

V. CIT taxable persons with losses to pay minimum tax

The amendments will as of 2022 introduce a minimum corporate income tax for companies that are tax residents (i.e. have their place of establishment or management in the territory of the Republic of Poland and are subject to taxation on all of their income, irrespective of place of source), as well as tax groups (that may only be formed by limited liability companies or joint-stock companies with place of establishment in the Republic of Poland), which in the given tax year incurred a loss on operating activities, or earned income on such activities that was so low that they had no tax due. The portion of the amendments that pertains to the new tax also provides for opting out of limiting the amount of costs incurred by a taxable person for the acquisition of specified intangible rights or services.

VI. Estonian CIT available to more taxable persons

The amendments also include solutions aimed at the further development of an alternative system of taxation – flat tax on the income of companies, i.e. so-called Estonian CIT. The name of the tax will change to flat corporate income tax. The changes will include: broadening the catalogue of companies eligible for the tax to include limited partnerships and partnerships limited by shares; doing away with the need to incur specified investment expenses as a condition for the application of the flat tax regulations; doing away with the condition of an upper revenue limit, and in consequence doing away with a tax surcharge; flexibility in payment due dates with respect to the so-called initial adjustment, and in certain cases doing away with the requirement to pay this liability; reducing tax rates.

VII. It will be possible to form VAT groups to settle taxes jointly

The amendments to tax regulations provide for the introduction to the Polish tax system of so-called VAT groups. Under the new regulations, VAT groups may be formed by entities that are related financially, economically and organizationally. The solution is to be voluntary, leaving it up to the related entities if they want to file their taxes in this manner. According to the Ministry of Finance, a VAT group will significantly simplify settlements between its members and will increase the financial efficiency of working with other group entities (in the case of, for example, entities that perform VAT exempt activities). A VAT group will also have a positive effect on financial liquidity within the group. The most important solution provides that supplies of goods and services by a member of the VAT group to another member of the same group are not subject to taxation.

VIII. Changes to numerous transfer pricing regulations

Several changes have also been provided with regard to transfer prices. And so, for example, as of 2022 micro or small business taxable persons required to prepare local transfer pricing files will no longer have to prepare a benchmark or compliance analysis. The same will apply to controlled transactions not involving tax havens. The new regulations also indicate that changes will be made in the concept of related party, transfer price adjustment, financial safe harbor and controlled transaction, as well as in the local file preparation deadlines, and local file preparation requirements. They will also do away with the declaration of having prepared a local file and will introduce new rules for the submission and signing of TPR information.

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IX. Regulations on collection of withholding tax to be amended

The new regulations also include changes in provisions on the collection of withholding tax. Among others, the changes consist of narrowing the subjective and objective scope of the application of WHT refund procedure. They will also broaden the subjective scope of clearance opinions by the preferences provided for in double-taxation treaties (i.e. reduced withholding tax rates or exemption from withholding tax). In addition, the changes cover the area of payments made via entities that keep securities accounts and omnibus accounts, payments from State Treasury bonds, as well as payments to so-called foreign permanent establishments located in Poland.

X. Taxable persons will be able to conclude investment agreements with tax authorities

The amendments introduce regulations to the Tax Ordinance whereby it will be possible for an investor to conclude an agreement with the tax authorities on the tax effects of an investment project planned in the territory of the Republic of Poland. The main objective of this regulation is to increase the inflow of investments to Poland, including foreign investments, as reflected in the definition of investor as an entity that plans a new investment in the Republic of Poland with a value of at least PLN 100 million (in the first three years of the new regulations; thereafter, i.e. from 2025, it is to be PLN 50 million). According to the new regulations, the agreement is in itself intended to implement the principle of tax law certainty and ensure a consistent interpretation of tax regulations.

The information presented herein does not constitute comprehensive information or opinion. Consult your adviser before making any decisions.

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