

Numerous changes in PIT for companies already in effect

I. No double advances, but double calculations will still have to be performed

As of 1 July 2022 tax remitters were released from the requirement to in 2022 calculate tax advances also in accordance with the regulations in effect until the end of 2021, i.e. the application of the so-called rollover mechanism implemented in the legal system by way of the minister's of finance decree of 7 January 2022 on extending the deadline for the collection and payment of personal income tax advances by certain tax remitters. This means that when calculating PIT advances it is no longer necessary to perform double calculations, i.e. in accordance with the old and new regulations. At the same time, when it comes to health insurance premiums, when the amount of the health insurance premium exceeds the amount of the PIT advance calculated in accordance with the regulations in effect on 31 December 2021, the remitter should reduce that premium accordingly. This in turn means that it will still be necessary – this time only for the purposes of the health insurance premium – to perform double calculations.

II. Change over from flat-rate to tax scale possible after year-end

Under the new regulations, taxable persons who in 2022 earn income from non-agricultural business operations or from special agricultural production taxed with flat-rate tax will be able to after the end of 2022 (in their tax return) choose the tax scale as their form of 2022 income taxation. They will have time until the end of 2023 to make this choice. The ability to choose the tax scale after the end of the tax year means that taxable persons must calculate and pay the advances due on income earned in 2022 on current terms. These advances will be reported in PIT-36 without the need to recalculate them in accordance with the rules applicable to taxation on the tax scale. Only the tax for the year will have to be calculated using the scale.

The provisions of the so-called Polish Deal 2.0 went into effect on 1 July. Aside from the widely discussed changes such as reduction in the first tax rate from 17 to 12%, elimination of middle-class relief, changes in joint taxation of single parents or eligibility of selected groups of traders to partially deduct health insurance premiums, the amendments have also resulted in some less obvious changes we have not had a chance to present in more detail. And it is those changes we want to focus on in this issue of our alert.



III. IPO relief clarified

Under the new regulations, if the sale of shares acquired in an IPO results in a financial loss, i.e. the expenses incurred for their acquisition exceed the revenue from their sale, then that excess is a tax-deductible cost in the tax year. This cost arises in the year in which the shares were sold. It needs to, however, be remembered that the IPO exemption introduced under the Polish Deal applies only when shares acquired in the IPO are sold after three years of their admittance to trading on a regulated market or an alternative trading system as defined in the Act on Trading in Financial Instruments of 29 July 2005. This means that in reality the new rule on losses will apply in 2025 at the earliest.

IV. New regulations on merging unincorporated companies

The amendments to the PIT Act have added a regulation that allows for the issue price of shares received by a shareholder of an unincorporated company in connection with a merger of that company to be reduced by that company's so-called retained earnings. The shareholder has already been taxed on those earnings. The new regulations clarify that in the event of a merger of an unincorporated company, the issue price of the shares of the acquirer or newly formed company, allocated to a shareholder of that unincorporated company, is reduced by the excess of revenue over the related tax-deductible costs generated by the taxable person from holding an interest in that company, and increased by payments made and non-tax deductible costs incurred in connection with holding an interest in that unincorporated company. The expenses specified in the regulations are tax-deductible when determining taxable income from the sale of those assets.

V. Raised limit on deduction of dues paid to unions

The amendments provide for a higher deduction of membership dues. In this case, the limit has been raised to PLN 500, whilst until now the tax calculation base could be reduced by no more than PLN 300 in membership dues paid to trade unions per tax year. The regulations also provide that the amount of the expense will be determined based on, among others, evidence of payment of membership dues to a trade union, showing at least: information about the trade union member making the payment, the name of the trade union to which payment was made, payment title and date and amount of dues paid, and for dues deducted by employer – based on information PIT-11. Thus information PIT-11 will replace the trade union's declaration on the amount of dues received from the taxable person.

VI. Small contracts for services covered by reduced 12% PIT

The new regulations reduce as of 1 July the rate of flat income tax on so-called small contracts for services from 17% to 12%. Just like before, the new rate will only apply to income from sources clearly stated in the regulations. This includes, among others, income from the provision of services, based on a contract for services or specified work contract, earned only from: a sole proprietor, a legal entity and its organizational unit and organizational unit without legal personality; owner (holder) of a rented real property or manager or administrator acting on his behalf – if the taxable person performs the services solely for the purposes associated with that real property; company in succession. In any case this does not apply to income earned based on contracts concluded as part of the taxable person's non-agricultural business operations. The same rules also apply to income earned based on, for example, company management contracts, managerial contracts or similar contracts, including income from such contracts concluded as part of the taxable person's non-agricultural business operations.



VII. Health insurance premiums deductible from income covered by solidarity tax

The changes in effect as of 1 July also cover the solidarity tax. Its calculation base is the excess over PLN 1 million in total income subject to taxation on terms determined after it is reduced by: social insurance premiums and limited health insurance premiums paid by a taxable person taxed with flat-rate tax, dividend received from a foreign controlled entity and income from the sale by the taxable person of an interest in a foreign controlled entity – which are deducted from such income. And so the new regulations make it possible to deduct from the income subject to the solidarity tax of health insurance premiums paid, but only up to the limit applicable to flat-rate PIT taxable persons, which means that the maximum deduction cannot exceed PLN 8700.



RAFAŁ KOWALSKI
Head of Tax Department
tel.: +48 22 543 16 00
Rafal.Kowalski@bdo.pl

VIII. Electronic transmission of tax books postponed

As part of the tax changes in effect as of 1 January 2022, PIT and CIT taxable persons are required to keep their tax books in electronic form and to transmit them to tax offices. This requirement was to become effective as of 1 January 2023. Polish Deal 2.0 changes the effective date of these new requirements. This will give taxable persons more time to prepare for the digitalization of accounting records. The amendments propose a gradual approach to reaching the target model in stages. And so the new requirements will have to be performed: as of 2024 by CIT taxable persons with previous tax year revenues in excess of 50 million euro; as of 2025 by CIT taxable persons (other than above) required to transmit SAF_VAT records and PIT taxable persons required to submit SAF_VAT records; as of 2026 by the remaining PIT and CIT taxable persons.

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BDO spółka z ograniczoną odpowiedzialnością sp.k., ul. Postępu 12, 02-676 Warszawa;
tel.: +48 22 543 1600, fax: +48 22 543 1601, e-mail: office@bdo.pl