

Indirect transactions with tax havens - what you should know

The new regulations require taxable persons to verify the status of their suppliers as beneficial owners of receivables, if the value of transactions with a given suppliers exceeds PLN 500 000 in a tax year. This obligation is meant to uncover so-called indirect tax haven transactions, i.e. cases when it is really an entity from a territory considered a tax haven that is behind the direct supplier (e.g. an entity from Poland).

This verification should involve the following stages:

STAGE 1. First identify those suppliers with whom you have had more than PLN 500 thousand in turnover. Only suppliers, not buyers, need to be verified. It needs to be stressed that the verification should include both related and unrelated suppliers. It also makes no difference if these are suppliers from Poland or from abroad - foreign suppliers should also be verified.

STAGE 2. In the next step, obtain an appropriate declaration from the supplier as required by law.

If you are unable to obtain an appropriate declaration from the supplier, you will have to prepare a local file for transactions with the direct supplier, even in situations when the supplier is an unrelated party. Failure to prepare such documentation may give rise to criminal tax liability for those who manage the company and those in charge of its tax matters. What is more, failure to prepare the required transfer pricing documentation authorizes the tax authorities to audit transaction terms (in particular the fees) from the perspective of market prices and, if questioned, to impose a so-called additional tax liability.

In view of the negative consequences, we advise you to meet the requirements of the new regulations in order to avoid penalties.

A new institution was introduced to Polish tax law as of 1 January 2021 – so-called indirect transactions with tax havens.



WHAT SHOULD YOU DO?

In our opinion, to correctly fulfill the described obligations it is imperative to:

1. Prepare a letter to your suppliers to explain the matter and encourage them to sign and return the appropriate declarations to your company. This is very important in particular for foreign companies that at first will undoubtedly have trouble understanding your request.
2. Prepare a model answer with contents that meet legal requirements. This is because suppliers are more likely to send back a letter that only requires their signature rather than one they would have to word themselves. In addition, this will limit the risk of the suppliers sending back letters that do not meet the requirements of the new regulations.

If you are interested, we will gladly help you with preparing the documents and assist with the fulfilment of the new obligations.

We are at your disposal if you have any questions or concerns.



MAREK SPORNY
Senior Manager,
Qualified Tax Advisor
of Tax Department BDO,
office Poznań
+ 48 61 622 57 00
Marek.Sporny@bdo.pl



IWONA SAWICKA
Senior Consultant
in Tax Department BDO,
office Poznań
+ 48 61 622 57 00
Iwona.Sawicka@bdo.pl

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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