Tax changes from 1 January 2025

expert knowledge

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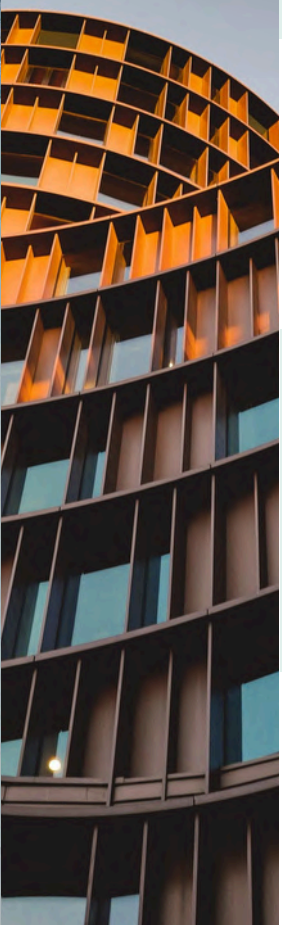

New property tax regulations

Anticipated changes regarding the property tax (PT) will come into force on 1 January 2025. It is, perhaps, the greatest amendment to a local tax and fees act in history. The changes are significant and may indeed impact a PT-related liability.

Revision scope

The new PT regulations introduce changes to the following PT structural elements:

- PT taxable objects – buildings and structures;
- PT rates – for garages located in residential buildings;
- PT exemption – for railway infrastructure.

Simultaneously, numerous PT structural elements will not be amended, including in terms of subjects of this tax, the territorial range of PT applicability, and the local jurisdiction of tax authorities competent in terms of the PT. In particular, the principles of determining the PT tax basis will not be changed.

Building

For the purposes of the PT, a building will be a facility that jointly satisfies the following conditions:

- permanently linked with the ground (within the meaning of the regulations on the PT, namely, will be physically fixed with a substrate that ensures stability and protection against external factors);
- will be permanently separated using building partitions;
- will have foundations and a roof;
- will be erected through construction work (within the meaning of the PT, namely, as a result of work that involves construction, reconstruction, expansion, superstructure erection, alteration or assembly, subject to the regulations of the Construction law act).

The PT will also apply to systems within a building that ensure its (building's) operation as per the intended purpose.

However, from the PT perspective, a building will not include facilities, which does or may store bulk materials, materials in pieces or materials in liquid or gaseous form, with the primary technical parameter determining such a facility's purpose being capacity (e.g., tanks).

As of 2025 onwards, the tax legislator envisages the primacy of the definition of a building for PT purposes. In other words, a facility classified as a building shall not be considered as a structure. At the same time, the existence of a building shall not exclude structures located inside it – they will be PT-taxable regardless of the building.

Structure

A definition of a structure covers such facility categories as:

- a facility that is not a building, referred to in (newly added) Appendix No. 4 to the Act, together with systems ensuring its operation as per the intended purpose,
- a wind, nuclear or solar power plant, biogas plant, energy storage, boiler, industrial furnace, cableway, ski lift and ski jumping hill, in the part not constituting a building – in terms of their construction portions,
- construction equipment – connection or installation equipment, including these for cleaning or accumulating wastewater, and other technical devices directly associated with a building or facility referred to in let. a, necessary for their operation as per the intended purpose,
- technical equipment other than referred to in let. a–c, in terms of its construction portions,
- foundations for machinery and technical equipment, as separate (in technical terms) parts of objects making up an entire utility whole,

– erected through construction work, also when they constitute part of a facility not referred to in the Act.

Appendix No. 4 contains 28 heterogeneous facility categories. It is of an open catalogue nature. In addition to the facilities it lists, also other categories listed below can be classified as a structure.

Other definitions

The amended PT regulations contain numerous new definitions, such as:

- building facility – shall mean a building or structure, excluding mining headings, as well as small structures constituting: (i) religious worship facilities – in particular shrines, wayside crosses and statues, (ii) garden architecture objects – in particular, garden statues and figures, fountains, bridges, pergolas, masonry barbecues and ponds, (iii) utility facilities used for everyday recreation and housekeeping – in particular, bins, (iv) sheds for prams and bikes, as well as objects constituting playground equipment;

- construction work – shall mean work that involve the construction, reconstruction, expansion, superstructure erection, alteration and assembly, covered by the regulations of the Construction law act.

Deadlines

The deadline for filing an annual PT statement for a given year has not changed, and in relation to 2025 shall expire on 31 January 2025.

In 2025 it will be possible to defer the deadline for filing the annual PT statement until 31 March 2025. A taxpayer interested in doing so will have to submit a relevant statement by the end of January 2025 and be on time with paying to the bank account of a relevant commune/municipality (PT-competent tax authority) the monthly PT instalments for January, February and March 2025 – i.e., by 31 January, 15 February and 15 March 2025, respectively. The value of these instalments shall correspond to the average monthly PT amount due for 2024.

Any potential underpayments shall be (without a call from a tax authority) paid by 31 March 2025, and shall not be treated in such a case as tax arrears. Potential overpayments shall not be treated as tax overpayments, and it will be possible to credit or refund them under general rules (arising from the Tax Ordinance).

Significance of changes

The PT amendment eliminates at least some of the doubts related to the treatment of, at least some, facilities as PT tax subjects – buildings or structures.

However, the new regulations seem to still contain inaccuracies or give rise to doubts. For example:

- certain terms, such as, e.g., construction equipment, industrial system or other technical equipment, have not been clarified,
- references to provisions outside of the local taxes and fees act have not been avoided, e.g., the definition of construction work (with their outcome being the erection of facilities subject to PT taxation), refers to the Construction law act,
- mutual relations between individual structure categories have not been clarified; in particular, it is not certain whether, these indicated as a separate structure category, e.g., wind power plants, and taxed in relation to their construction portions (as indicated by the legislator) consume all elements or whether may be recognized as PT-taxed other elements of such power plants, all the more so that the definition of technical equipment explicitly indicates that it applies to other than those previously referred to in the regulations (alternatively, it has not been settled, e.g., where such a power plant begins/ends).

Taxpayers will probably still be facing doubts. At least some of those is likely to become the subject of disputes with tax authorities, while some of such disputes will require litigation proceedings to be resolved.

Regardless of the interpretative doubts, the new PT regulations may lead to the need to identify new taxation subjects, e.g., structures. In such a case, it will become necessary to determine the PT tax basis. It may be their current market value in certain cases (in relation to structures not subject to depreciation).

As a result, taxpayers may even be forced to closely cooperate with competent experts, not only a tax advisor, but also a technical expert or a property valuer. It is undoubtedly worth the effort for these entities to stay in contact and cooperate to develop a correct and effective approach.

Joanna Prokurat
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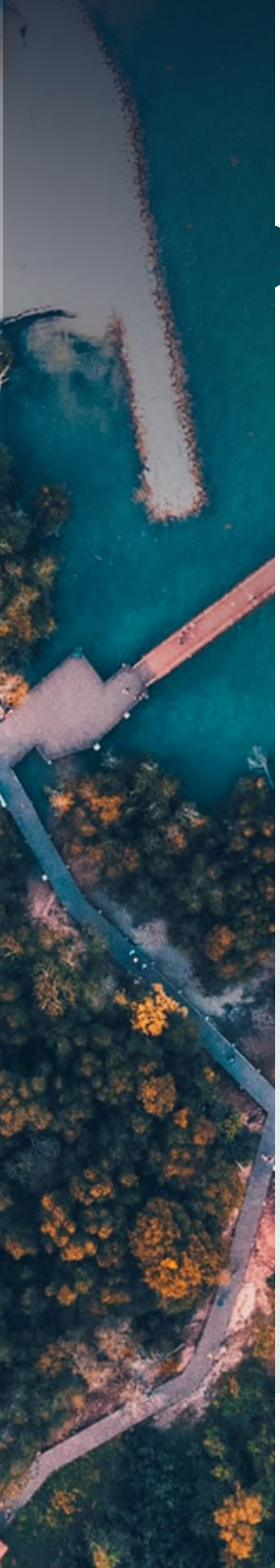


Top-up tax (Pillar 2)

The act of 6 November 2024 on top-up tax on entities making up multinational and domestic groups (Top-up tax act) will enter into force as of 1 January 2025. It implements (with a one-year delay) Directive 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (Global Minimum Tax Directive). The new regulations are complex and may lead to changes in taxation rules, as well as new obligations related to documentation and reporting.

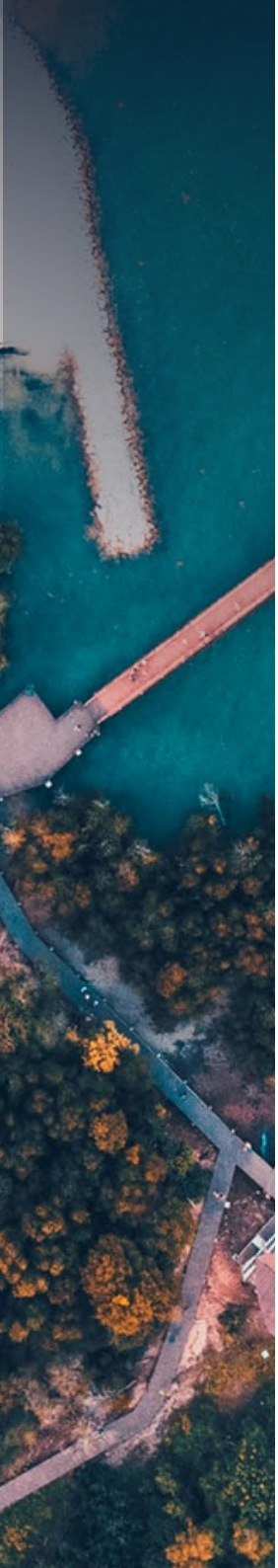
The global minimum tax arising out of the foregoing provisions is the outcome of OECD's effort to eliminate the practices of multinational enterprises (MNEs) related to moving profits to a country with a lower taxation level (Income based erosion and profit shifting).

The work involved adopting a declaration of OECD states on taxing MNEs with a minimum income tax at a level of at least 15% of the effective tax rate (ETR). Such profit taxation is to be guaranteed by a set of GLoBE Model Rules

GLoBE Model Rules

ETR taxation at a level of at least 15% is to be ensured by four supplementing GLoBE Model Rules:

- *Qualified Domestic Minimum Top-Up Tax (QDMTT*) - to enable a state where low-taxed profits are located to impose additional taxation aimed at equalising the profit taxation level in that jurisdiction to a rate of 15%;
- *Income Inclusion Rule (IIR*) – enables imposing a parent entity with a top-up tax on the profits of low-taxed subsidiaries;
- Undertaxed Profits Rule (UTPR) - refuses deductions or requires an adjustment to the extent that a low taxable profit of an entity making up a group is not subject to taxation under the IIR;
- Subject to Tax Rule (STTR) arising under a bilateral double tax treaty - enables a source state to impose an additional withholding tax on selected passive payments to affiliated entities, which are not subject to minimum taxation of at least 9% at the country of a recipient.



The IIR takes precedence over the UTPR. At the same time, introducing the QDMTT in national regulations may exclude the application of the IIR.

Global Minimum Tax Directive objective scope

The Global Minimum Tax Directive covers multinational groups, as well as groups where all constituent entities are located in the same Member State (large-sized capital groups), provided they achieve consolidated revenues at a level of at least EUR 750 MM in two of the four years preceding a given fiscal year.

The planned exemptions from Pillar II involve entities that do not run their business, government units, international organisations, pension funds and non-profit organisations. In addition, exemption includes also investment funds and entities investing in real estate (REIT), since they are at the top of a value chain within a given group, i.e., they constitute ultimate parent company.

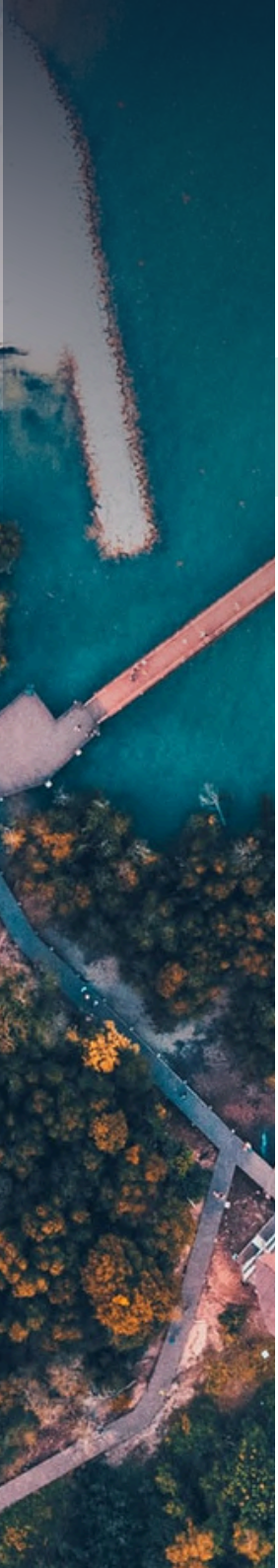
The directive also provides for objective exemptions, which involves, among other things, profits from international transport or for jurisdictions, wherein a group has revenues below EUR 10 MM and profits below EUR 1 MM.

Effective tax rate (ETR), tax basis, rate, reporting

The key to determine global minimum tax obligations is calculating the ETR. It is measured for a specific jurisdiction, taking into account all constituent entities that are the tax residents of a given country.

The ETR is calculated based on qualified net income of a constituent entity, i.e., net profit/loss of such an entity adopted for the purposes of a consolidated financial statement, determined as per an accounting standard, and then adjusted for amounts arising from adjustment and allocation rules set out in the Directive, and the total amount of qualified taxes for the constituent entity.

The calculation mechanism is rather complex and requires significant labour and financial outlays. Appropriate accounting systems may prove necessary.



Tax burden under the Global Minimum Tax Directive and the top-up tax act

Polish large-sized capital groups and constituent entities being part of MNEs will be forced to verify their potential obligations related to three additional burdens arising from the GLoBE Rules:

- Global top-up tax;
- Domestic top-up tax;
- Tax on undertaxed profits.

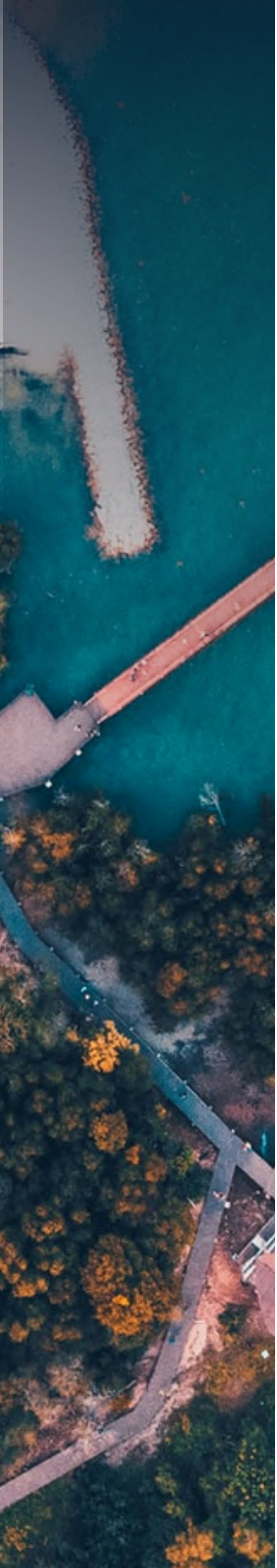
For the purposes of calculating the basis for one of the aforementioned taxes it is crucial to calculate excess profit, which constitutes a jurisdiction-specific qualified net income minus the property and personal substrate exemption. The tax rate is the difference between ETR 15% and the actual ETR for a given constituent entity.

As a rule of thumb, GLoBE reporting should be conducted within 15 months from the end of the fiscal year.

Summary and conclusions

The implementation of GLoBE Rules will radically change taxation principles applicable to large-sized enterprises. Unlike the current solutions introduced at global (BEPS, implemented through the MLI Directive) and EU (ATAD and ATAD 2 Directive) level, GLoBE Rules are not only aimed at tightening the tax system through restricting the possibility of employing solutions targeting tax basis erosion, but also at limiting the potential application of legal mechanisms reducing the taxation level, which do not constitute a bypass of tax law provisions (e.g., setting up investments in states offering tax relief).

In addition, implementing the Act on top-up tax does not conclude the work on adopting the solutions aimed at implementing GLoBE Rules while maintaining the competitiveness of the Polish economy. Work is still underway to modify the existing system of tax relief and exemptions, so that it is possible to take advantage of these benefits without the obligation of a parent company to pay the global minimum tax. In addition, the European Commission is working on simplifications in GLoBE reporting within the European Union.



It is unclear whether their implementation and application (by enterprises subject to these rules and tax authorities enforcing them in different tax jurisdictions) will result in limiting adverse tax competition and directing the flow of investments to countries with a lower tax level. Undoubtedly, the introduction of GLoBE Rules will increase the administrative burden on capital groups that will be obliged to calculate the ETR and pay the tax in numerous different jurisdictions. The impact of EU's implementation of these regulations on investments, and thus, the economic development of the European Union will be probably impossible to assess until several years after they enter into force.

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What are the changes in ZUS contributions for sole traders in 2025?

1 January 2025 means changes in the ZUS (social security) contributions. In addition, those planned for 2025 will apply both to the amount of social security contributions, and the way health contributions are calculated. Whether ultimately these changes will be of benefit or detriment to a sole trader will depend on the amount of its individual revenue and the selected form of taxation.

Changes related to social security contributions – higher business costs

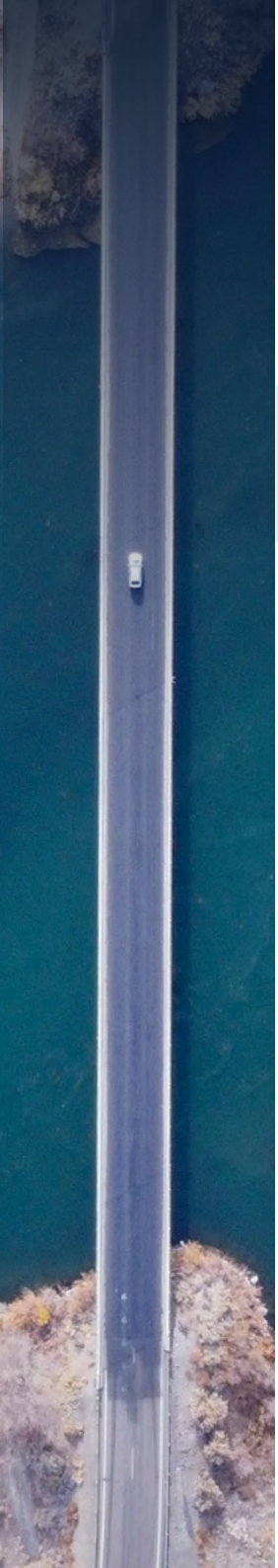
The forecast average salary in 2025 is to increase by 7.1%, i.e., to PLN 8 673 gross. Due to the fact that the social security contribution amount is linked with the average salary, the social security contribution assessment basis will grow to PLN 5 203.80. As a result, individual ZUS (Social Insurance Institution) contribution in 2025 will amount to:

- retirement – PLN 1 015.78,
- disability pension – PLN 416.30,
- sick pay – PLN 127.49,
- accident insurance – PLN 86.90,
- labour fund – PLN 127.49

When an entrepreneur pays all of the contributions referred to above, his/her monthly liability to ZUS will amount to PLN 1 773.96, i.e., PLN 173.64 more than in 2024. Over the course of a year, this translates to a growth of PLN 2 083.68

Changes in the health contribution as of 2025 and 2026

Changes that apply to the health insurance contribution will also be implemented as a result of the Council of Ministers adopting on 19 November 2024 a draft act on amending the act on healthcare services financed from public funds. The changes will be implemented in two stages – as of 2025 and as of 2026.



Stage 1 - changes in force as of 1 January 2025

The first stage, as of 1 January 2025, will involve reducing the minimum health contribution assessment basis for entrepreneurs from 100% to 75% of the minimum salary. Given the fact that the minimum salary in 2025 will be PLN 4 666 gross, the minimum health contribution in 2025:

- as per the current rules would be PLN 419.94 (i.e., PLN 4 666 * 9% = PLN 419.94),
- while after the change it will amount to PLN 319.96 (i.e., PLN 4 666 * 9% * 75% = PLN 314.96).

The aforementioned change will cover entrepreneurs settling their taxes as per the tax scale, flat tax and tax card.

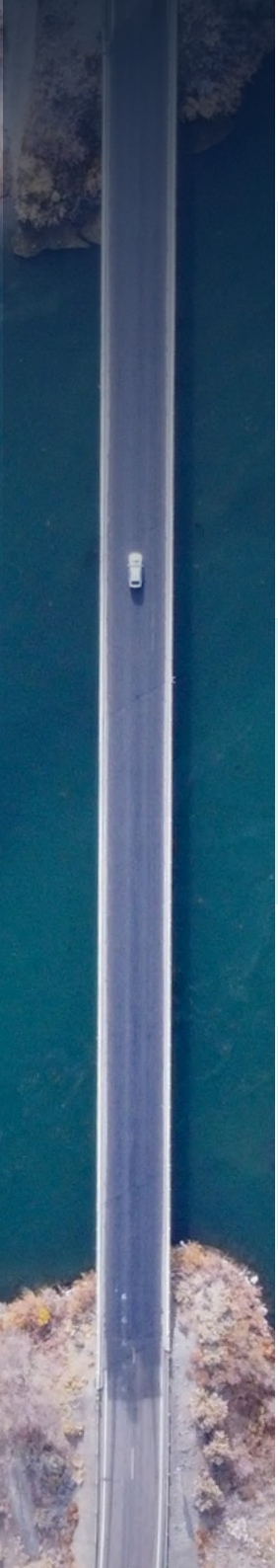
In addition, as of 1 January 2025, the revenues from the sales of fixed assets will no longer increase the health contribution assessment basis. Pursuant to the current regulations, the entire revenue/income of an entrepreneur constitutes basis for health contribution calculation, including revenue/income on the sales of fixed assets. Thus, in the case of selling assets used for business activities, entrepreneurs are also obliged to recognize these values when calculating their health contribution.

Whereas, starting from 2025, the revenue and costs associated with selling fixed assets will not be recognized when calculating health contributions for people settling taxes under general or flat tax principles. Whereas in the case of lump-sum entrepreneurs, the revenue on the sales of fixed assets will not impact revenue limits that determine the health contribution amount.

Stage 2 - changes in force as of 1 January 2026

The second stage, i.e., as of 1 January 2026, involves introducing changes in the form of a two-segment health contribution assessment basis for entrepreneurs taxed as per the tax scale, flat tax or lump sum on registered revenue.

In the case of entrepreneurs who settle taxes as per the tax scale, flat tax or pay income tax on qualified intellectual property rights, the health contribution will consist of the two following elements



- a fixed contribution of 9%, based on 75% of the minimum salary – in the case of entrepreneurs achieving an income within a given month that is 1.5x the average salary in the enterprise sector in Q4 of the previous year, including profit distributions;
- additional contribution of 4.9% on the surplus over the 1.5x the average income – in the case of entrepreneurs with an income exceeding the threshold of 1.5x the average salary.

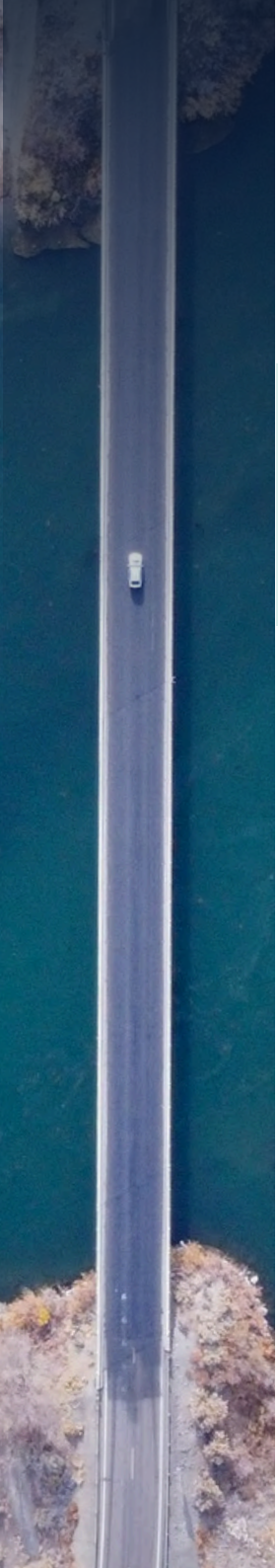
For example, an entrepreneur settling taxes as per the scale, with an annual income of PLN 15 000 net, will pay the following health contribution in 2026 (for the purposes of the sample calculation, the minimum and average salaries adopted were the values for 2025):

- fixed contribution of 9% on 75% of the minimum salary, i.e., PLN 314.96 (i.e., PLN 4 666 * 9* 75% = PLN 314.96) up to 1.5x the average salary, i.e., PLN 13 009 gross (i.e., PLN 8 673 gross * 1.5 = PLN 13 009 gross); and
- additional contribution of 4.9% on the surplus over 1.5x the average salary [i.e., (PLN 15 000 – PLN 13 009) * 4.9% = PLN 97.53].

A total of PLN 412.49.

For entrepreneurs who settle taxes under the lump sum principle on registered revenue, the health contribution will consist of the two following elements:

- a fixed contribution of 9%, based on 75% of the minimum salary – in the case of entrepreneurs achieving a revenue within a given month that is 3x the average salary in the enterprise sector in Q4 of the previous year, including profit distributions;
- additional contribution of 3.5% on the surplus over the 3x the average income – in the case of entrepreneurs with a revenue exceeding the threshold of 3x the average salary.



For example, an entrepreneur settling taxes in the form of a lump sum on registered revenue, with a monthly revenue of PLN 30 000 net, will pay the following health contribution in 2026 (for the purposes of the sample calculation, the minimum and average salaries adopted were the values for 2025):

- fixed contribution of 9% on 75% of the average salary, i.e., PLN 314.96 (i.e., PLN 4 666 * 9% *75% = PLN 314.96) up to 3x the average salary, i.e., PLN 26 019 gross (i.e., PLN 8 673 gross * 3 = PLN 26 019 gross); and
- additional contribution of 4.9% on the surplus over 3x the average salary [i.e.,(PLN 30 000 – PLN 26 019) * 4.9% = PLN 195.07].

A total of PLN 510.03.

What is important, the changes introduced as of 1 January 2026 also provide for waiving the option to settle health contributions paid as part of the income tax.

Summary

The health contribution changes discussed above are, among others, a response to the concerns raised by entrepreneurs in terms of the health contribution introduced by the so-called Polish Deal in 2022.

The financial scale of the proposed changes will not result in a significant relief for entrepreneurs (especially as the changes in 2025 apply only to some business owners); however, each change that leads to a reduced health contribution should certainly be viewed in bright light, as a step in the right direction.

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„JPK_CIT" – new rules behind accounting record digitisation

On 16 August 2024, the Minister of Finance signed a regulation that introduces amendments on reporting financial data in the XML format. The new regulations (Art. 9(1) let. c of the CIT act, within the meaning applicable as of 1 January 2025) define, which additional information shall be submitted to the heads of tax offices from 2025 onwards. The legislator has provided for gradual implementation of the stages, to facilitate adaptation to new requirements for enterprises.

What does "JPK_CIT" mean?

The common JPK_CIT term applies to 2 new logical structures defined by the Ministry of Finance:

- **JPK_KR_PD (Single Audit File_ledgers_income tax)**, which constitutes an expansion to the currently existing JPK-KR structure with a tax element (in practice, the JPK scope will cover a journal or records, turnover and balance statement with tags defined by the Ministry of Finance).
- **JPK_ST_KR (Single Audit File_fixed assets)**, which constitutes a structured registry of fixed and intangible assets for accounting and tax purposes

"JPK_CIT" implementation stages

The Ministry of Finance has decided to implement the changes in stages, since deploying the new solutions is a technological challenge, not only for the taxpayers, but also for the tax administration. On one hand, businesses must prepare to fulfil the obligation of reporting financial data under a new, structured form, and on the other, the Ministry of Finance must arrange tools to receive such reports and analyse them.
In the light of the above, the obligation to implement the new reporting structure has been divided into 3 stages:

	WHO IS AFFECTED?	AS OF WHEN?
STAGE I	**Large taxpayers (taxable revenue above EUR 50 MM) and tax capital groups**	**for the fiscal years starting after 31 December 2024**
STAGE II	**Other taxpayers obliged to submit JPK_VAT records**	**for the fiscal years starting after 31 December 2025**
STAGE III	**Other taxpayers**	**for the fiscal years starting after 31 December 2026**

As a result, the first files in accordance with the standardised formula should be filed for the fiscal year 2025, until 31 March 2026 (i.e., within the deadline for CIT taxpayers to file their tax return). Simultaneously, the legislator introduced a simplification for taxpayers within the transition period, i.e., the scope of mandatory data covered by reporting in 2025 has been limited only to tags identifying ledger accounts. As of 1 January 2026, electronic ledgers will have to be additionally supplemented with:

- Tax ID (NIP) of the contracting party
- Invoice ID in the national e-invoice system (if assigned)
- Data from the register of fixed and intangible assets
- Settlement of differences between the balance sheet and tax results (RPD node).

Benefits of introducing "JPK_CIT" – for the legislator

The objective of the JPK_CIT is, in particular, to systematise financial data and identify difference between the balance sheet and tax results. In particular, the JPK_CIT will:
- facilitate selecting entities to be audited and identifying areas (transactions / accounts) of concern, which require particular verification;
- enable identifying transactions with affiliated / foreign entities (based on the Tax ID of a contracting party assigned to the transaction) – which will allow to verify reporting correctness in terms of transfer pricing or obligations related to withholding tax in the longer perspective.

Benefits of introducing "JPK CIT" – for the taxpayer

The obligation to develop new reporting files will force taxpayers to study their current processes related to preparing tax calculations. This may result in optimisations in this field (limiting manual operations when drawing up tax returns), and thus, eliminating existing errors in previous calculations. Side-effects may also include reduced involvement of taxpayers in providing explanations to officers during verifications or audits.

Practical challenges and issues

- **Account chart adaptation to new regulations** – in practice, entities classified as large-sized, international capital groups have limited possibilities of modifying their chart of accounts or financial and accounting systems. In such cases, the implementation of new solutions may be proceeded via internal IT departments for long periods of time; therefore, it is crucial to start work on implementing the new solutions as soon as possible.

- **Generating files containing a wide range of data** – generating a file covering the transactions from an entire year may prove technically impossible for large-sized entities, which may lead to the need to generate files for shorter periods (monthly or weekly).

- **Legal requirements in terms of ledgers** – pursuant to the position of the Ministry of Finance, the data subject to reporting in the RPD node (tax result settlement) shall originate directly from the ledgers, i.e., balance/off-balance sheets. It will not be possible to manually settle data from a tax calculation (fields K_1, K-8 of the scheme) with additional Excel statements, which at the same time requires taxpayers to analyse their previous accounting patterns and introduce solutions that enable reporting as per the ministerial requirements.

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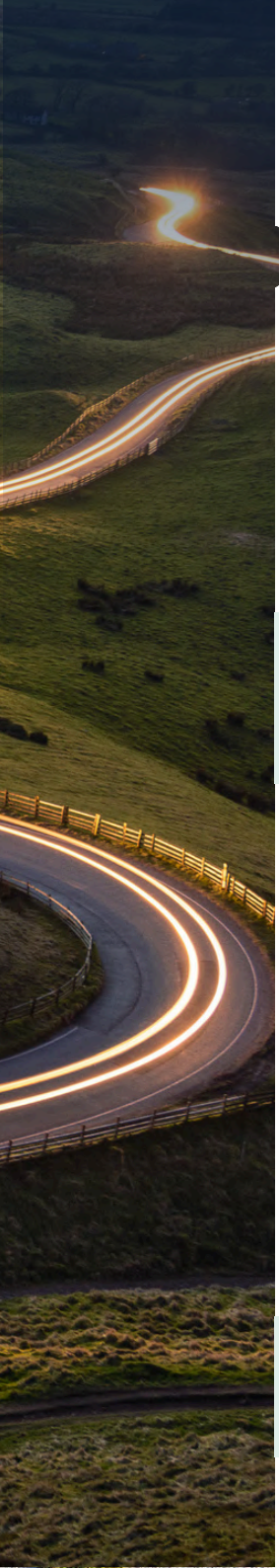


VAT changes as of 1 January 2025

VAT exemption for small businesses in the EU

Status – passed, President's signature pending

The current Act on VAT provides a possibility to employ subjective exemption (annual sales for the previous year up to PLN 200 k) solely to taxpayers with a registered office in Poland. This means that taxpayers without a registered office in Poland shall settle VAT on the first sale, even a small one, within the territory of Poland. Similar restrictions may apply to Polish taxpayers selling products or services in other EU countries.

- introducing exemptions for small business with seats in other EU Member States that allow them to exercise VAT exemption in Poland;
- similar exemptions for Polish entrepreneurs in another Member State, under conditions applicable in such a country, without the need for registration (registration in Poland is sufficient).

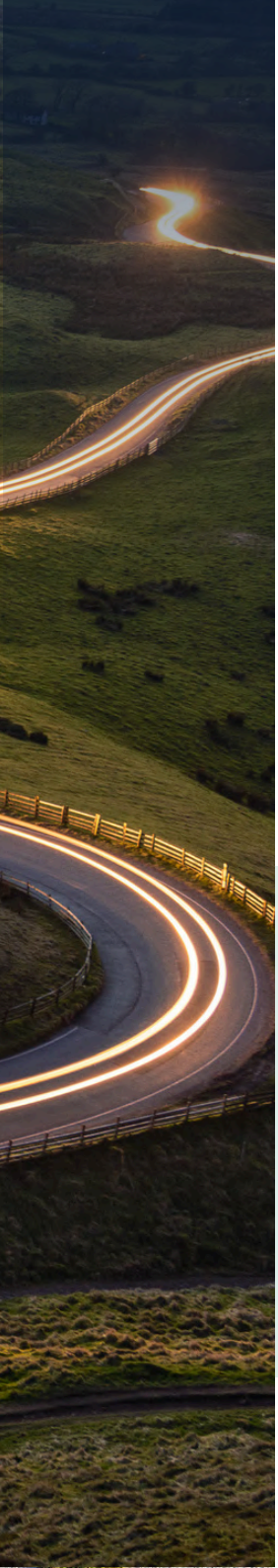
A taxpayer wanting to exercise VAT exemption in another EU Member State will have to observe both the domestic VAT exemption limit (PLN 200 k), and the overall EU limit of EUR 100 k. Exceeding any of these limits shall result in the loss of the right for VAT exemption in all EU countries. The EUR 100 k limit applies to the total turnover of the taxpayer throughout the EU, including domestic sales, which means that a Polish taxpayer exceeding this turnover amount shall lose the right for exemption in any Member State.

Changes in the taxation of remote events

Status – passed, President's signature pending

The changes in question will apply to the place of provision of such services as cultural, artistic, sports, scientific, educational, entertainment or similar events, such as trade fairs and exhibitions, should the attendance be virtual. The currently applicable regulations provide for taxation at the location of the activity. After the provisions come into force:

- services for taxpayers will be taxed at the location of the recipient's established business;
- services for consumers will be taxed at the place of residence or usual domicile of the consumer.



Reverse charge mechanism for power utilities

Status – draft under discussion in the committees of the Council of Ministers; has not yet been released to the Sejm.

The regulations covering charging of the VAT on the supply of certain power products (gas within a gas system, electricity within the power grid, and services of transferring greenhouse gas emission allowances) came into force on 1 April 2023 as a temporary solution that is to expire on 28 February 2025 pursuant to the current wording.

This mechanism applies only to a narrow group of consumers and concerns transaction executed primarily in regulated markets for professional traders of power products.

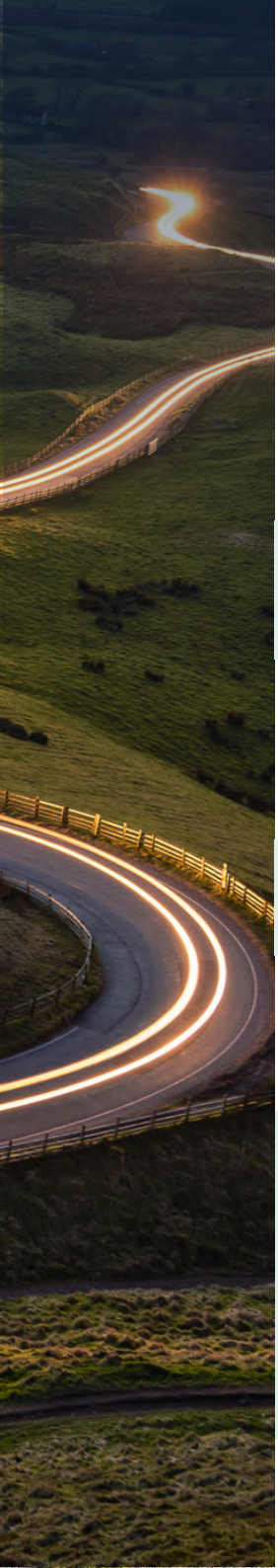
It is expected for the validity of the reverse charge mechanism on the supply of certain power products to be extended until 31 December 2026. It is a maximum period currently allowed by the VAT directive.

VAT rate changes

Status – draft under discussion in the committees of the Council of Ministers; has not yet been released to the Sejm.

The VAT rate changes planned for 2025 are primarily of specifying or supplementing nature. These involve, among others:

- extending the validity period of the 8% VAT rate for medicinal products approved for marketing under the previous revision of the act on medicinal products;
- clarifying the regulations on the application of a reduced rate on fertilisers, plant protection products and feed;
- extending the range of feminine hygiene products covered by the 5% VAT rate;
- increasing the VAT rate for cannabis products (for smoking or inhaling) intended for non-medical purposes to 23%;
- extending the validity period of the 0% rate for ships and lifeboats used at sea;
- increasing the VAT rate to 23% on the supply of so-called *equid* animals – horses, donkeys, mules and hinnies classified in Combined Nomenclature under item CN 0101.



Waiver of the obligation to integrate cash registers with payment terminals

Status – draft under discussion in the committees of the Council of Ministers; has not yet been released to the Sejm.

The obligation to integrate cash registers with payment terminals, introduced by way of the act of 2021, has been postponed until 1 January 2025 for technical reasons and due to costs for entrepreneurs. The planned amendment assumes a complete waiver of this obligation. A substitute reporting obligation for settlement agents will be introduced instead. The proposed changes involve, in particular:

- abandoning the obligation to integrate cash registers with terminals;
- discarding the non-integration fine (PLN 5 k);
- permanently maintain the obligation for settlement agents to report data.

Packaging deposit settlement principles

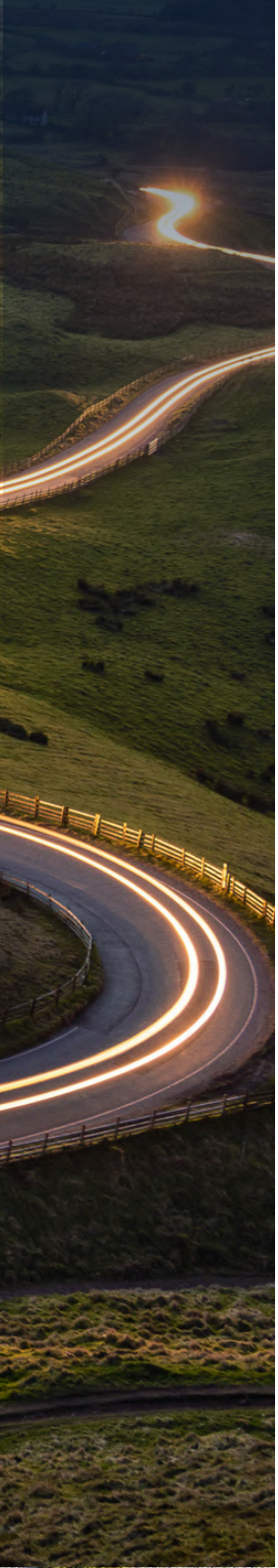
Status – legislative process in progress – passed by the Sejm

As of 1 October 2025, a mandatory deposit system for reusable beverage packaging shall come into force in Poland. It will cover:

- disposable plastic beverage bottles with a volume of up to 3 litres;
- disposable metal beverage cans with a volume of up to 1 litre;
- reusable glass beverage bottles with a volume of up to 1.5 litre.

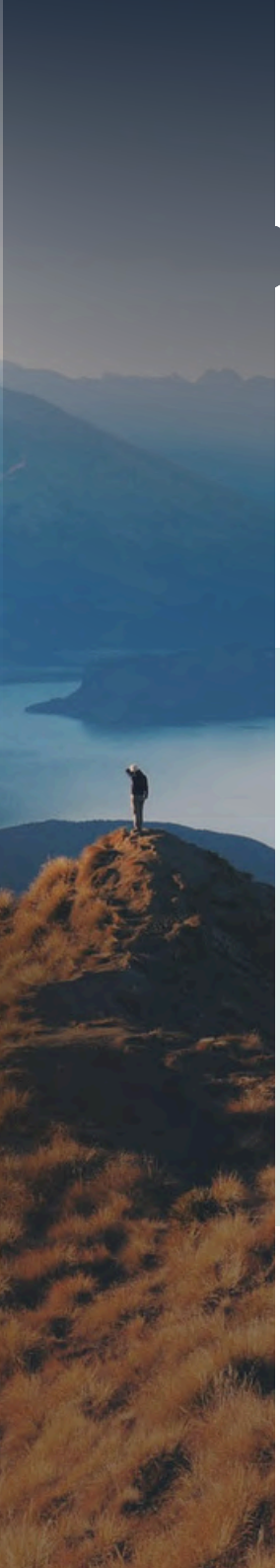
The new regulations will introduce changes in VAT settlements for deposits associated with this system (this shall not apply to other returnable packaging, not covered by the mandatory system, such as, e.g., pallets – current rules will prevail in this regard). The introduced regulations include, among others:

- subjecting packaging covered by a deposit scheme will not be recognized as the VAT tax basis;
- VAT will be charged only on unreturned packaging, and the return will be settled at the end of the year by entities marketing the products;
- a VAT payer in relation to non-returned packaging will be the so-called representative entity. Its task will be to settle the deposit with manufacturers, importers and points of sale, as well as to transfer the VAT due to tax authorities.



The new regulations aim to centralize payer responsibilities in the hands of a representative body, while reducing the burden on all downstream supply chain entities and consumers.

Mikołaj Ratajczak
Partner | TPA Poland



Family foundation – direction of potential taxation changes

Despite the fact that the Ministry of Finance has not yet come up with specific drafts of legal changes in terms of family foundation taxation, the general direction of the changes that the legislator wants to implement are already known. After an interview that resonated loudly in the legal community, where Deputy Minister Jarosław Neneman talked about the need to reform taxation rules for family foundations, we discovered issues of particular interest for the Ministry of Finance.

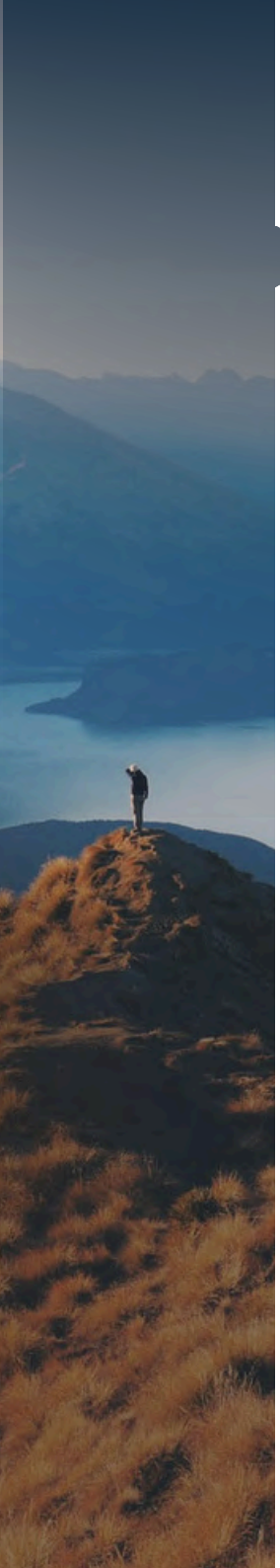
We assume that the regulations tightening the family foundation taxation system may particularly involve:

- including benefits paid to family foundation beneficiaries in the calculation of a solidarity levy basis. Please note that such benefits are currently not included in the basis for calculating this tax;
- introducing a tax on the disposal of assets contributed to the foundation. Currently, a family foundation is able to dispose of property as part of its permitted activities, provided it "has not been acquired solely for the purpose of further disposal". A change in this regard would introduce a 19% tax on selling assets contributed to a family foundation, should such a transaction take place before the expiry of a specific time period (initial proposal by a representative of the Ministry of Finance is 15 years). On a side note, it should be pointed out that the provisions on permitted activity in the field of asset disposal, provided the assets have not been acquired for the sole purpose of further disposal, is imprecise, as evident by the number of requests for individual tax interpretations in this regard;
- subjecting family foundations to the regulations on controlled foreign corporations (CFC).

Since the aforementioned changes have not yet been formalised in the form of a draft act, their final wording may be slightly different, which may also be the result of the wave of criticism by tax advisers. It is likely that the changes will be introduced, despite the fact that the legislation on family foundations and its taxation themselves have been in force for not that long (since May 2023).

In response to one of the parliamentary interpellations, a representative of the Ministry of Finances presented the rationale behind the changes as the desire to eliminate abuses and loopholes, and simultaneously pointed out that the process of detecting irregularities is based on, among others, data from reported tax schemes (MDR) and requests for opinions by a Head of the KAS (National Fiscal Administration).

Tomasz Hatylak
Partner | Baker Tilly Legal Poland



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Joanna has many years of experience in tax and business advisory services for foreign and Polish entities operating in various industries, including real estate, finance, FMCG, energy. She is a renowned expert in tax consulting for the new technology sector, including fintech, gaming or e-sports. Her areas of expertise include tax planning, transactional support, effective corporate taxation, and tax compliance management systems.
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Magdalena has more than 10 years of experience in tax advisory and compliance.
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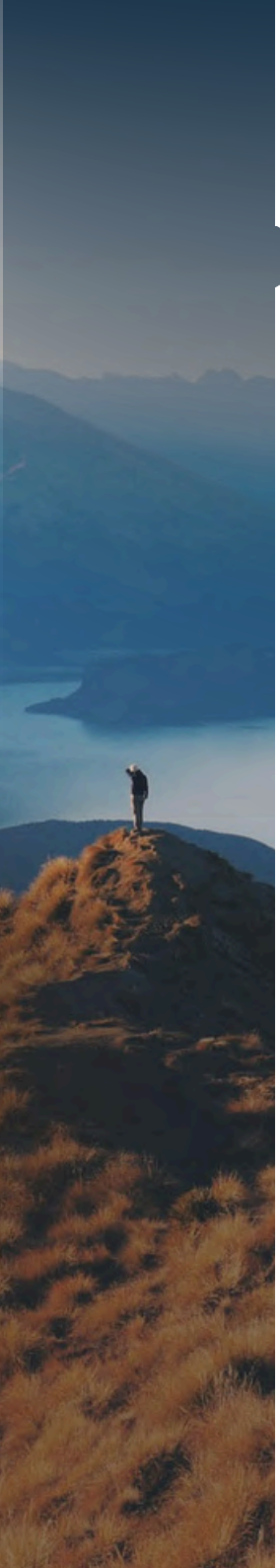

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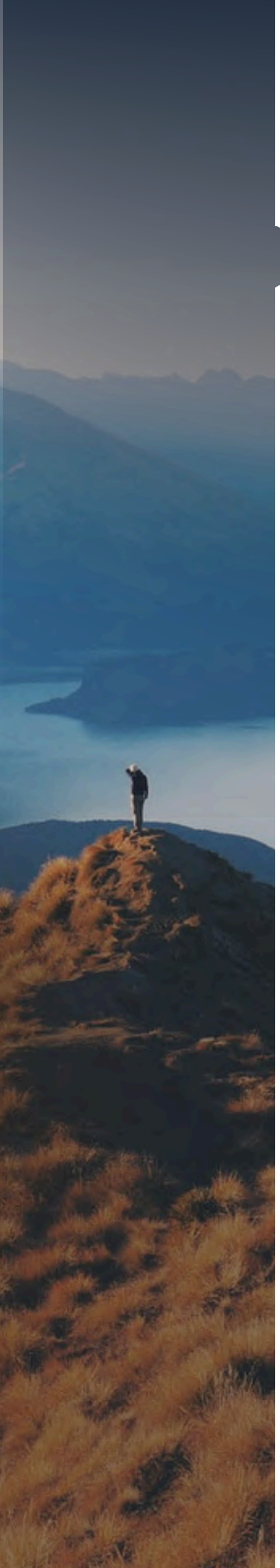

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Mikołaj has extensive experience in the field of comprehensive tax and business advisory services dedicated in particular to companies from the construction and energy sectors. He specialises, among other things, in tax planning and transactional support.
His professional experience includes representing clients before tax authorities and the Provincial Administrative Court (WSA) and the Supreme Administrative Court (NSA), as well as advising on the transformation and reorganisation of Polish family businesses and international enterprises. His responsibilities include financial and tax due diligence, restructuring, ongoing tax consulting and international tax structuring. Mikołaj's areas of expertise include: VAT, transfer pricing, energy, real estate and retail.

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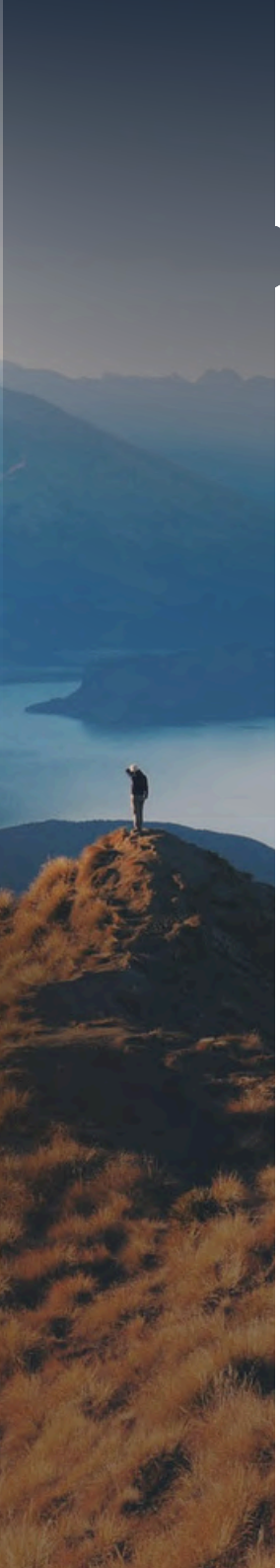
His extensive experience includes the development of complex investment scenarios for individuals, family businesses and corporations. He specialises in tax planning, financial services taxation, wealth management, bank relations, successions, investment transactions and services related to family affairs and living arrangements at home and abroad, including change of tax residency. Advisor to the wealthiest Polish families. Supports advanced cross-border investments and high-value restructuring projects. Advises on the establishment of family businesses, the creation of family foundations and other aspects of family governance. He also specialises in the relocation of families from Poland to the UK, Switzerland and the US.



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- **Real estate advisory**
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- **Business advisory**
- **Corporate Finance**
- **Legal advisory**

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broadens horizons

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- since 2005
- 3 offices
- 400 experts

TPA Group

- 12 countries
- 30 offices
- 2 050 experts

Baker Tilly International

- 141 countries
- 658 offices
- 43 000 experts

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TPA is a leading international consulting group, offering comprehensive business advisory services in 12 countries of Central and Southeastern Europe.
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