

# TAX ALERT

## SEPTEMBER 2017

Tax  
Law  
Audit  
Advisory  
Accounting



### Major CIT reform effective January 1, 2018

As of January 2018, CIT taxpayers will face changes as a result of the so-called major CIT reform. Pursuant to the information provided by the legislator, the changes aim to:

- implement the ATA Directive regulations,
- address tax base erosion techniques, such as:
  - setting off artificially generated capital losses against operating income,
  - excessive debt financing,
  - transferring income to preferential tax jurisdictions,
  - over-valuation of non-taxable assets, including trade marks (step-up),
- using tax capital groups (TCG) for tax optimization.

In accordance with the proposed bill, the most important changes will affect the following areas:

<b>SEPARATION OF CAPITAL GAINS OR LOSSES FROM OTHER SOURCES OF INCOME IN CIT</b>	<ul style="list-style-type: none"> <li>■ The bill proposes separating capital gains or losses from other sources of revenues.</li> <li>■ No possibility of setting off capital losses against operating income.</li> </ul>
<b>ATAD DIRECTIVE IMPLEMENTATION</b>	<p><b>Modification of CFC Rules</b></p> <ul style="list-style-type: none"> <li>■ Modified definition of subsidiary (increased level of equity from 25% to 50%)</li> <li>■ CFC status depends, among other things, on the actual tax paid by the subsidiary (and not the nominal tax rate)</li> <li>■ Lowers the passive income threshold from 50% to 33%.</li> </ul> <p><b>Modification of Insufficient Capitalization Regulations</b></p> <ul style="list-style-type: none"> <li>■ Financing cost reduction to 30% EBITDA</li> <li>■ Extends interest rate restrictions to all forms of debt</li> <li>■ Excludes restrictions on financial institutions as well as when the debt financing doesn't exceed PLN 120,000.</li> </ul>
<b>MODIFICATION OF TCG REGULATIONS</b>	<ul style="list-style-type: none"> <li>■ Lowers the TCG thresholds (e.g., 2% profitability, 75% share in subsidiaries, PLN 500,000 share capital).</li> <li>■ Donations within TCG excluded from tax costs.</li> </ul>
<b>TAX COST LIMITS REGARDING ACQUIRED NON-MATERIAL SERVICES</b>	<ul style="list-style-type: none"> <li>■ The limit of up to 5% of EBITDA, applies to services such as: license agreements, advisory, accounting, advertising, marketing and legal services, as well as services for the use of copyrights, industrial property rights or know-how.</li> <li>■ The limit applies to costs exceeding PLN 1,200,000.</li> </ul>
<b>NEW COMMERCIAL PROPERTY TAX</b>	<ul style="list-style-type: none"> <li>■ Refers to commercial property and office buildings with an initial value exceeding PLN 10 million.</li> <li>■ Tax rate is c.a. 0.5% of the initial value annually (tax payable monthly in the amount of 0.042% of the base value).</li> <li>■ Tax will also apply to CIT exempt investment funds.</li> <li>■ Tax will be deducted from the tax liability calculated according to the general rules.</li> </ul>

## OTHER CHANGES

- Change in the taxation of company division by spin-off regarding the establishment of revenues and tax deductible costs of income earned during the sale of shares (stocks) of a divided company
- Expanding property clause to almost all types of commercial entities, including collective investment institutions.
- Increasing the level of one-off depreciation from PLN 3,500 to PLN 5,000.
- Exclusion of entities related to the State Treasury or to self-government units from the obligation to prepare transfer pricing documentation.
- Establishing revenues from the disposal of tangible or intangible property upon payment as well as with respect to a transfer free of charge
- Excluding distributions of profit or loss from tax deductible costs, including dividends.,
- Loss from the sale of receivables only net amount deemed tax deductible

## CONTACT DETAILS

The above alert does not constitute tax advice and serves only to inform about the selected and - as far as we are concerned - most essential aspects of the presented amendment. Therefore, it cannot be deemed complete. The impact of the proposed changes on an entity requires individual analysis, however, due to their scope, it is highly probable that they will apply to a large number of business entities.

Should you be interested in discussing any particular aspect of the planned amendment or in establishing its impact on your activity, please contact us.



**Małgorzata Dankowska**  
*Partner*

+48 663 877 788

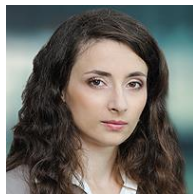
malgorzata.dankowska  
@tpa-group.pl



**Damian Kubiś**  
*Partner*

+48 604 338 546

damian.kubis  
@tpa-group.pl



**Małgorzata Nicewicz**

*Manager*

+48 604 999 399

malgorzata.nicewicz  
@tpa-group.pl



**Mikołaj Ratajczak**

*Director*

+48 663 664 260

mikolaj.ratajczak  
@tpa-group.pl

**TPA** is the leading international consultancy group providing comprehensive business advisory services in 11 countries of Central and South-Eastern Europe.

**In Poland**, **TPA** belongs to the leading advisory companies. We provide international concerns and large national enterprises with effective business solutions in strategic tax advisory, transactions and corporate finance, financial audit, accountancy outsourcing and payroll administration, as well as personnel advisory.

TPA is an independent member of the **Baker Tilly Europe Alliance** and is thus able to provide its clients with services by one of the largest networks of tax advisors, auditors, accountants and consultants in the world.

**TPA Poland**

office@tpa-group.pl

www.tpa-group.pl

www.tpa-group.com

Albania | Austria | Bulgaria | Croatia | Czech Republic | Hungary | Poland | Romania | Serbia | Slovakia | Slovenia

An independent member of the Baker Tilly Europe Alliance