

## Form ORD-U for the reporting of contracts with non-residents

According to the Taxes Management Act, taxpayers are required to file form ORD-U to report certain contracts with foreign related parties (non-residents). Form ORD-U must be prepared and filed without request within three months from the end of tax year. For a majority of taxpayers, whose tax years coincide with the calendar year, the filing deadline is 31 March. Taxpayers tend to forget about this duty, but non-compliance may be punishable under Fiscal Penal Code.

### FORM ORD-U: WHEN TO BE FILED AND BY WHOM

The duty to file form ORD-U, which is used to report contracts with non-residents as defined in the foreign exchange regulations, is prescribed in Article 82.1 (2) of the Taxes Management Act and in the Finance Minister regulation of 24 December 2002 on tax information. ORD-U must be filed by legal persons, unincorporated associations and sole traders who have entered into at least one contract with a non-resident in the tax year concerned. **Form ORD-U refers to the entire tax year and must be filed** without request **within three months from the end of the tax year** to the head of tax office with jurisdiction at the location of the taxpayer.

### ORD-U TO BE FILED ONLY IF ABOVE THRESHOLDS





Form ORD-U must be prepared and submitted if **the total of amounts due either to or from the taxpayer** under contracts with the same non-resident entered into during the tax year exceeds **EUR 300,000**, provided that:

- one of the parties is directly or indirectly involved in the management or control of the other, or directly or indirectly holds an interest in the other's capital conferring at least 5% voting power, or
- there is an entity that is not party to the contract but is directly or indirectly involved in the management or control of both parties, or directly or indirectly holds interests in the capitals of both parties conferring at least 5% voting power in each of them.

If the non-resident party has an enterprise, branch or representative office, as defined in other laws, in the territory of the Republic of Poland, the ORD-U threshold is much lower so that a reportable contract will be that for which the **amount due to or from the taxpayer exceeds EUR 5,000**.

The amounts due to be reported in ORD-U are those arising from:

- written contracts, or
- invoices or bills issued or received pursuant to the contract if a contract is not in writing or does not specify an amount due.

	The EUR thresholds are to be translated to the Polish currency at the National Bank of Poland's mid (average) rate ruling on 31 December of the year preceding the tax year in which the contract was entered into.
<b>PENALTIES FOR FAILURE TO FILE</b>	<b>Failure to file an ORD-U is punishable under Fiscal Penal Code.</b> A belated filing can escape unpunished under the Code if the taxpayer duly files a special written admission of offence (czynny żal) and states reasons why the filing was not made on time.
<b>NEW ORD-U</b>	<b>Please note that there is a new form ORD-U, effective as of 1 January 2016.</b>
<b>CONTACT</b>	<p>If you want to know more about the topic of this alert, please contact your TPA Poland advisor or one of the experts mentioned below:</p> <div> <div> <p><u>WARSAW OFFICE:</u></p> <div>  <p><b>Małgorzata Dankowska</b>  <i>Partner</i>  +48 663 877 788  malgorzata.dankowska@tpa-group.pl</p> </div> <div>  <p><b>Beata Czarnecka</b>  <i>Supervisor</i>  +48 22 64 79 781  beata.czarnecka@tpa-group.pl</p> </div> </div> <div> <p><u>POZNAŃ OFFICE:</u></p> <div>  <p><b>Damian Kubiś</b>  <i>Partner</i>  +48 604 338 546  damian.kubis@tpa-group.pl</p> </div> <div>  <p><b>Remigiusz Fijak</b>  <i>Tax Advisor</i>  +48 604 999 370  remigiusz.fijak@tpa-group.pl</p> </div> </div> </div>

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