TAX ALERT

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Audit
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Revolutionary amendments of the tax law in 2018

As of the beginning of the new year numerous amendments of the tax law come into force and they will be of great importance for tax settlements for the majority of enterprises.

Taking into account the influence of these changes on your businesses, you should learn more about them already today and appropriately prepare for their entry into force.

In order to assist you in this challenge, below please find the most important changes in the CIT and VAT taxes.

NEW RULES OF RECOGNIZING INTEREST AS TAX COSTS - FOR EVERYBODY!	■ New limits in recognising interest as tax costs will apply not only to intra-group debt financing but also to interest **on any loans and credits granted to the taxpayer also by non-related entities (including banks)**. ■ Costs of debt financing (surplus over interest revenues) **up to the amount of PLN 3 million annually** can be recognized as tax costs without any limitations. ■ Costs of debt financing above this threshold can be tax-deductible only up to the limit of **30% of EBITDA** (i.e. operating profit before deducting interest, taxes and depreciation).
LIMITATIONS IN RECOGNISING SERVICES AND INTANGIBLE LICENSES AS TAX COSTS	■ Limit in recognizing this type of tax costs is applicable to services acquired from the entities of the capital group (i.e. **related entities**). ■ It applies to **intangible services** such as: advisory and market research services, advertising, management and control, data processing, insurance, guarantee and surety, as well as costs resulting from **license agreements**, fees for using know-how, copyrights and industrial property rights. ■ The limit is used for costs of intangible services and licenses exceeding **PLN 3 million annually** and amounts to **5% of EBITDA**.
NEW COMMERCIAL PROPERTY TAX	■ It refers to commercial and service buildings or offices of the initial value exceeding PLN 10 million. ■ Tax rate is c.a. 0.42% of the initial value of the building annually (tax payable monthly in the amount of 0.035% of the value). ■ Tax will be deducted from CIT tax calculated under general basis.
SEPARATION OF INCOME FROM CAPITAL PROFITS	■ The amendment assumes the introduction of a separate source of revenues from capital profits in CIT tax. ■ CIT taxpayers will establish income/loss from capital gains separately from the income/loss from operational activity. ■ It translates into the lack of a possibility to compensate loss from capital profits with income from the operational activity (and vice versa).
MODIFICATIONS OF TCG REGULATIONS	■ Lowering the levels for TCG (2% profitability, up to 75% share in dependent companies, share capital of maximum PLN 500,000, among others). ■ Exclusion of donations within TCG from tax costs.
MODIFICATION OF CFC RULES	■ Modified definition of a controlled foreign corporation - increase of the required threshold of taxpayer's network from 25 % to 50%. ■ CFC status dependent on, among others, tax actually settled by a dependent entity (and not on a nominal tax rate in the country where CFC has its registered office). ■ Lowering threshold of passive revenues from 50% to 30%.
OTHER CHANGES	■ **Increasing the deduction limit within research and development relief up to 100%** (150% for research and development centres).

REGARDING CIT

- **Change in the taxation of company division by spin-off** regarding the establishment of revenues and tax-deductible costs during the sales of shares (stocks) of a divided company and after its division by spin-off.
- **Additional economic justification clause for in-kind contribution** i.e. an enterprise or it organized part.
- Exclusion from the costs **the interest on loans and credits incurred for the acquisition of company shares** (stocks) in a part in which they would decrease revenues related to the continuation of a business activity of such a company (the so-called debt push down transaction).
- **Expanding property clause** to almost all types of commercial entities, including collective investment institutions.
- **Increasing single depreciation level** from PLN 3,500 to PLN 10,000.
- Changes in the regulations on depreciation and the use of intangible and legal assets sold and then reacquired.
- Exclusion of entities related to the State Treasury or self-government units from the obligation to prepare transfer pricing documentation.
- Establishing revenues from the disposal of goods / property rights against payment also in the case of free of charge transfer.
- Exclusion of amounts constituting division of financial results, including awards paid from profit, from tax-deductible costs.
- **Loss from the sale of receivables** deemed a tax cost only in net amount.

VAT SPLIT PAYMENT

- VAT split payment mechanism should be in force as of July 2018.
- A party acquiring goods and services will pay VAT to a separate VAT account of a supplier. A bank will keep such a VAT account for each holder of an account.
- The access to sources on VAT account (from VAT payments made by acquirers) will be very limited - basically the sources can be solely used to pay due VAT.
- The application of the split payment mechanism will depend on the acquiring party, and tax benefits such as the lack of VAT sanctions or the possibility to decrease due VAT should encourage its use.

CONTACT

The above alert does not constitute tax advice but only information on the selected and - as far as we are concerned - the most essential aspects of the tax law amendments. Therefore, it cannot be deemed comprehensive.

Should you be interested in discussing particular aspects of planned amendments and establishing their influence on your activity - please contact us.

We offer a wide range of tax advisory services adjusted to individual needs, specific requirements and expectations of our Clients. Within tax amendments, apart from comprehensive tax advisory, we also offer to our Clients closed trainings on tax changes dedicated to employees of a particular Client.

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