

September 2020

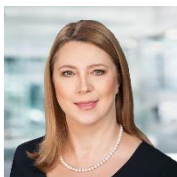
## DRAFT AMENDMENT TO CIT ACT – reporting on the implementation of the tax strategy

As of January 2021, we are facing another change in CIT regulations. As stated in the statement of reasons to the draft: *"The main objective of the proposed legislation is to tighten the corporate income tax system so as to ensure that the amount of tax paid by large companies, particularly multinationals, is linked to the actual place where they earn their income. The draft law is intended as another step towards restoring tax revenue, in particular CIT revenue."*

The latest draft amendment, being part of the said tightening of the CIT system, provides for (apart from the introduction of CIT taxation of limited partnerships and some general partnerships, or solutions facilitating the collection of tax due on income from the sale of shares in real estate companies by non-residents) the introduction of an obligation for certain taxpayers to prepare and publish a report on the implementation of their tax strategy concerning the manner of their business activity and the amount of their tax obligations.

### Important issues relating to the proposed reporting:

<b>Entities to which the obligation will apply</b>	<p>According to the proposed Article 27c of the CIT Act, the obligation to draw up and publish a report on the implementation of the tax strategy for the tax year will apply to the taxpayers indicated in Article 27b(2) of the CIT Act, i.e.:</p> <ul style="list-style-type: none"> <li>■ taxpayers whose revenues in the previous year exceeded the PLN equivalent of EUR 50 million,</li> <li>■ taxpayers operating in the form of a tax capital group (PGK), regardless of the amount of income earned by such a group.</li> </ul> <p>The regulations on the obligation to draw up and make public a report on the implementation of the tax strategy shall not apply to taxpayers who are parties to a tax cooperation agreement referred to in Article 20s(1) of the Tax Ordinance.</p>
<b>Scope of information to be disclosed</b>	<p>The report on the implementation of the tax strategy is to include:</p> <ul style="list-style-type: none"> <li>■ description of the taxpayer's approach to: <ul style="list-style-type: none"> <li>■ processes and procedures for managing and ensuring the proper performance of obligations arising from tax law,</li> <li>■ voluntary forms of cooperation with the authorities of the National Revenue Administration (KAS);</li> </ul> </li> <li>■ description of the taxpayer's approach to meeting their tax obligations in the territory of the Republic of Poland, together with information on the number of the information provided to the Head of the National Revenue Administration information on tax schemes, referred to in Article 86a(1)(10) of the Tax Ordinance broken down into taxes that they apply to;</li> <li>■ Information on: <ul style="list-style-type: none"> <li>■ transactions with related parties as defined in Article 11a(1)(4), the value of which exceeds 5% of the balance sheet total of the assets within the meaning of the accounting rules, as determined on the basis of the company's last approved financial statement,</li> <li>■ restructuring measures planned or undertaken by the taxpayer which may affect</li> </ul> </li> </ul>

	<p>the tax liability of the taxpayer or its related entities;</p> <ul style="list-style-type: none"> <li>■ information on the applications submitted for: <ul style="list-style-type: none"> <li>■ issuing of a general tax interpretation referred to in Article 14a § 1 of the Tax Ordinance,</li> <li>■ issuing of individual interpretations of tax law provisions referred to in Article 14b of the Tax Ordinance,</li> <li>■ issuing of Binding VAT Rate Statement (WIS) referred to in Article 42a of the VAT Act;</li> <li>■ issuing of Binding Excise Information, referred to in Article 7d(1) of the VAT Act;</li> </ul> </li> <li>■ information on tax settlements of the taxpayer in countries applying harmful tax competition, indicated in executive acts issued on the basis of the CIT and PIT Act and in the notice of the minister in charge of public finance issued pursuant to Article 86a(10) of the Tax Ordinance;</li> </ul> <p>- excluding information subject to trade, industrial or professional or manufacturing process secret.</p> <p>The report on the implementation of the PGK's tax strategy is to include the above-mentioned</p> <p>Information with regard to the PGK and each of its member companies.</p>
<b>Place and date of publication of the report</b>	<p>The report on the implementation of the tax strategy for the tax year, <u>prepared in Polish or its translation into Polish</u>, is to be published on the concerned taxpayer's website or, if the taxpayer does not have their website, the website of an affiliated entity.</p> <ul style="list-style-type: none"> <li>■ The report is to be published by the end of the ninth month following the deadline for submission of the CIT-8 tax return for the year.</li> <li>■ Within the same time limit, the taxpayer shall inform, by means of electronic communication, the head of the tax office competent for the taxpayer about the address of the website on which the strategy was published.</li> </ul>
<b>Penalties for failure to comply with obligations</b>	<ul style="list-style-type: none"> <li>■ In case of failure to comply with the obligations related to the preparation and publication of the report, the taxpayer is to be subject to a fine of up to PLN 1 million.</li> <li>■ The financial penalty is to be imposed by the head of the tax office competent for the taxpayer, by means of a decision.</li> </ul>
<b>Draft Act</b>	<p>The draft Act amending the Personal Income Tax Act, the Corporate Income Tax Act, the Lump Sum Income Tax Act on Certain Incomes Earned by Natural Persons and Certain Other Acts of September 15, 2020 is available under the following link:</p> <p><a href="https://legislacja.rcl.gov.pl/projekt/12338256/katalog/12719153#12719153">https://legislacja.rcl.gov.pl/projekt/12338256/katalog/12719153#12719153</a></p>
<b>CONTACT</b>	<p><b>This document was prepared for informational purposes only and is of a general nature. Every time before taking actions on the basis of the presented information, we recommend obtaining a binding opinion of TPA Poland experts.</b></p> <div>  <p><b>Joanna Kubińska</b>  Associate Partner, Head of Transfer Pricing  + 48 502 184 882  joanna.kubinska@tpa-group.pl</p> </div>

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

**In Poland**, TPA is one of the largest consulting companies. We provide international corporations and large domestic companies with effective business solutions in terms of tax advisory, transaction advisory, financial audit, corporate finance, accounting and payroll outsourcing, real estate investment consultancy, as well as HR consulting.

Legal services, offered since 2018 under the **Baker Tilly Woroszyńska Legal** brand, have been a natural addition to our interdisciplinary services. The law firm team consists of lawyers with many years of international experience in the field of transactions, litigation and advisory.

TPA Poland and Baker Tilly Woroszyńska Legal are the exclusive representatives of **Baker Tilly International** in Poland - one of the largest global networks of independent consulting companies.

As a member of Baker Tilly International, we combine the advantages of integrated, interdisciplinary 'one-stop-shop' services with local expertise and global reach of the advisory group.

[www.tpa-group.pl](http://www.tpa-group.pl) | [www.bakertilly.pl](http://www.bakertilly.pl)