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## Internal MDR procedure in each company?

The provisions on mandatory disclosure rules (MDR) have been in force in Poland for over a year and a half, now. This does not mean, however, that the practice dispels the interpretation doubts that have arisen around their application. Sometimes, as with the obligation to have an internal MDR procedure, the opposite is true.

<b>WHO SHOULD HAVE AN INTERNAL PROCEDURE?</b>	<p>These are legal persons, organizational units without legal personality which:</p> <ul style="list-style-type: none"> <li>- are promoters,</li> <li>- employ promoters or actually pay them remuneration,</li> <li>- whose revenues or costs, within the meaning of the accounting regulations, in the year preceding the financial year exceeded the equivalent of PLN 8,000,000.</li> </ul> <p>Thus, the obligation to have an internal procedure applies in principle to <b>1) promoters, 2) entities employing promoters, 3) entities actually paying remuneration to promoters</b>. The materiality threshold is the equivalent of PLN 8,000,000 of accounting revenues or costs</p>
<b>FROM WHEN DOES IT APPLY?</b>	<p>The internal procedure should have been applied from 1 January 2019.</p>
<b>INTERPRETATIONAL DOUBTS</b>	<p>The definition of promoter is quite broad, and so are the entities obliged to have the procedure. Not only consulting companies, but also every organization that employs a promoter (internally or on a service basis) and exceeds the income-cost threshold, may potentially be required to have a procedure, regardless of the role they play in a given scheme.</p>
<b>EXPLANATIONS OF THE MINISTER OF FINANCE</b>	<p>In the Explanations on MDR, it was indicated that the obligation to have an internal procedure may also be imposed on other entities which, for regulatory reasons, should not provide advisory services, but they actually do. This applies, for example, <b>to an entity that employs a natural person (e.g. a financial director) and pays him remuneration</b>, but only if that person <b>acts as a promoter in relation to other entities</b>, e.g. from a capital group.</p> <p>The mere fact of paying for the tax advisory service by the user does not generate an obligation to have an internal procedure. However, if <b>the results of this advice are also used by other entities from the group</b>, then there is a need to have a procedure.</p> <p>Users are not required to have an internal procedure when they employ advisers (including tax advisers / legal advisers) on employment contracts (<b>unless other entities from the group use this advice</b>).</p>
<b>PENALTIES FOR LACK OF PROCEDURE</b>	<p>Entities obliged to have an internal procedure are subject to a financial penalty for its lack. The penalty is imposed by the Head of the National Revenue Administration, by way of a decision, in the amount of up to PLN 2 million.</p> <p>The fine for failure to comply with the obligation to introduce an internal procedure, in the event that a fiscal offense was confirmed by a legally binding court judgment, may amount up to PLN 10 million.</p>

## HOW CAN WE HELP YOU?

### PROCESS MAPPING

The internal MDR procedure, like any procedure, works best when it is not only based on statutory requirements, but also has been adapted to the structure and organization of the company's processes. Hence, the implementation of the full procedure may be preceded by an audit of the processes enabling the identification of tax schemes in the organization.

### INTERNAL PROCEDURE

Using our own experience, customers' experience and market knowledge, we offer you preparation of:  
i) a template for an internal procedure or  
ii) a full internal procedure adjusted to the company's processes, after their mapping.

### PROCESS / PROCEDURE'S IMPLEMENTATION AUDIT

Having an internal procedure may not be sufficient to avoid a sanction, unless it is properly and effectively implemented. Our team of experts can help in conducting an audit of compliance with the internal procedure and provide for recommendations of its update, if needed.

### CONTACT US



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