



Corporate Tax Strategy

New reporting obligation for large enterprises and TGCs

The CIT Act, amended at the beginning of 2021, obliges companies with revenues exceeding EUR 50 million and tax capital groups (TCG) to prepare and publish information on their tax strategy.

The new level of transparency, envisaged as part of the voluntary tax cooperation agreement programme of July 2020, becomes an absolute obligation for almost 3,000 companies in Poland subject to a fine of up to PLN 250,000.

According to the announcement of the Ministry of Finance, the obligation will apply retrospectively, i.e. by the end of 2021, taxpayers subject to it will be forced to report on the implementation of their tax strategy for the period prior to the amendment.

Who does the new obligation apply to?

The obligation to publish information on the implemented tax strategy will apply to enterprises whose **revenues in a tax year exceed the equivalent of EUR 50 million** according to the average NBP exchange rate announced on the last working day of the calendar year preceding the reporting year.

According to the Ministry of Finance, this obligation has been imposed on:

more than **2,800** entities

65 tax capital groups

In the case of a TCG, the reporting obligation applies to the group as a whole and to all its constituent companies regardless of the value of revenue.



Despite the original plans to include **real estate companies** in the new obligation, they were eventually excluded, except for those belonging to one of the groups mentioned above.

Deadlines and method of publication

Publication method:

Information on the implemented tax strategy in Polish on the entrepreneur's website

Deadline:

12 months after the end of the fiscal year to which the report relates

The Ministry of Finance highlighted the lack of transitional provisions, resulting in the obligation to prepare, by 31.12.2021, the information on the implementation of the tax strategy for 2020, i.e. the period prior to the entry into force of the new regulations.

In the case of a non-calendar tax year, taxpayers should consider this instruction in an analogous way and, for example, by 30.09.2021 publish information on the implementation of the strategy for the tax year that covered the period from 1.10.2019 to 30.09.2020.

On the same dates, the entrepreneur is required to **electronically inform the head of the relevant tax office of the address of the website** where the information on the implementation of the tax strategy is published.



Violation of the new obligations means a possibility of imposing a **fine of up to PLN 250,000** on the taxpayer.

What is tax strategy and information about its implementation?

The CIT Act does not define the concept of tax strategy, but it does enumerate the types of data that should be included in the information on its implementation. These include information regarding:

- 1 processes and procedures related to the implementation of tax compliance in a company
- 2 fulfilment of tax obligations
- 3 transactions with related parties
- 4 planned and undertaken restructuring activities
- 5 number of reported tax schemes
- 6 filed applications for tax interpretations and binding rate information or binding excise information
- 7 settlements in countries with harmful tax competition.



An exception is provided for disclosure of information subject to trade, industrial or professional or manufacturing process secret.

Tax cooperation programme

Despite the lack of the definition of a tax strategy, it is impossible to report on its implementation without first developing and implementing it. The provisions of Section IIB of the Tax Ordinance Act, which, as of July 1, 2020 regulate the **so-called Cooperation Programme**, may be helpful in this regard. The condition to join the program, i.e. to conclude a civil law agreement on cooperation with the Head of National Revenue Administration (KAS), is to draw up the "Internal Tax Control Framework", of which the tax strategy is an element.

According to the Ministry of Finance's Guidelines for Developing the Tax Control Framework, a tax strategy *"identifies the tax vision and mission, as well as the (long-term) tax goals, while taking into account their impact on achieving the entity's business objectives. It is consistent with the principles indicated in the entity's strategy and the ethical values adopted by the entity."* According to the above, there is a need to link the tax strategy with the company's overall business strategy.

In addition, the Guidelines suggest that the tax strategy should:

- 1 involve the company's management board and the supervisory body, as well as the managers of key departments, including non-tax ones, in its development
- 2 describe and support the tax risk management process
- 3 describe the responsibility of particular persons for controlling and monitoring its implementation
- 4 contain a catalogue of decision-making formulas that include objectives and measures for the proper performance of the tax compliance
- 5 determine the risk appetite in the company, i.e. describe its readiness to accept a defined level of dispute with the tax administration
- 6 be properly documented and subject to a process of regular monitoring and updating

TPA Poland's experience in implementing Tax Compliance Management Systems



At TPA Poland, we have developed a comprehensive tool to manage tax compliance: The Tax Compliance Management System, Tax CMS, **which meets the requirements of the Tax Control Framework** under the provisions of the Tax Ordinance with respect to the Cooperation Programme. **It was declared voluntary for entrepreneurs with revenues of more than EUR 50 million.** However, starting from January 2021, preparing a tax strategy as part of the Tax Control Framework, as well as publishing information on its implementation, is already mandatory for this category of companies.



The Tax CMS we offer can be configured to meet the Polish requirements of the Tax Control Framework, **and the tax strategy and periodic reporting associated with its implementation** are one of its components.



TPA Poland's offering

Creating a tax strategy and a mechanism for reporting on its implementation does not require implementing a Tax CMS. Establishing and maintaining a Tax CMS, and its constant updating to the amended standards of tax law is a multi-phase project whose basic assumptions are presented in our other studies devoted to this product. In the context of the requirement to publish information on the implementation of the tax strategy, we only point to the Tax CMS methodology and our experience with it, as they can be successfully used to fulfill this obligation in your company.

We invite you to book a free initial consultation during which we will help you gain greater insight into the available options to comply with the new reporting obligation. If you are interested, we would also be happy to introduce you to our Tax CMS tool and/or the principles of the Cooperation Programme.



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