

Legal Alert

Another package of tax changes

November 2018

The new regulations primarily involve taxation of intellectual property rights, cryptocurrencies, and income from unrealized capital gains. The rules governing transfer pricing, among other issues, are also changing. Most of the changes will be effective from 1 January 2019. The aim is to tighten the tax system and simplify income tax laws.

The latest changes are introduced by the Act of 23 October 2018 Amending the Personal Income Tax Act, the Corporate Income Tax Act, the Tax Ordinance and Certain Other Acts, signed by the President of Poland on 14 November 2018. Below we highlight the most important changes.

Changes in the CIT Act and the PIT Act

IP box – preferential taxation of income from intellectual property rights in non-agricultural business activity. A condition for application of the reduced rate of 5% is for the taxpayer to conduct R&D activity directly connected with development of the intellectual property and maintain accounting books in a manner enabling calculation of the tax base.

Exit tax – taxation of unrealized capital gains in the event of a change in tax residence or cross-border transfer of assets (on the basis of the Anti Tax Avoidance Directive). The tax on income from unrealized gains of legal persons will be 19% of the tax base. For individuals two rates are established: 19% if the tax value of the asset is established and 3% if not.

Transfer prices – changes resulting from implementation of the OECD guidelines involving transfer pricing documentation, rules for market pricing, the definition of related entities, and corrections of transfer prices.

Cryptocurrencies – adoption of a definition, assignment of income from trading in virtual currencies to cash capital (capital gains), and the possibility of claiming expenses connected with trading in virtual currency as tax deductible costs.

The amendment also covers such items as the system for settling revenue and costs from acquisition of portfolios of receivables, withholding of tax at the source, and refund of tax on paid receivables.

Changes in the Tax Ordinance

Introduction of obligation to inform tax authorities of tax schemes – definition of tax schemes, identification of the set of entities required to report, indication of the scope, manner and deadline for reporting, as well as the criminal sanctions for failure to comply with the obligation to report on tax schemes.

Changes in the rules for obtaining interpretations of tax law – expansion of the catalogue of tax law provisions which cannot be the subject of an application for an individual interpretation.

Modification of the general anti-avoidance rule – among other things, taking into consideration the economic aims indicated by the party as a factor influencing the assessment of whether achievement of a tax benefit was the main objective, or one of the main objectives, for carrying out a transaction.



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Entitlements of the National Revenue Administration (KAS) – introduction of provisions authorizing bodies of KAS to impose an additional tax obligation in connection with issuance of a decision applying the general anti-avoidance rule. The head of KAS will be entitled to issue a decision establishing the conditions for withdrawal of tax-avoidance consequences, and will also be entitled to receive information about tax schemes.