WIERZBOWSKI EVERSHEDS SUTHERLAND

Legal Alert

Who will benefit from the change in CIT rates?

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On 13 November 2018 the President of Poland signed into law the Act of 23 October 2018 Amending the Personal Income Tax Act, the Corporate Income Tax Act and Certain Other Acts. The stated aim of the act is to simplify tax law. The regulations should be "transparent" and "user-friendly," and paying taxes should be "easy." The most important change is the reduction of the CIT rate from 15% to 9% for small taxpayers and taxpayers launching their business operations. Most of the new provisions will enter into force on 1 January 2019.

Rules for applying 9% CIT rate

The new CIT rate will apply to revenue (income) other than capital gains of taxpayers whose revenue in the tax year does not exceed the PLN equivalent of EUR 1.2 million (at the average exchange rate announced by the National Bank of Poland on the first business day in October of the preceding tax year, rounded to the nearest PLN 1,000).

Taxpayers eligible for the favorable rules will be those holding the status of a small taxpayer—an entity whose sales revenue (including VAT) did not exceed the PLN equivalent of EUR 1.2 million in the preceding tax year—as well as taxpayers commencing business operations.

The taxpayer's participation in certain restructuring measures, such as division or contribution to another entity in the form of an enterprise previously conducted by it with a value above EUR 10,000, will eliminate the possibility of applying the 9% rate in the tax year when the division or contribution occurred and the next tax year. Similarly, a taxpayer created as a result of certain restructuring measures will not enjoy the preferential rate in the year it commences business and the following year. This rate will also not apply if in the tax year when the taxpayer was created, or the following tax year, an enterprise previously operated with a value above EUR 10,000 was contributed to it towards its capital.

Other significant changes

For PIT as well as CIT, the catalog of expenses not constituting tax deductible costs has been modified, particularly with respect to depreciation of a passenger car in the portion based on a vehicle value exceeding PLN 225,000 (previously EUR 30,000) in the case of an electric vehicle or PLN 150,000 (previously EUR 20,000) in the case of other vehicles. In both acts, comparable rules have been introduced for writing off as tax costs the expenses for operation of passenger cars within a business.

In CIT, the possibility has been introduced of recognizing as tax deductible costs the hypothetical costs of raising external capital when the company is financed through additional payments paid by the shareholders, or retained profits.

The amending act also contains interim provisions.