

CHANGES PLANNED BY THE POLISH MINISTRY OF FINANCE

Yesterday the Ministry of Finance has announced a number of planned changes to tax regulation. A brief outline of the changes is presented below.

Tax on shopping malls and office buildings with a value of PLN 10 million or more.

Their owners would pay 0.042 per cent of the initial value of the property per month (0.5 per cent per annum). This amount would itself be deductible from any CIT payable by the owners. The tax would not apply to factories, warehouses, logistics centres and production halls.

Changes to regulation of tax groups (TGs):

- no possibility to sell TG companies;
- no possibility to treat donations as tax cost/income;
- requirement to apply market prices in transactions between companies in a TG (however the obligation to document transfer pricing within TGs would not apply);
- a reduction of the average level of share capital of companies in a TG from PLN 1 million to PLN 0.5 million;
- reduction of the threshold of the holding company's direct shareholding in its subsidiaries from 95 per cent to 75 per cent;
- reduction of the minimum profit threshold for TGs from 3 per cent to 2 per cent of turnover;
- exclusion of the obligation to apply thin capitalisation rules within the TG.

Changes to the thin capitalisation rules.

Companies would recognise interest at 30 per cent of the value of their EBITDA as tax costs, regardless of the source of their debt financing.

Key issues

- Tax on shopping malls and office buildings with a value of PLN 10 million or more
- Changes to regulation of tax groups (TGs)
- Changes to the thin capitalisation rules
- Introduction of a limit on deductible costs of intangible services (management, advisory, etc.)
- Separate reconciliation of capital income and operating income
- Changes to regulations on CFCs (Controlled Foreign Companies)
- Increase of the fixed asset value limit for the purposes of a one-off inclusion of the purchase price of such asset as a cost from PLN 3,500 to PLN 5.000.

Introduction of a limit on deductible costs of intangible services (management, advisory, etc.).

The limit is to apply to services with a value exceeding PLN 1.2 million. The limit would amount to 5 per cent of EBITDA. The limit does not include receivables and charges included directly in the costs of manufacturing a product or providing a service.

Separate reconciliation of capital income and operating income.

The tax base is to be calculated separately for capital income and operating income. Both income categories will not be combined but taxed separately.

Changes to regulations on CFCs (Controlled Foreign Companies):

- replacement of the nominal tax rate with the effective tax rate, i.e. the average percentage that companies pay in taxes on their taxable income;
- reduction of the passive income threshold from 50 per cent to 33 per cent.

Increase of the fixed asset value limit for the purposes of a one-off inclusion of the purchase price of such asset as a cost from PLN 3,500 to PLN 5,000.

The purchase price of assets which is at least PLN 5,000 will, as a rule, be depreciated, while assets with a value below this threshold will be subject to a one-off deduction.

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