

Covid-19: Taxes

On 31 March 2020, the so-called Anti-Crisis Shield entered into force, introducing solutions that are to mitigate the negative effects of Covid-19 on the economic situation in Poland. What follows is an outline of the main tax solutions made available by the new law, along with steps that eligible businesses can take to receive particular types of support.

To begin with, the new law makes the applicability of specific solutions contingent on the business having suffered 'negative economic consequences due to Covid-19', without introducing a legal definition thereof. Each case is to be examined individually, so it is worthwhile documenting how one's economic circumstances have been affected by the epidemic, for example, by collecting correspondence with business associates, comparing the number of business enquiries and new contracts, as well as recording employee working time and any decreases in turnover.

1. Personal and Corporate Income Tax

Loss Carryback

Individuals doing business (PIT) and CIT taxpayers who sustain a loss in 2020 will be able to deduct that loss from profit generated in 2019, provided that their income falls by at least 50% compared with the previous fiscal year as a consequence of the epidemic. Settlement will take the form of a single correction to the tax statement for 2019 and cannot exceed PLN 5 million. Any losses above that amount are subject to general provisions of law.

Extended Deadlines for Annual PIT and CIT Tax Returns

If a tax return for 2019 is filed – and personal income tax paid – after the original deadline but no later than on 31 May 2020, it will be treated as a voluntary disclosure. In such a case, no fiscal penal proceedings will be issued, and any pending proceedings will be discontinued; however, late payment interest will apply.

Based on the Finance Minister's Regulation of 27 March 2020, the deadline for filing CIT-8 forms has also been extended until 31 May 2020 for taxpayers other than charities and organisations whose entire income is exempt from tax (in case of which the deadline is 31 July 2020).

Extended Deadline for Commercial Property Tax Payments

The deadline for payment of commercial property tax for March, April, and May 2020 has been extended until 20 July 2020 with respect to taxpayers who suffered negative economic consequences due to Covid-19 in a given month and whose income in that period was lower by at least 50% compared with the corresponding month of the previous fiscal year. In the absence of comparative data, the income criterion will not apply to certain taxpayers.

Possibility of Opting out of Simplified Tax Prepayments

The so-called 'small' PIT and CIT taxpayers (that is, taxpayers whose gross sales revenue in the previous fiscal year did not exceed an equivalent of EUR 2 million) suffering negative economic consequences due to Covid-19 may opt out of simplified tax prepayments (where the amount of prepayment is calculated based on income generated in the previous year) for the period from March to December 2020 and calculate monthly prepayments based on their actual income, on general terms. Taxpayers who opt out of simplified tax prepayments will need to note that fact in their tax return for 2020.

Extended Deadline for Personal Income Tax Prepayments

Taxpayers making personal income tax prepayments – for example, as part of PAYE schemes – may settle prepayments collected in March and April 2020 as late as on 1 June 2020, on condition that they have suffered negative economic consequences due to Covid-19. These provisions apply accordingly to payments relating to self-employment, copyright, and neighbouring rights.

Deferred Bad-Debt-Relief Obligations

Debtors are temporarily released from the obligation to adjust their taxable income constituting the basis for PIT and CIT prepayments in the case of payments delayed by more than 90 days. To be eligible, the debtor has to have suffered negative economic consequences in a given month due to Covid-19, causing a drop of at least 50% in income compared with the corresponding month of the previous fiscal year. In the absence of comparative data, the income criterion will not apply to certain taxpayers.

It is important to note that the new law relates to the obligation to increase taxable income forming the basis for calculation of prepayments in 2020. In practice, this means that the obligation is not waived completely but rather deferred until 2021. Creditors are entitled to relief on the same terms as before.

Extended Deadline for Filing Transfer Pricing Information

The deadline for filing transfer pricing information (TP-R forms) has been extended until 30 September 2020 with respect to businesses whose fiscal year started after 31 December 2018 and ended before 31 December 2019.

Relief for Businesses Actively Involved in Combating Covid-19

PIT and CIT taxpayers who are actively involved in combating the epidemic may benefit from special tax relief:

- a) **one-off depreciation allowance:** possibility of applying a one-off depreciation allowance with respect to fixed assets acquired in 2020 for the purposes of the production of goods related to combating Covid-19;
- b) **qualified R&D expenditures:** possibility of including eligible research and development expenditures made in 2020 with the aim of developing products necessary to combat Covid-19 in the calculation of income tax prepayments;
- c) **IP Box for tax prepayments:** possibility of applying a preferential 5% tax rate with respect to income from eligible intellectual property rights related to combating Covid-19, when calculating income tax prepayments. The preferential tax rate applies also if the taxpayer neither holds nor expects to hold eligible intellectual property rights, subject to making a notification or filing an application for such protective rights with a competent authority within 6 months counting from the end of the month in which the taxpayer used the preferential tax rate to calculate tax prepayments;
- d) **tax deductible donations:** possibility of deducting donations for combating Covid-19 made to registered healthcare providers, the Material Reserves Agency, and the Central Sanitary and Anti-Epidemic Reserves Database, from the base amount used to calculate taxes or tax prepayments, on the following terms:
 - 200% of donations made between 1 January 2020 and 30 April 2020 is deductible;
 - 150% of donations made in May 2020 is deductible;
 - 100% of donations made between 1 June 2020 and 30 September 2020 is deductible.

2. Value Added Tax

Extended Deadline for Filing New JPK_VAT Files

The implementation of new JPK files has been postponed until 1 July 2020.

New Tax-Rate Matrix Postponed

The entry into force of a new matrix for VAT rates has been postponed until 1 July 2020. Legal regulations on the protection of VAT taxpayers based on the Binding VAT Rate Information have also been postponed, which means that until 1 July 2020, individual tax rulings will be binding as far as VAT rates are concerned.

Electronic Receipts

Taxpayers who are obliged to use cash registers may, with purchasers' consent, issue electronic receipts and deliver such receipts in a manner agreed with purchasers.

3. Other Taxes, Reporting Obligations, Proceedings, and Inspections

Property Tax and Perpetual Usufruct Fee

Municipal councils may adopt resolutions extending deadlines for property tax payments due in April, May, and June 2020 with respect to professional groups whose financial liquidity was disrupted by Covid-19. The deadlines cannot be extended beyond 30 September 2020. The obligation to pay the annual perpetual usufruct fee for 2020 has been deferred until 30 June 2020 and may be further postponed by a Cabinet Regulation.

Deferred Collection of Retail Sales Tax

Collection of retail sales tax has been postponed in such a way that it will apply to retail sales starting from 1 January 2021.

Waiver of Prolongation Fee

No prolongation fee will be collected in the event that authorities issue a decision deferring or spreading tax payments over time. To benefit from the waiver, taxpayers need to file an appropriate application during the period of epidemic threat or state of epidemic announced in relation to Covid-19 or within 30 days thereafter.

Delayed Individual Tax Rulings

In the case of any applications for individual tax rulings that had not been examined prior to 31 March 2020 (including applications filed after that date), the deadline for issuing a tax ruling has been extended to 6 months (with the option of further extension by no more than 3 months based on the Public Finance Minister's Regulation). Longer waiting periods will apply until the epidemic is officially over.

Suspended Deadlines for Tax Scheme Reporting (MDR)

The deadlines for tax scheme reporting either will not begin to run or will be suspended, depending on circumstances, during the period from 31 March 2020 until the epidemic is officially over (but no longer than until 30 June 2020).

Suspended Deadlines in Various Proceedings

While the threat of epidemic or state of epidemic persists, all deadlines in proceedings (including administrative, court, enforcement, and fiscal penal proceedings), as well as

inspections based on the Tax Ordinance or related to customs and duties, and in proceedings conducted based on other Acts, will not begin to run or will be suspended.

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