

POLAND – TAX AND OTHER CHANGES 2016

August 2016

There have been some sweeping changes in tax legislation in Poland which have come into effect in 2016. Here are some of the main changes that affect - among others - the property & construction sector:

Participation exemption on dividend and profit distributions. This exemption is no longer available on income earned through arrangements which are non-commercial whose main purpose is obtaining a tax exemption. This is an anti-abuse measure. Further anti-abuse measures are expected in the course of 2016 attacking arrangements that are judged artificial for the purpose of obtaining tax benefits over 100.000 PLN. There is possibility to apply for a protecting opinion from the Ministry of Finance.

Tax deductible revenues and costs. There are new rules concerning the correction of tax deductible revenues and costs. The obligation to correct tax deductible costs which have not been paid disappears. In case of issuing or receiving correcting documents (invoices and bills), there is no need to correct past tax declarations and pay tax interests in case of increase of income. New incentives have been introduced providing for additional deductibility for research and development costs.

Transfer pricing - country-by-country reporting. Large companies (revenues greater than €750 M) will have to prepare country-by-country reports from 01.01.2016 (information on taxable income, tax paid and places of business). Further major changes in transfer pricing legislation will come into force on 01.01.2017, with three new kinds of documentation: obligation for taxpayers with revenues over €2 M to maintain a local file; for revenues over €20 M, a master file; for revenues over €10 M, obligatory benchmarking.

Principle of doubt to be changed in favour of the taxpayer. Doubts which can't be overcome regarding the text of the tax law (in the case of ambiguous drafting of legislation) will be resolved in case of doubt in favour of the taxpayer (in dubio pro tributario).

Individual tax rulings - joint applications and application of the purchaser in public procurement.

Taxpayers may submit a joint application for an individual tax ruling under certain circumstances. Purchasers in public procurement may apply for interpretation concerning matters regarding calculation of price.

General tax rulings. In cases that a general tax ruling already covers the matter in an application for individual tax ruling, the tax authorities may resolve that the general tax ruling shall apply and the individual tax interpretation is superfluous.

Distribution sales tax: a sales tax will apply to the revenues of all distribution outlets, with over 50 sqm space! The tax rate will depend on gross revenue at the company level. This obviously will indirectly impact owners of distribution properties.

New penalty interest rates. Reduced (50% of standard rate) and increased (150% of standard rate) interest rates may be applied in certain cases.

VAT changes. There are new regulations concerning the rules of deductibility of input VAT related to supplies used for VAT purposes and non-VAT purposes which entered into force on 01.01.2016.

Corporate Income Tax Act changes. Expected additional required disclosures of operations aimed at obtaining tax benefits. The burden of proof will remain with the taxpayer.

Employment - changes to fixed-term employment contracts. From 22.02.2016, three fixed-term contracts are allowed with a duration of up to 33 months in total and then changing to indefinite-term employment contract. There are some exceptions to this such as seasonal employment, employee substitutions and other justifiable reasons.

TECHNICAL UPDATE

Contractors - terminating fixed-term employment contracts. From 22.02.2016, either party to a fixed-term contract may terminate the contract subject to the statutory notice periods. Employers will not have to give reasons.

Employment – longer notice periods for fixed-term employment contracts. From 22.02.2016, longer notice periods will apply for fixed-term employment contracts of longer than six months concluded before 22.02.2016.

Restrictions concerning the purchase of rural real property. From 01.05.2016, the sale of rural real property over 2 ha is subject to the consent of the State Rural Real Property Agency, if the purchaser does not possess agricultural qualifications and is not domiciled in the municipality, where the real property is situated.

Standard Audit File for Tax (SAF-T). There are introduced 7 types of logical structures of required tax data (e.g. accounting books, bank statements, warehouse records, VAT invoices, VAT records, PIT tax books), which form Standard Audit File for Tax, applying initially to large companies (employing over 250 persons, having turnover over 50 M. PLN or assets over 43 M. PLN) and using computer programs for accounting purpose as of 1 July 2016. Systematically, SAF-T will apply to medium-sized and small businesses (1 January 2017) and starting from 1 July 2018 to all businesses. SAF-T will be used in tax proceedings, tax controls and on demand of the tax authorities (In Polish, this is referred to as JPK).

For enquiries about this Technical Update please contact:

BW Corporate Services S.A. / BW Audyt Sp. z o.o.

Warsaw, Poland

W: www.bwcs.pl T: (+48 22) 292 8930

Contact the expert: Pierre Wautelet & Szymon Zych wauteletp@bwcs.pl

For enquiries about Property & Construction please contact:

MTG Consulting GmbH

Kelheim, Germany

W: www.mtg-consulting.de T: (+39 02) 2779 111

Contact the expert: Ted Heaslip. ted.heaslip@mtg-consulting.de

AGN International

M: info@agn.org T: +44 (0)20 7971 7373 W: www.agn.org

