

On 23 October 2008 the Lower House of Parliament passed an amendment to the Personal Income Tax Act and also changes to some other acts ("the Act"). The majority of the amended provisions will come into force (if adopted by the Senate and signed by the President) on 1 January 2009. Below we present the most significant changes to the Corporate Income Tax Act which will probably come into force on 1 January 2009.

Costs of abandoned investments

According to the Act, from 1 January 2009, taxpayers will be entitled to recognise costs of abandoned investments as tax deductible, which is not possible under the current legislation. The costs of abandoned investments will be recognised for tax purposes at the moment of sale or liquidation of the investment.

Loans denominated in relation to foreign currencies

Any differences between the capital part of the loan received, the value of which is expressed in relation to the value of foreign currency, and the value of the loan actually repaid will be treated as a taxable revenue/ tax deductible cost. In particular, the borrower (and the lender respectively) will recognise the difference between the amount of the loan received and the amount of the loan repaid as its taxable revenue/ tax deductible cost.

Although the above matter is not directly regulated by the current legislation, the prevailing view of the tax authorities is that the differences mentioned above should not be recognized for tax purposes.

Salary and social security costs

From 1 January 2009 salary costs will be recognised as tax deductible in the month to which they relate provided that they are paid or placed at the disposal of the employee within the deadline provided by the Labour Law, employment contract or any other contract. Similarly, social security costs (in the part financed by the employer) and contributions made to the Labour Fund and the Guaranteed Labour Benefits Fund will be treated as tax deductible in the month to which they relate provided that they are paid within the deadlines provided by the Act.

If the above payments are not made, the underlying costs cannot be recognised as tax deductible.

Transformation of a company into a partnership

The Act introduces a new provision under which, in the case of a transformation of a company into a partnership, accumulated profits which have not been distributed by the company will be recognised as taxable revenue of the shareholder. The amount of taxable revenue will be determined as at the day of the transformation and the tax remitter (i.e. the partnership) will be obliged to pay the tax by the 7th day of the following month.

Tax exemption applicable to interest or discount on government securities

According to the Act, interest or a discount on securities issued by the State Treasury and offered on foreign markets as well as income from the disposal of the securities derived by foreign entities will be tax exempt.

Related party transactions

The Act also introduces the possibility of a correction of taxable income of a Polish taxpayer related to a foreign entity in the case where any part of the income of the Polish taxpayer is included in the income of the foreign entity and taxed abroad. The correction may be applied only if this is provided for by the respective double tax treaty signed by Poland with the country of the foreign entity's residence. The above regulation will also apply to foreign entities which established a permanent establishment in Poland. The purpose of the amendment is the elimination of double taxation in the case of the adjustment of profits of related entities from different countries. Detailed regulations in this respect are expected to be included in a separate decree.

Costs connected with illegal transactions

According to the adopted amendments, any expenses and the value of goods, services or rights which are connected with illegal transactions will not be tax deductible. Under the current regulations, a direct reference to illegal transactions is only made in relation to taxable revenues.

If you wish to discuss any of the above issues in more detail or obtain more information on the amendments, please contact us.

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