

On 24 November 2008, the President, Lech Kaczyński, signed a number of important acts, including the act of 6 November 2008. This introduces key changes to personal and corporate income tax regulations as well as amending certain other acts.

We set out below the most significant changes to the personal and corporate income tax regulations that will come into force on 1 January 2009.

Tax Rates (PIT Act)

The most significant change is the long awaited introduction of the new tax rates: 18 per cent and 32 per cent, replacing the present three rates of 19 per cent, 30 per cent and 40 per cent, and raising at the same time the threshold for the first tax bracket to 85,528 PLN.

Taxation of non-resident spouses (PIT Act)

There are changes also in the scope of preferential taxation for married couples and single parents. These changes follow the necessity to adjust existing regulations to EU laws, by enabling joint taxation for couples having their residencies in different member states

Amendment to the rules concerning the taxation of gaming winnings (PIT Act)

By the same token, it was necessary to confirm Polish tax law to EU rules to regulations concerning the 10 per cent flat rate tax applicable to prizes above 2,280 PLN won in certain types of games. Until this year, preferential taxation was possible if the game was organized by a Polish

entity. The intended change is meant to lead to an equal treatment of organizers from other EU and EEA countries.

An end to the 'registration' relief (PIT Act)

Another important change is the ending of the so called registration tax relief, introduced on 1 January 2007, concerning the sale of real estate. The change is justified by the lifting of the obligation to register at one's address. It is to be replaced by another relief, under which gains made on the sale of real estate (purchased from 2009) will be tax-free if spent on certain housing purposes within two years from the date of the gain.

For gains made on the sale of real estate acquired before 2009, the rules in force at the time of purchase will apply.

Deduction of non-Polish social security contributions (PIT Act)

A further change comes as a result of an adjustment of the law to last year's ruling of the Constitutional Tribunal. When calculating the taxable base, taxpayers will be entitled to deduct social security premiums paid abroad and to lower the tax payable by the amount of health security premiums paid abroad.

Pro family relief (PIT Act)

The pro-family relief will change as well. Its scope will broaden to include guardians and foster parents. At the same time the amount of the relief per child will depend on the number of months, in which the actual care of the child was performed.

Conversion of income received in a foreign currency (CIT/PIT)

From 1 January 2009, the way in which income received in foreign currencies is converted for the purposes of calculating taxable income will change, in cases where the taxpayer does not use banking facilities, or where the bank applies a variety of exchange rates or does not publish the exchange rates applicable. In such situations, income that is denominated in a foreign currency should be converted into PLN at the average National Bank of Poland (NBP) rate on the last working day prior to the day in which the income was received.

Extension to tax relief for interest (PIT Act)

The scope of tax relief for interest (under acquired rights) will be widened to include interest from refinancing loans and interest on subsequent loans to repay an initial mortgage. The relief will also be expanded to include loans from banks and credit unions located in other EEA countries.

The progressive tax scale to apply to foreign service providers (PIT Act)

From 1 January 2009, foreign service providers (who receive income listed under article 29.1 of the PIT act) will be able to choose to be taxed under the progressive scale (as a rule, in the case of non-residents this income is taxed at 20% flat rate).

Prizes donated by the recipient to be tax-free (PIT Act)

Prizes received from national or foreign institutions that are subsequently donated to a recognized charitable body will mean that the winner of the prize will not be subject to income tax on the part of the prize donated.

Costs of abandoned investments (CIT/PIT)

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 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 (CIT/PIT)

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.

Salary and social security costs (CIT/PIT)

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 (CIT/PIT)

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 (CIT/PIT)

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 (CIT Act)

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 have a permanent establishment in Poland.

Costs connected with illegal transactions (CIT/PIT)

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.

Contact details

Andrzej Marczak

Partner

Tel.: + 48 (22) 528 11 76

Fax: + 48 (22) 528 11 59

amarczak@kpmg.pl

Leszek Białon

Director

Tel.: + 48 (22) 528 11 86

Fax: + 48 (22) 528 11 59

lbialon@kpmg.pl

Rafał Ciołek

Director

Tel.: + 48 (22) 528 11 97

Fax: + 48 (22) 528 11 59

rciolek@kpmg.pl

Mateusz Kobyliński

Senior Manager

Tel.: + 48 (22) 528 11 91

Fax: + 48 (22) 528 11 59

mkobyliński@kpmg.pl

KPMG Offices

Warsaw Office

ul. Chłodna 51

00-867 Warszawa

Tel.: +48 (22) 528 11 65-71

Fax: +48 (22) 528 11 59

tax@kpmg.pl

Cracow Office

al. Armii Krajowej 18

30-150 Kraków

Tel.: +48 (12) 424 94 00

Fax: +48 (12) 424 94 01

tax.krakow@kpmg.pl

Poznan Office

ul. Roosevelta 18

60-829 Poznań

Tel.: +48 (61) 845 46 00

Fax: +48 (61) 845 46 01

tax.poznan@kpmg.pl

Wroclaw Office

ul. Bema 2

50-265 Wrocław

Tel.: +48 (71) 370 49 00

Fax: +48 (71) 370 49 01

tax.wroclaw@kpmg.pl

Gdansk Office

ul. Piwna 28-31

80-831 Gdańsk

Tel.: +48 (58) 321 96 00

Fax: +48 (58) 321 96 01

tax.gdansk@kpmg.pl

Katowice Office

ul. Powstańców 43

40-024 Katowice

Tel.: +48 (32) 200 65 05

Fax: +48 (32) 200 65 10

tax.katowice@kpmg.pl

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