

## Amendments to the Tax Ordinance

On 24 November 2008 the President of Poland approved the amendments to the Tax Ordinance and some other acts. Below are presented the most significant amendments to the Tax Ordinance, which will come into force on 1 January 2009.

### **Suspension of execution of non-final decisions**

The non-final decision will not be executed, unless the clause of immediate execution is imposed on it. In consequence, the tax authorities will be entitled to execute only final decisions i.e. decisions that cannot be appealed (decisions issued in 2nd instance as a result of the appeal proceedings and decisions issued in 1st instance which were not appealed). The clause of immediate execution will be imposed on the decision if the tax authorities possess information that the execution proceedings against the taxpayer with respect to other payments are pending or tax liability expires in less than three months. The suspension of execution will not prevent the taxpayer from voluntary execution of the decision and will not influence calculation of interest on tax arrears.

### **Notice of the tax audit**

The new regulations impose the obligation on the tax authorities to notify the taxpayers of the intent to initiate the tax audit. The tax authorities will be allowed to initiate the tax audit not earlier than 7 days and not later than 30 days after the day on which the notice is delivered. However, in case of tax audits regarding, inter alia, the correctness of the refund of input tax or the business activity not registered for tax purposes, the tax authorities will be exempt from the abovementioned obligation.

### **Decrease of the penalty interest on arrears**

As of 1 January 2009 the taxpayers will be entitled to apply the decreased rate of the penalty interest on tax arrears (75% of standard rate) provided that the correction of the tax return together with its justification is filed and all tax arrears are paid not later than 7 days after filing the correction. The taxpayers will not be allowed to apply the abovementioned rate if the correction of the tax return is filed after the delivery of the notice of tax audit or after the end of tax audit (if the notice is not required).

The decreased rate will not also be applied if the correction of the tax return is filed as a result of verifying proceedings.

### **Liability of the members of the management board**

According to the amendments the issue of liability of the members of the management board will be more precise. Pursuant to new regulations, the members of the management board will be liable for the tax arrears relating to the liabilities due when they performed their duties.

Furthermore, the members of the management board will be liable for the tax arrears relating to unduly received overpayment or of tax refund, interest on it and unduly collected remuneration of tax remitters or tax collectors, arisen when they performed their duties.

### **Obligation to initiate the tax proceedings within 6 months following the end of tax audit**

If any irregularities in performing duties resulting from the tax regulations are disclosed during the tax audit, and the taxpayer does not

file the tax return or correction of the tax return taking into account the disclosed irregularities, the tax authorities will be obliged to initiate the tax proceedings regarding the issue not later than 6 months after the end of the tax audit. However, there are some exemptions from that rule. The tax authorities will be allowed to initiate the tax proceedings later than 6 months after the end of the tax audit if the taxpayer files another correction of the tax return not taking into account the disclosed irregularities, or if the tax authority receives information justifying the initiation of the tax proceeding.

#### **Liability of the acquirer of assets**

The amendments will also introduce the exclusion of liability of the acquirer of assets relating to business activity. The acquirer will not be liable for the tax obligations relating to business activity arisen to the date of the acquisition. However, the aforementioned exclusion will not apply to the tax arrears arisen before the day on which the amendment will enter into force.

#### **Refund of the fee for the application for individual interpretation**

Pursuant to the amendments, the tax authorities will be obliged to refund undue fee for the application for individual interpretation within 7 days as of the end of the proceedings regarding the interpretation.

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