

# Tax Alert

## Personal income tax changes for 2007

**ERNST & YOUNG**  
Quality In Everything We Do

### Definition of tax residence in the territory of Poland

The amendments to the Personal Income Tax Act (PIT Act) significantly revise the definition of residence in the territory of the Republic of Poland, which directly affects the tax status. Under the revised law, an individual is deemed to be resident in Poland if:

- a) his centre of vital interests is in Poland or
- b) he stays in the territory of Poland for more than 183 days in the tax year.

The second condition is crucial for non-residents working in Poland. The result of the changes is that those individuals who stay in Poland for more than 183 days in a given year will lose their right to benefit from preferential tax rates (applicable to e.g. incomes from Management Board duties or those arising from a management contract). Additionally, they will be taxable in Poland on their world-wide income, not only that earned from Polish sources (the rule applicable under the existing law).

This means that greater importance will be attached to relevant bilateral double tax treaties, which will be the deciding factor in the case of conflicts between two or more countries over tax residence and will determine which country has the right to collect tax on various types of income.

### Monthly tax declarations no longer required

The new law cancels the requirement to file monthly tax declarations such as PIT-4 or PIT-53 forms. Advance tax will be withheld in accordance with the existing rules; however, a tax remitter will be required to file an annual declaration by the end of January of the following year.



## Tax scale

Although the PIT amendments replace the current tax rates with the 18% and 32% rates, the cuts will not come into force until 2009. However, in 2007 taxpayers will benefit from a higher tax-free amount and higher tax costs deductible under their employment contracts (e.g. PLN 108.50 if an employee has got one employer and resides in the place where he works).

<b>2007 Tax Scale</b>		
<b>Tax assessment base (PLN)</b>		<b>Amount of tax</b>
over	up to	
	43,405	19% minus the sum reducing the tax, i.e. PLN 572.54
43,405	85,528	PLN 7,674.41 + 30% of the excess over PLN 43,405
85,528		PLN 20,311.31 + 40% of the excess over PLN 85,528

## Medical services as tax deductible costs

Employers will be given the opportunity to include all expenses for employees' medical care in their tax deductible costs. Currently the deduction is limited to medical examinations/ tests that are obligatory under other laws (mainly labour law).

## Revenue from foreign employment exempt from tax

Revenue from the employment relationship will be tax-exempt up to 30% of the daily maintenance allowance for each day of a foreign assignment during which an employee remained in the employment relationship. This provision replaces the currently available exemption corresponding to 30 daily allowances. The exemption will not apply to business trips.

## New definition of business activity

Under the revised definition of business activity (sole traders), an activity in which liability towards third parties for the result and supply rests with the principal, which is carried on under the supervision, in the place and at the time chosen by the principal and the service provider does not assume the economic risk of his activity will not qualify as a business activity. To classify a given activity as one not qualifying as a sole trader's business, all these conditions must be met at the same time.

## Sale of residential property

The amendments revise the tax rules applicable to the sale of flats/ houses. If residential property is sold within 5 years from the end of the calendar year in which it was bought or developed, profits from the sale will be taxable at a 19% tax. The tax assessment base can be reduced by the expenses incurred to develop the property and the related maintenance expenses. However, no tax will be paid by taxpayers who have had their permanent residence registration in the flat/ house for at least than 12 months. Real property bought prior to 1 January 2007 is governed by the existing tax rules, which means that the proceeds from the property sold within 5 years from the date of acquisition are taxable at a 10% tax rate and are not taxable at all if they are allocated for the acquisition of other residential property within 2 years from the date of sale.

## Joint spousal returns

The revised law expressly states that spouses cannot file a joint tax return unless their marital property has continued for the whole tax year.

## Deductions

Under the new law, taxpayers will continue to benefit from a 1% tax deduction on account of contributions to public benefit and religious worship organisations subject to the provision that from 2007 onward it will be tax offices to transfer 1% deductions to the accounts named by taxpayers.

In 2007 the deduction of interest paid on specified housing credits (the so-called interest deduction) will no longer be available. A taxpayer who will have taken a housing credit with the right to benefit from the deduction by the end of 2006 will retain the right to deduct the related interest until the year 2027, i.e. over a period of 20 years.

## Child deduction

The new law offers a new deduction for taxpayers bringing up children. Those taxpayers will be given the opportunity to reduce their tax by PLN 120 per each child (applicable to among others children under age or pupils/students who have not turned 25 yet). The deduction is available for both parents jointly.

## No advance tax withheld on income taxed abroad

PIT remitters will not be required to withhold any advance tax on incomes paid to employees for their work abroad if those incomes are or are to be taxed outside of Poland. Collection of advance tax in Poland will be continued at a taxpayer's request.

## Non-residents' obligation to pay monthly flat-rate tax confirmed

The law expressly says that taxpayers who have the status of non-residents in Poland and who earn income from their activities carried on personally (e.g. members of Management Boards) without the agency of tax remitters are required to pay flat-rate income tax corresponding to 20% of revenue by the 20<sup>th</sup> day of each month for the preceding month.

**If you would like to discuss this issue in more detail or receive any further information about the planned amendments and our services, which will help you prepare for the changes, please do not hesitate to contact:**

Michał Grzybowski, tel. (0-22) 557 75 59, e-mail: [Michal.Grzybowski@pl.ey.com](mailto:Michal.Grzybowski@pl.ey.com)

Rafał Garbarz, tel. (0-22) 557 78 28, e-mail: [Rafal.Garbarz@pl.ey.com](mailto:Rafal.Garbarz@pl.ey.com)

Marek Jarocki, tel. (0-22) 557 79 43, e-mail: [Marek.Jarocki@pl.ey.com](mailto:Marek.Jarocki@pl.ey.com)

Information in Ernst & Young's Alerts is aimed at highlighting specific issues and/or changes in the law. Before making any concrete decisions, we recommend you consult your tax adviser.

**ERNST & YOUNG**

**[www.ey.com/pl](http://www.ey.com/pl)**

*Warszawa*

*Wrocław*

*Poznań*

*Katowice*

*Kraków*

*Tel.: 022 557 70 00*

*Tel.: 071 375 10 00*

*Tel.: 061 856 29 00*

*Tel.: 032 760 77 00*

*Tel.: 012 424 32 00*

*Fax: 022 557 70 01*

*Fax: 071 375 10 10*

*Fax: 061 856 30 00*

*Fax: 032 760 77 10*

*Fax: 012 424 32 01*

© 2006 Ernst & Young

Wszelkie prawa zastrzeżone

Ernst & Young jest zarejestrowanym  
znakiem towarowym.