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Polish Deal
CIT area

On October 29, 2021, the Lower House of the Polish Parliament “the Sejm” finally adopted the Act amending the Personal Income Tax, the Corporate Income Tax Act and some other acts (the so-called "Polish Deal"). Currently, the bill is awaiting the President's signature.

The amendment finally passed by the Sejm - the so-called Polish Deal contains only minor changes to the draft bill previously submitted to the Senate by the Sejm. However, bearing in mind the fact that the changes introduced by the "Polish Deal" are very broad and cover many areas, as well as the fact that the legislative work on the bill has ended, below we present an **overview of the most important, changes in CIT,** which, if the amendment is signed by the President, will as a rule, enter into the force on January 1, 2022.

New solutions

MINIMUM CIT

The amendment to the CIT Act introduces to the Polish legal system a minimum CIT tax which will be imposed on the companies:

a) which report a tax loss within the operating income tax source, or
b) whose profitability in this income tax source does not exceed 1%.

The amount of tax will be equal to 10% of the tax base calculated as the sum of, inter alia, the following items:

- 4% of the amount of revenues from operating activities increased by the sum of:
  a) costs of debt financing incurred on behalf of related entities, exceeding 30% of the so-called tax EBITDA;
  b) deferred income tax related to the disclosure of certain intangible fixed assets, resulting in an increase in gross profit or a decrease in gross loss;
  c) costs of purchasing certain services or intangible rights (a catalog similar to the list included in the Art. 15e of the CIT Act, i.e. including advisory, advertising, management and control services, data processing and some intangible assets), incurred on behalf of related entities or from tax havens - in part exceeding PLN 3 million + 5% of the so-called tax EBITDA.

Taxpayers will be able to deduct the amount of the minimum CIT tax paid for a given year from the CIT calculated based on general rules.

The minimum CIT will not apply e.g. to:

(I) entities from the financial sector,
(II) companies with a simple ownership structure, whose partners are only natural persons and which do not have shares in other entities,
(III) start-up companies (the first 3 years of operation),
(IV) experiencing a sudden drop in revenues of 30% or more,
(V) companies which in a given tax year obtained the majority of operating revenues as a result of their activities related to:
- operation of ships or aircraft in international transport,
- extraction of minerals, the prices of which depend directly or indirectly on quotations on the world stock markets.

In addition, the minimum CIT will not apply to companies that are part of a capital group consisting of at least two companies (Polish residents) in which the parent company has min. 75% direct participation in each of the subsidiaries during the whole tax year if the companies in that group:

- have the same tax year and
- combined profitability in their income tax source exceeds 1%.

Information on companies included in the capital group in the tax year that meets the conditions referred to above should be submitted on the date of submission of the CIT return.

THE REPEAL OF THE ART. 15E OF THE CIT ACT

Due to the introduction of the minimum CIT, the legislator decided to repeal the Art. 15e of the CIT Act, pursuant to which taxpayers are currently obliged to limit tax-deductibility of their intangible expenses incurred for the benefit of related parties up to the limit of PLN 3 million + 5% of the so-called tax EBITDA.

An appropriate mechanism taking into account the limitation of the above-mentioned costs has been included in the computation structure of the minimum CIT. However - what is important - without taking into account mitigation measures accepted currently under the Article 15e of the CIT Act, such as: (I) exclusion regarding items covered by APA decisions or (II) cost directly related to acquisition or manufacturing of products or provision of services by the entity.

EXCLUSION FROM TAX DEDUCTIBLE COSTS OF EXPENSES RELATED TO THE SERVICES PROVIDED BY A RELATED ENTITY – THE SO-CALLED "HIDDEN DIVIDENDS"

Polish Deal introduces also exclusions from tax-deductible costs concerning the so-called "hidden dividend".

Under the wording of the Act adopted by the Polish Parliament non-tax deductibility will concern costs incurred by a taxpayer, which is a related party vis-à-vis the service provider (or the service provider is a related party vis-à-vis the shareholder of the taxpayer), (w ostatecznym brzmieniu ustawy przyjętej przez Sejm usunięto zapis o podmiotach powiązanych z akcjonariuszem). Finally, **the entry into force of these regulations was postponed until January 1, 2023.**

These costs will constitute so-called "hidden dividend" if:

- the amount of these costs or the date of their incurring in any way depend on the profit or the amount of such profit by the taxpayer, or
- a rationally operating taxpayer would not incur such costs or could bear lower costs if a comparable service was performed by an unrelated entity, or
- these costs include remuneration for the right to use assets that were owned or jointly owned by the partner or an entity related to the partner before the taxpayer was established.

In addition, pursuant to the regulations of amended CIT Act the last two conditions may not apply if the sum of costs incurred by the taxpayer in a tax year, constituting a hidden dividend under these two items, is lower than the amount of gross profit within the meaning of accounting regulations generated by the taxpayer in this period.

TAXATION OF THE SO-CALLED PROFIT SHIFTING

The amendment of CIT Act introduces the provisions aimed **at imposing tax on companies that are taxpayers (tax residents in Poland) on account of the so-called shifted income**. This tax would amount to 19%.

The shifted income is to be deemed to be certain costs incurred directly or indirectly for an entity related to the company and are receivable of that entity, if:

- the actual income tax paid by this related entity for the year in which they obtained the receivable, in the state of their seat, management, registration or location, is 25% lower than the amount of income tax that would be due from it

if the income of this entity were taxed with applying a 19% tax rate, whereby the tax actually paid is understood to be tax that is not refundable or deductible in any form, including for the benefit of another entity, and

- these costs:
    - are classified in any form as tax deductible costs, are deducted from the income, tax base or tax of that related entity, or
    - paid by this related entity in the form of dividends or other revenues from participation in the profits of legal persons for the year in which it received the payment

- constituted at least 50% of the value of revenues obtained by this entity, determined in accordance with the provisions on income tax or in accordance with the provisions on accounting.

The amendment assumes that the above taxation rules will not apply if the indicated costs are incurred for the benefit of a related entity, subject to taxation on all its income in a Member State of the European Union or in a country belonging to the European Economic Area and conducting significant actual business activity in that country.

DEFINITION OF THE PLACE OF MANAGEMENT IN THE TERRITORY OF POLAND

The Polish Order introduces regulations regarding the circumstances of recognizing that the taxpayer has a **management board in Poland**, which is one of the conditions for obtaining by the taxpayer, which is one of the conditions for obtaining the status of a Polish tax resident.

Pursuant to the adopted regulations, the taxpayer will have a management board in the territory of the Republic of Poland, inter alia, when in the territory of the Republic of Poland, current affairs of this taxpayer are conducted in an organized and continuous manner, based in particular on:

a) an agreement, decision, court decision or other document regulating the establishment or operation of this taxpayer, or
b) granted powers of attorney, or
c) connections within the meaning of the provisions on transfer pricing.

The above issue will be of significant importance from the perspective of companies established or operating outside Poland and any disputes regarding the tax residence of these entities.

AMENDMENTS TO THE REGULATIONS OF LUMP SUM TAXATION ON COMPANY INCOME

The adopted amendments to the regulation on lump sum taxation on company income (the so-called "Estonian CIT") are aimed at extending the catalog of entities that will be entitled to use this tax, as well as at mitigating the necessary conditions allowing for the choice of this form and its further application.

These amendments include in particular:

- extension of the catalog of entities entitled to lump-sum taxation to include limited partnerships and limited joint-stock partnerships;

- reduction from 15% to 10% of the tax base - in the case of a small taxpayer and taxpayer starting business activities, and in the case of other taxpayers from 25% to 20%;
- resignation from the necessity to incur specific investment expenditures as a condition for the application of the lump sum provisions, with the possibility of incurring them in order to benefit from the preferential lump sum;
- resignation from the condition concerning the upper limit of taxpayers' income taxed with a lump sum, and consequently also from the additional tax liability;
- making the deadlines for the payment of tax liabilities more flexible in the scope of the so-called initial correction, and in some cases also waiving the obligation to pay this obligation.

INTRODUCING THE OBLIGATION TO SUBMIT CIT JPK (SAF-T)

Polish Deal introduces the obligation for CIT taxpayers (other than those exempt from entities) to keep accounting books (tax records) using computer programs and the obligation to send them in a structured form in accordance with the provisions of the Tax Ordinance Act, by the deadline for submitting a tax return for the year tax, specified in the Art. 27 sec. 1 of the CIT Act.

The above obligation will enter into force on January 1, 2023.

Additionally, the Polish Deal introduces new reporting obligations in the case of:

- transformation of the company into a partnership - then the transformed company is to close the accounting books and prepare the financial statements in accordance with the accounting regulations on the day preceding the transformation date;
- transformation of a partnership into a company or the acquisition of a partnership by the company as a result of a merger - then partnership will be obliged to close the accounting books (if it keeps such books) or to prepare a list of assets of its enterprise, in the case when it does not keep accounting books that will contain the data specified in the Act.

AMENDMENTS TO TRANSFER PRICING REGULATIONS

The Polish Deal also provides for a number of changes to the transfer pricing regulations. The most important changes implemented in the area of the Polish transfer pricing rules are:

- extension of the deadline for the preparation of local transfer pricing documentation, this deadline is to expire by the end of the tenth month after the end of the tax year; in addition, this documentation is to be drawn up only in electronic form;
- the obligation to prepare local transfer pricing documentation will not apply to controlled transactions representing low value added services fulfill the conditions specified in the Art. 11f of the CIT Act (enabling the authority to withdraw from estimating the taxpayer's income or loss);
- extension of the deadline for submitting information on transfer pricing by the end of the eleventh month after the end of the tax year (currently the end of the ninth month);

- elimination of the declaration on the preparation of transfer pricing documentation as a separate document and transferring it, in the amended wording, to the transfer pricing information;
- extension of the deadline for submitting, at the request of the tax authorities, local transfer pricing documentation from 7 to 14 days;
- changes in the scope of transfer pricing adjustments - the taxpayer making the transfer pricing adjustment is to be allowed to have, instead of the related entity's declaration, an accounting proof confirming that the entity has made a transfer pricing adjustment in the same amount as the taxpayer and the condition for confirming the adjustment by the taxpayer will be repealed in the annual tax return for the tax year to which this adjustment applies; moreover, the correction will no longer be possible in a situation where both entities are Polish residents.
- changes in the regulation of the safe harbor mechanism consisting in the introduction of provisions according to which the period in which the condition of the possibility of using the safe harbor institution is analysed is the fiscal year, not the financial year. In addition, the amendment provides for the regulation of the moment for which the loan agreement (loan, bond) should comply with the conditions of the safe financial harbor in terms of interest rates, i.e. these conditions should be met each time the loan agreement is amended;
- adding the regulation specifying the value of controlled transactions in the case of articles of association of a company that is not a legal person - this value should be determined in the total value of contributions made to such a company;
- adding the regulation according to which the local transfer pricing documentation, in the case of an agreement of a partnership, a joint venture agreement or another agreement of a similar nature, should also contain the adopted rules concerning the rights of partners or a party to agreement providing for participation in profit, assets or losses;
- changes in the definition of related entities and in the definition of the exerting significant influence (it was added that this also means situations in which one has, directly or indirectly, at least 25% of shares or rights to shares in the company's losses).

AMENDMENTS TO TAX CAPITAL GROUP (FISCAL UNITY)

The Polish Deal introduces number of amendments related to the establishment and operation of tax capital group (TCG). The planned changes include:

- reduction of the average share capital for each company to PLN 250,000 (the current limit of PLN 500,000);
- allowing subsidiaries to hold shares in other subsidiaries that are part of a tax capital group (currently only the parent company may hold shares in other entities included in TCG),
- elimination of the tax profitability condition for the capital group (currently the required tax profitability of TCG at the level of 2%),
- elimination of the requirement to conclude an agreement to establish a tax capital group in the form of a notarial deed - a written agreement will be sufficient,

- changing the rules for extending TCG after the registration of the contract,
- changing the rules for reporting the extension of the TCG operation period.

At the same time, the amendment regulates the issue of settling tax losses:

- by a company that is part of the TCG, in the event of the loss of taxpayer status by TCG, when the loss was incurred before the formation of this group,
- by TCG, if the loss was incurred before the formation of the group by the company forming the group.

A NEW TAXATION REGIME FOR HOLDING COMPANIES

The amendment also introduces a new taxation regime for holding companies, which includes, inter alia:

- CIT exemption for 95% of the amount of dividends received by the holding company from subsidiaries;
- full CIT exemption of profits from the sale of shares / stocks in subsidiaries sold to unrelated entities.

The above rules will apply only if the entity is considered to be the so-called holding company. Pursuant to the adopted regulations, a limited liability company or a joint stock company, being a Polish tax resident, will be considered a holding company, which meets the additional conditions provided for in the amendment, that is:

- holds, for an uninterrupted period of at least 1 year, directly on the basis of title, at least 10% of shares (stocks) in the capital of a subsidiary;
- is not a company forming a tax capital group;
- does not benefit from tax exemptions (activity in the special economic zone);
- conducts a real business activity;
- shares (stocks) in this company are not held, directly or indirectly, by a shareholder (stockholder) having its seat or management board or registered or located in the territory or in the country:
    - listed in the regulation of the Minister of Finance on the determination of countries and territories applying harmful tax competition in the field of corporate income tax;
    - indicated in the EU list of non-cooperative jurisdictions for tax purposes adopted by the Council of the European Union;
    - with which the Republic of Poland has not ratified an international agreement, in particular an agreement on the avoidance of double taxation, or the European Union has not ratified an international agreement constituting the basis for obtaining tax information from the tax authorities of that country.

At the same time, the abovementioned CIT exemption of profits from the sale of shares / stocks will apply if the entity whose share/stocks are subject to sale meets the following conditions:

- does not own more than 5% of shares/stocks in the capital of another company,
- does not have participation titles in an investment fund or collective investment institution, all rights and obligations in a company that is not a

legal person and other property rights related to the right to receive a benefit as a founder (founder) or beneficiary of a foundation, trust or other entity or legal relationship with fiduciary or similar rights,

- is not a company forming a tax capital group,
- does not benefit from tax exemptions (activity in the special economic zone).

AMENDMENTS TO THE REGULATIONS REGARDING THE EXCHANGE OF SHARES

The amendment provides for a number of changes in the **taxation of reorganization transactions**, including the regulation on tax treatment of the so-called **share exchange transactions**.

According to the adopted changes, the Art. 12 sec. 4d of the CIT Act, regulating the conditions of tax neutrality of transactions, may be used in a situation where a company acquires shares (stocks) from the same partner in more than one transaction within a period not exceeding 6 months from the month in which their first acquisition took place, if as a result of these transactions the conditions set out in this provision are met (so far there has been no requirement for the number of partners).

Additionally, the catalog of conditions that must be met so that the taxpayer will be able to take advantage of the income tax preferences in connection with the exchange of shares is expanded. Pursuant to the amendment, two other conditions were added to the CIT Act, that is:

- the shares (stocks) contributed by the shareholder were not acquired or acquired as a result of a share exchange transaction or allocated as a result of a merger or division of entities,
- the value of shares (stocks) acquired by a shareholder, adopted for tax purposes, is not higher than the value of shares (stocks) contributed by that partner, which would be adopted for tax purposes, if the shares were not exchanged.

AMENDMENTS TO THE REGULATIONS RELATING TO MERGERS AND DIVISIONS OF COMPANIES

The Polish Deal introduces significant changes in the provisions on **taxation of mergers and divisions (legal demergers) of companies**.

These changes, in particular, are to pertain to the method of determining the tax revenue related to the merger and division of companies. In this respect, the rules for determining taxable income as well as income that may benefit from tax exemption have become significantly more complicated.

The fiscal neutrality of the merger will be preserved only if:

- shares (stocks) in the acquired or divided entity were not acquired or acquired as a result of an exchange of shares or acquired as a result of another merger or division of entities, and
- the value of shares (shares) allocated by the acquiring company or the newly formed company adopted by the shareholder for tax purposes is not higher than the value of shares (stocks) in the acquired or divided company that would be adopted by this shareholder for tax purposes if the merger or division did not take place.

AMENDMENTS IN TAXATION OF LIQUIDATION OF PARTNERSHIPS

In accordance with the adopted changes, revenues will include the market value of the partnership assets received by its partners, determined on the day preceding the date of liquidation or withdrawal from a partnership, in excess of the value adopted for tax purposes, not higher than the value of these assets - in the case of liquidation of a partnership or withdrawal from a partnership as a result of which the Republic of Poland loses the right to tax income from the sale of property or part of the property taken over by a partner of such a company.

Such income will be classified as a source of revenue from the source of capital gains.

DEPRECIATION IN REAL ESTATE COMPANIES

According to the planned changes, **real estate companies**, i.e. business entities whose main source of revenue or income are real estate, will be entitled to include in tax deductible costs write-offs for the consumption of fixed assets and intangible assets (depreciation write-offs) in the amount not higher than the depreciation or redemption write-offs for the consumption of fixed assets made in accordance with the accounting regulations, charging the entity's financial result in this tax year.

The above change may be severe for those taxpayers who, due to the accounting classification of real estate, do not make depreciation write-offs for accounting purposes.

AMENDMENTS IN THIN CAPITALIZATION

The adopted amendment provides for a change in the provisions of **the Art. 15c of the CIT Act**, the so-called thin capitalization, which involves:

- introducing the name of the indicator used to calculate the maximum amount of debt financing costs which - in a given tax year - may be charged to the tax result (income / loss) reported by a given taxpayer in connection with the activity conducted by such a taxpayer (EBITDA indicator),
- introducing an algorithm to calculate the EBITDA indicator,
- introducing a provision directly stating that the taxpayer may include as tax deductible costs the surplus of debt financing costs within the limit set by the value of 30% of the EBITDA obtained in the fiscal year or alternatively use the safe harbor, i.e. the limit of PLN 3 million. Therefore, there will be no basis for combining both limits and applying them simultaneously.

In addition, in accordance with the adopted regulations, debt financing costs within the meaning of the Art. 15c section 12 of the CIT Act obtained from a related entity, in the part in which they were intended directly or indirectly for capital transactions, in particular: acquisition or subscription of shares (shares), acquisition of all rights and obligations in a company that is not a legal person, making additional payments, increase of the share capital, purchase of own shares for the purpose of their redemption, will be excluded from tax deductible costs.

AMENDMENTS IN THE WITHHOLDING TAX

The Polish Deal adopted by the Polish Parliament also amends withholding tax regulations. These changes include, inter alia:

- limitation the scope of application of the tax refund procedure (WHT refund) to passive revenues (income) paid to related entities and,
- allowing for issuing opinions on the application of an exemption (reduced tax rate) on the basis of the provisions of agreements on the avoidance of double taxation (double tax treaty), which so far was only possible with regard to the Polish WHT regulations,
- the possibility of submitting the statement of conditions for applying of an exemption (reduced tax rate), on the date of tax payment for the month in which the amount of PLN 2 million was exceeded.

Further changes are expected at the level of withholding tax clarifications, which are currently being prepared by the Ministry of Finance.

AMENDMENT TO THE PROVISIONS RELATING TO CONTROLLED FOREIGN COMPANY (CFC)

The adopted amendment provides for changes in the regulations relating to foreign controlled entities (CFC) consisting in:

- extending the definition of CFC by adding a provision, according to which the CFC is also an entity in which the Polish taxpayer has, independently or jointly with related entities or other taxpayers residing or having its registered office or management board in Poland over 50% of shares, directly or indirectly in the capital or more than 50% of the voting rights in the management of the entity. Other taxpayers are taxpayers who own at least 25% of the capital or at least 25% of the voting rights in the management of the entity or 25% of the right to participate in the company's profit,
- extension the catalog of passive revenues provided that they constitute at least 33% of all revenues of a given entity, this entity will be considered a CFC with the following revenues:
  - for the provision of consulting and accounting services, market research, legal services, advertising services, management and control, data processing, employee recruitment and sourcing services as well as services of a similar nature,
  - from the disposal of all rights and obligations in a company, which is not a legal person of participation titles, in an investment fund, collective investment or other legal person and rights of a similar nature,
  - for lease, sublease, tenancy, subtenancy and other similar contracts,
  - from copyrights or industrial property rights included in the selling price of a product or service,
  - from the sale and exercise of rights from financial instruments,
  - from the sale of goods or products purchased from related entities or sold to them.
- extension the catalog of entities that make up the CFC by recognizing that such a unit is considered to be entities in which passive income is at least 30% lower than the sum of:
  - the held shares (stocks) value in another company, all rights and obligations in a company that is not a legal person, participation titles in an investment fund, collective investment institution or other legal person, receivables resulting from the possession of these shares (stocks), rights of a similar

nature to these shares (stocks), all rights and obligations or participation titles, all rights and obligations or participation titles,

- the value of real estate or movable property owned or jointly owned by the taxpayer or used by him under a leasing contract,
- the value of intangible assets,
- the value of receivables from the titles referred to in the above to related entities, or

- movable and immovable assets, used under a lease agreement and intangible assets constitute at least 50% of the value of its assets.

REGULATIONS ON THE PREVENTION OF THE SO-CALLED „SHADOW ECONOMY"

The amendment adopted by the Polish Parliament also provides for **solutions to prevent from the so-called shadow economy**. Since January 1, 2022 new CIT regulations will be introduced concerning the generation of taxpayers' revenues in the amount of the work value of an illegally employed person, determined for each month in which illegal employment was found, in the amount equivalent to the minimum remuneration for work. This revenue would arise on the day the illegal employment was discovered.

MODIFICATIONS ON CIT TAX RELIEFS AND EXEMPTIONS

CHANGE OF REGULATIONS ON DECISIONS ON SUPPORT (POLISH: "DOW")

As regards the regulation of the decision on support (within the Polish Investment Zone), introduced changes concern, inter alia:

- introducing a regulation according to which only the income obtained from the implementation of a new investment specified in the DOW and in the area specified in the DOW would be exempted,
- changes to the specific anti abusive clause by adding to the catalog of legal activities, whose sole purpose is to avoid taxation, activities other than concluding a contract, the effect of which is the artificial taking of actual activities performed primarily to recognize the income tax exemption.

The amendment also provides for a number of changes to the act on supporting new investments and the act on special economic zones.

RESEARCH AND DEVELOPMENT TAX RELIEF (R&D TAX RELIEF)

The amendment also introduces changes to the regulations concerning research and development tax relief (R&D). Adopted changes in this area relate, among others, to:

- the possibility for a taxpayer who is a payer of income tax advances and flat-rate income tax, deducted receivables from the income (revenue) of natural persons employed by the taxpayer on the basis of an employment contract or civil law contracts, due to eligible costs of research and development activities, which the taxpayer did not deduct because he suffered a loss or the amount of income was lower than the amount of his deductions,

- increasing the amount of the deduction and introducing the possibility for a taxpayer who is a payer of income tax advances and flat-rate income tax, deducted receivables (revenues) of natural persons employed by the taxpayer on the basis of an employment contract or civil law contracts, for eligible costs of activity research and development, which the taxpayer did not deduct because he suffered a loss or the amount of income was lower than the amount of his deductions,
- introducing the possibility of simultaneous use of the R&D and the IP Box tax relief for the same income.

RELIEF FOR ROBOTISATION

The robotization relief, in accordance with the assumptions of the amendment, is to function on the basis of a relief for research and development. A taxpayer conducting industrial (production) activity will be entitled to deduct from the tax base costs that have already been classified as tax deductible costs. The additional deduction cannot exceed 50% of the costs.

The following are considered to be tax deductible costs incurred for robotization:

- purchase costs of brand new: industrial robots, machines and peripheral devices for industrial robots functionally related to them, machines, devices and other things functionally related to industrial robots, used to ensure ergonomics and work safety in relation to workplaces where human interaction takes place with an industrial robot, in particular sensors, controllers, relays, security locks, physical barriers (fences, guards), or optoelectronic protective devices (light curtains, area scanners), machines, devices or systems for remote management, diagnosis, monitoring, or servicing industrial robots, in particular sensors and cameras, devices for human-machine interaction for industrial robots;
- costs of purchasing intangible assets necessary for the proper commissioning and acceptance for use of industrial robots and other fixed assets referred to above;
- capital charges, set out in the financial lease agreement, for industrial works and other fixed assets, if, after the end of the basic period of the leasing agreement, the financing party transfers the ownership of these fixed assets to the user.

Only the taxpayer who obtains revenues other than revenues from capital gains will be entitled to the additional deduction of the tax deductible costs referred to above. The amount of the deduction may not exceed the amount of income earned by the taxpayer in the tax year from revenues other than revenues from capital gains.

The additional deduction of tax-deductible costs is to apply to tax-deductible costs incurred for robotization from the beginning of the fiscal year, which will start in 2022, until the end of the fiscal year, which will start in 2026.

CONSOLIDATION RELIEF

As it results from the justification for the amendment, the regulations regarding the consolidation relief are intended to create a tax incentive for taxpayers wishing to expand economically on domestic and foreign markets by acquiring shares in capital companies operating on these markets.

According to the wording of adopted regulations, the taxpayer who incurs the so-called "eligible expenses" for the acquisition of shares or stocks in a foreign capital company (sp. z o.o.[limited liability company] or S.A. [joint stock company]), is to be entitled to reduce its tax base by these expenses in the year they are actually incurred.

The maximum amount of such a reduction in a tax year will not exceed the amount corresponding to PLN 250,000.

The following will be considered "eligible" expenses:

- expenses for legal services related to the purchase of shares or stocks, including their valuation (due diligence),
- taxes charged directly on this transaction,
- notary, court and tax fees.

Such expenses will not include the price paid by the taxpayer for the acquired shares (stocks) and the costs of debt financing related to such acquisition.

The taxpayer will be entitled to the deduction under the following conditions:

1) a company whose shares (stocks) would be acquired by the taxpayer would be a legal person having its registered office or management board in a country with which the Republic of Poland has a binding double taxation avoidance agreement containing the legal basis for the Polish tax authority to obtain tax information from the tax authority of that other country,
2) the main subject of activity of such a capital company would be identical to the subject of activity of the taxpayer purchasing its shares (stocks) or the activity of such company could be rationally considered to be an activity supporting the activity of the taxpayer (the activity of such a company would not be a financial activity).

RELIEF FOR TRIAL PRODUCTION OF A NEW PRODUCT OR LAUNCHING IT ON THE MARKET

The amendment also introduces the possibility of deducting from the tax base an amount constituting 30% of the costs of trial production of a new product and introducing such a product to the market, the value of the deduction in a tax year may not exceed 10% of income obtained from non- agricultural economic activity.

In accordance with the adopted regulations, the trial production of a new product will be understood as the stage of technological start-up of production that does not require further design and construction or engineering works, the purpose of which is to perform trials and tests before launching the production process of a new product, resulting from research and development works carried out by the taxpayer. The technological start-up stage covers the period from incurring the first cost associated with this stage to the moment of starting the production of a new product. On the other hand, launching a new product on the market is to be understood through activities that are undertaken in order to prepare documentation aimed at obtaining certificates and permits for the product resulting from research and development by the taxpayer, enabling the product to be sold.

The new regulations are also to introduce a catalog of costs of test production of a new product, which will include:

- purchase price or production cost of brand new fixed assets necessary to start trial production of a new product,
- expenses for improvement, incurred to adapt the fixed asset to launch trial production of a new product,
- costs of materials and raw materials purchased solely for the purpose of trial production of a new product.

On the other hand, the costs of introducing a new product to the market are:

- tests, expert opinions, preparation of documentation necessary to obtain a certificate, approval, CE mark, safety mark, obtaining or maintaining a marketing authorization or other obligatory documents or markings related to the admission to trading or use, and the costs of fees charged in order to obtain, renew or extend them;
- product life cycle studies;
- Environmental Technologies Verification (ETV) system.

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