Tax Agenda Poland

October 2022

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L.p.	Fact	Action
1	**Shifted profit tax from 1 January 2022** 19% tax on so called 'shifted profits' has been imposed on certain types of direct or indirect payments to related entities, generally if such payment is effectively taxed at 14.25% or lower and other conditions are met. Proposal processed by the parliament may also impact several aspects of the shifted profit tax. See more	Analyze tax treatment of payments by the recipients, determine if new taxation impacts any of the group entities and measure the extent of such an impact. Investigate whether any exceptions provided by the law may apply. Monitor developments under the proposed act amending shifted profit tax.
2	**R&D super-deduction and other incentives enhanced from 2022** The tax incentive package has been enhanced, including deduction of up to additional 200% of certain research and development (R&D) expenses, Intellectual Property Box (IP Box) system (it is possible to use R&D deduction and IP Box for the same activity) and new deductions have been introduced e.g., for robotization, prototypes, innovative employees, business expansion, consolidation or initial public offering (IPO). See more	Check if all new incentives were identified and applied (in some cases possibly also with respect to previous periods, up to five years back). Evaluate impact of new regulations.
3	**Withholding Tax pay and refund regime from 1 January 2022** New pay-and-refund Withholding Tax (WHT) regime for payments to one related party recipient exceeding in total ca. EUR 450k p.a. applies from 1 January 2022, except for payments for services. However, beneficial owner requirements in practice apply to all subject-to-WHT payments. Further changes to the WHT regime have been proposed in a draft amending act. See more	Prepare for subject to WHT payments (dividend distributions, interest or royalty payments) in advance to secure time required to obtain formal WHT clearance (exemption or lower rates). Confirm whether beneficial owner analysis has been done and consider personal liability of management board members.

Oct Nov Dec Jan

Use text boxes above the timeline to plan your actions for coming months

Compliance *Risk management* *Cash-flow / ETR impact*

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4	**ATAD II anti-hybrid restrictions limit deductibility of costs** Polish implementation of anti-hybrid measures may, in certain situations, lead to different conclusions than under the Anti-Tax Avoidance Directive II. Limitations may affect financing costs and other deductions (e.g., costs of goods or services purchased by Polish subsidiaries). See more	If not done yet, determine if the new rules limit deductions in Poland. Analyze the tax treatment of payments and status of entities at the group level with particular focus on the imported mismatches rules. Check if ATAD II impact was taken into account in CIT settlement and consider confirming the position in a tax ruling.
5	**Minimum tax likely to be postponed until 1 January 2024** Minimum taxation applies to taxpayers in a tax loss position or with a tax profitability ratio below 1% (proposed increase to 2%). The proposal provides for the tax to be computed as 0.15% of operating revenue and 10% of other qualified items or under an alternative method as 3% only of operating revenue. Certain exceptions and deductions may apply, and further changes should be expected according to a proposal processed by the parliament. See more	Review your group entities to assess if your group can be affected. Monitor developments in the area of minimum tax under the proposed amending act.
6	**Major reform in taxation of personal income and social security contributions** The reform in Personal Income Tax (PIT) and social security system in Poland can increase the overall payroll cost and affect individuals' net income. The changes, which apply from 1 January 2022, may affect employees, employers, entrepreneurs and board members contracted under almost all forms of cooperation. Further amendments to the new regime are expected during 2022.	Analyze the impact on your payroll budget and situation of each group of individuals employed or cooperating based on business-to business agreements with your group in Poland. Assess impact on competitiveness of remuneration models.
7	**Recover non-deductible costs of intangible services** Taxpayers who limited their tax deductible costs due to the provisions of Article 15e of the CIT Act in particular cases may retain the right to deduct them in the next 5 tax years according to the applicable limits - even after this provision has been abolished.	Review if in the previous years any of your group entities excluded costs from their tax basis due to limitations imposed on certain intangible services costs (article 15e of the Polish CIT Act). If yes, determine if deduction can still be taken on these costs.
8	**New obligations for real estate rich entities** *'Real estate company'* – new obligations and restrictions, including: share deal tax remitter obligation, reporting on shareholding (filing also by shareholders), no or limited tax depreciation of some real estate assets. See more	If not done yet, determine if all reporting obligations due by the end of September have been fulfilled. Analyze whether under the new definition any of the group companies can be considered a Polish 'real estate company'. Fulfill new obligations and assess impact on ongoing taxation, reporting obligations and reorganizations. Confirm that reporting obligations due by the end of September were fulfilled by all group entities subject to the new rules.
9	**Draft proposal of changes in the CIT Act** Besides changes mentioned in specific points in this summary, the amendments are expected to impact e.g.: ▸ Limitations on debt financing costs ▸ Polish holding company regime ▸ Controlled Foreign Company rules ▸ Lump-sum taxation regime	Analyze potential impact on the organization.

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10	**Wide scope of year-end transfer pricing obligations** Taxpayers undertaking intra-group transactions are obliged to comply with relevant transfer pricing requirements. The preparation of the documentation and confirmation of arm's length character of the transactions must be declared by company management. Non-compliance or presenting false information may be subject to tax penalties and personal fiscal penalties.	Verify transfer pricing obligations concerning controlled transactions and ensure that the analysis takes into account the newest provisions introduced. Check validity of economic studies supporting TP method used for testing purposes (also with regard to the potential effect of the COVID-19 pandemic).
11	**Beneficial owner of payments impacts transfer pricing obligations** Polish transfer pricing documentation obligations cover also transactions with beneficial owners located in tax havens, regardless of the relationship between the counterparties of the transaction. It is assumed that beneficial owner is located in a tax haven if the direct counterparty of the transaction makes settlements with tax haven entities. Further amendments to these rules are expected based on recent proposal.	Check transaction counterparties for entities with beneficial owners located in countries applying harmful tax competition. Implement proper procedures, since the definition of the beneficial owner may have broad interpretation and the provisions require taxpayers to establish, with due diligence, existence of transactions where the beneficial owner is from a country applying harmful tax competition.
12	**Electronic invoices** New law enabling taxpayers to issue invoices in a structured form and implementing the National System of e-Invoices (KSeF) entered into force on 1 January 2022. It is planned that from 2024, the KSeF will be obligatory for all national invoices and will fully replace other forms of invoicing. Company's systems and processes may require significant amendments to comply with the new requirements.	Plan necessary actions to confirm that the organization will be ready for electronic invoices in Poland. Identify all areas, where changes will be needed (e.g. finance, IT, logistics, procurement) and act in advance to avoid critical disruptions in the future.
13	**New tax requirements for business reorganizations from 2022** Important amendments of rules regarding various reorganizations, such as mergers, demergers or share for share swaps. In particular, neutrality may be affected. Effective as of 1 January 2022.	Ensure that all plans regarding reorganizations as well as ongoing restructurings in your group are validated to take into account the changes from 1 January 2022.
14	**Other changes under 'Polish deal' reform package** Other key changes under the „Polish deal" legislation from 2022: ▸ Changes to CIT tax grouping regime and possibility of VAT grouping ▸ Extension of the Polish CFC regime expected to capture broader range of entities ▸ New Polish holding company regime with exemptions ▸ Investment agreement („ruling 590") as a single agreement with the tax authorities for large investors	Analyze potential impact on the organization.
15	**Wide range of Polish MDR reporting** Polish MDR regime provides for broader obligations than DAC6 and also requires non-Polish entities (including non-EU residents) to file reports in Poland. With partial deferral of MDR deadlines due to COVID-19 a backlog of transactions could be subject to reporting in a short period of time.	Confirm with the Polish subsidiary that procedures have been implemented and persons responsible for MDR have been appointed. Check also if non-Polish entities must report in Poland. Carry out MDR review where needed. Apply self-disclosure procedure in case of late reporting.

Contact: taxagenda@pl.ey.com

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