

# Tax Agenda Poland

September 2024



No.	Fact	Action
1	<p><b>Poland published Pillar 2 draft legislation, with option to apply retroactively from 1 January 2024</b></p> <p>On 25 April 2024, draft legislation was published and slightly amended in July and August. The draft provisions provide for Qualified Domestic Minimum Top-Up Tax (QDMTT) in addition to the Income Inclusion Rule (IIR) and the Under taxed Profit Rule (UTPR). According to the draft law, the relevant Act would be in force from 1 January 2025, with optional application of QDMTT Safe Harbor and IIR already as of 1 January 2024. <a href="#">See more.</a></p>	<p>Assess if safe harbors may apply in Poland (make necessary calculations) and determine potential impact of Global Minimum Tax top up taxation in Poland (impact assessment and effective tax rate calculation in line with local rules).</p> <p>Determine impact on the claimed and future tax incentives and decide what actions are needed to secure their efficiency to the extent possible. Make sure that appropriate resources are allocated, and responsible teams adequately trained. Confirm the details and impact of the local implementation in Poland.</p>
2	<p><b>Withholding tax pay-and-refund regime</b></p> <p>The pay-and-refund Withholding Tax (WHT) regime for payments to a related party exceeding in total ca. EUR 430k p.a. requires additional procedural measures to apply lower than standard WHT rates. However, beneficial owner requirements and obligation to apply and evidence due diligence may apply in practice to subject-to-WHT payments regardless of the amounts. <a href="#">See more.</a></p>	<p>Prepare in advance for subject to WHT payments (dividend distributions, interest or royalty payments) to secure time required to obtain formal WHT clearance (exemption or lower rates) or prepare for a pay-and-refund procedure.</p> <p>Confirm whether beneficial owner analysis has been done and consider personal liability of management board members.</p>



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

- Compliance
- Risk management
- Cash-flow and ETR impact

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3	<p><b>Enhanced R&amp;D deduction and other incentives</b></p> <p>The tax incentive package has been enhanced including deduction of up to additional 200% of certain research and development (R&amp;D) expenses, Intellectual Property Box (IP Box) system (it is possible to use R&amp;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). <a href="#">See more.</a></p>	<p>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.</p>	●
4	<p><b>CIT SAF-T in Poland</b></p> <p>According to the announcement of the Ministry of Finance, large taxpayers (whose revenue for the previous financial year exceeded the equivalent of EUR 50m) and tax capital groups will be required to submit JPK_CIT files for tax years beginning after 31 December 2024. Thus, from 2026, large CIT taxpayers will be obliged to submit detailed information from their tax books in the new JPK_KR_PD format. This is a revolution in CIT reporting for companies operating in Poland.</p>	<p>Analyze the processes and data used in the current CIT calculation and compare them with the new reporting requirements presented in the JPK_CIT scheme. Identify all areas where changes will be needed (e.g., finance, IT, taxes, processes) and act in advance to avoid critical disruptions in the future.</p> <p>It is important to identify gaps in the system and introduce necessary modifications in advance, which should allow for recording all data necessary under the JPK_CIT from the first day of the 2025 tax year.</p>	● ●
5	<p><b>Domestic minimum tax (not related to Pillar II) in force as of 2024</b></p> <p>2024 is the first year covered by the domestic minimum tax. This additional tax applies to entities in a tax loss position or with a tax profitability ratio below 2% and the tax base may include both revenues and specific categories of costs.</p> <p>The tax is to be computed as 0.15% of operating revenue and 10% of other qualified items or under an alternative method as 0.3% only of operating revenue. Certain exceptions and deductions may apply.</p>	<p>Confirm whether the new domestic minimum tax applies to your group's companies for 2024. Verification should reflect special rules provided in the regulations, including specific exclusions and exemptions.</p>	● ● ●
6	<p><b>Shifted profit tax on cross-border payments - documentation requirements</b></p> <p>A tax of 19% percent 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. Polish entities are obliged to hold evidence showing if at least one of the conditions for tax to apply has not been met (burden of proof is on a taxpayer).</p>	<p>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. Make sure that the Polish entity possesses evidence showing that at least one of the conditions for the tax to apply has not been met.</p>	● ● ●
7	<p><b>ATAD II anti-hybrid restrictions limit deductibility of costs</b></p> <p>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). <a href="#">See more.</a></p>	<p>Determine if anti-hybrid 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. Consider confirming the position in a tax ruling.</p>	● ● ●

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8	<p><b>Obligatory e-Invoices in Poland from 2026</b></p> <p>Entities issuing invoices in line with Polish provisions must prepare for the mandatory introduction of e-invoices and the National E-Invoicing System (KSeF), which will take effect in either February or April 2026, depending on the size of the company. The requirement to use e-invoices will apply to both Polish companies and foreign companies with a fixed establishment in Poland.</p>	<p>Getting ready for e-invoices takes more than just the implementation of an IT tool. A comprehensive approach covering multiple areas is required to ensure that the data transmitted to the Ministry of Finance's system is complete and accurate. 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. For foreign entities, it is essential to assess whether a fixed establishment has been created in Poland, especially considering the evolving approach of the Polish tax authorities regarding what constitutes a fixed establishment.</p>	● ●
9	<p><b>Recover non-deductible costs of intangible services</b></p> <p>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.</p>	<p>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.</p>	●
10	<p><b>Specific obligations for real estate rich entities</b></p> <p>"Real estate company" – specific 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. <a href="#">See more.</a></p>	<p>Analyze whether under the extended 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, transactions and reorganizations.</p>	● ● ●
11	<p><b>VAT grouping available in Poland - benefits for related entities</b></p> <p>The solution introduced in the VAT Act in 2023 allows to shift obligations to act as a VAT taxpayer to one of the entities in the group, not only on its own behalf but also on behalf of other entities in the group - acting as the new taxpayer, the VAT group. Beside other benefits, the transactions between VAT group members are free from VAT and group cash flow can be improved when at least one entity in the VAT group is in a refund position and at least one other entity in the VAT group is in a paying position. Simplified VAT settlements also allow for particular operational efficiencies and reduction of risks.</p>	<p>Investigate potential outcome of applying VAT grouping in Poland. Verify your group entities' VAT position, identify current inefficiencies and assess whether VAT grouping can address (some of) them. For the purpose of your analysis also take into account operational savings resulting from simplifications offered under the VAT grouping.</p>	● ● ●
12	<p><b>Digital agenda concerning excise goods</b></p> <p>Excise duty in Poland is lately subject to significant changes in terms of digitalization, including in particular introduction of digital registration, filing excise returns in electronic form, electronic tracing of movements of certain goods (using e-AD, e-DD and a-SAD notifications). The excise records can be kept in electronic form, and the authorities are also working on a Central Excise Goods Register, which will result in additional severe obligations for excise taxable persons.</p>	<p>If you are an excise taxable person or purchase and use excise goods with preferential excise treatment, verify whether all of the recently introduced digital excise obligations are handled properly. Moreover, as preparing for Central Excise Goods Register will require a significant amount of work, starting initial considerations in this respect might be necessary.</p>	● ●

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13	<p><b>Upcoming transfer pricing (TP) reporting deadlines for 2023</b></p> <p>In the last quarter of 2024, the following deadlines for fulfilling TP reporting obligations expire: 31 October 2024 - preparation of local TP documentation, 2 December 2024 - submission of the TPR-C form, 31 December 2024 - preparation of group TP documentation.</p> <p>The TPR-C form contains a statement on the preparation of transfer pricing documentation in accordance with the actual state as well as on the arm's length nature of the intercompany transactions. The declaration must be signed and submitted by an appointed member of the management board - TPR-C cannot be signed and submitted by an attorney, except for an attorney who is an advocate, legal advisor, tax advisor or statutory auditor.</p>	<p>Verify your transfer pricing reporting obligations for 2023. Include personal responsibility of board members.</p> 
14	<p><b>Cooperative Compliance Program</b></p> <p>A new form of in-depth cooperation between the largest taxpayers and the tax administration, based on models from other countries and in line with the global ESG (environmental, social and governance) trend. The program assumes specific benefits (such as reducing tax and personal risks or facilitations and simplifications in tax settlements) in exchange for increased transparency and organization of the tax function within the company.</p>	<p>Conduct an in-depth analysis of the potential related to participation in the Program (e.g., tax certainty, fast path in concluding tax agreements) for a specific entity.</p> 
15	<p><b>Increased tax risk associated with contractor's arrangements (B2B )</b></p> <p>B2B contracts with contractors may involve increased tax risk - tax authorities are intensifying audits, especially in light of the General Anti-Avoidance Rule (GAAR) and are increasingly refusing to issue individual interpretations and protective opinions in the context of B2B contracts with such individuals, including IT experts and management staff. These actions indicate a thorough analysis of contracts and their implementation or execution in light of potential tax benefits and potential artificiality of cooperation based on B2B contracts (hidden employment relationship). Challenging B2B contracts can have adverse effects on tax matters, including personal income tax (PIT), corporate income tax (CIT), value-added tax (VAT), and social security contributions (ZUS).</p>	<p>Analyze current B2B relationships and identify any need to make changes to the structure of such relationships. Develop approaches and rules for collecting and documenting evidence in case of an audit.</p> <p>Conduct a careful audit of B2B relationships, especially if you are an entity that collaborates or has collaborated with contractors in Poland (particularly if B2B contracts were implemented before 2019) or if you plan to implement B2B contracts or replace the existing cooperation model with B2B contracts.</p> <p>Prepare and introduce a policy - Flexible and diversified models of cooperation with employees and contractors to document the business substance for various models.</p> 
16	<p><b>Changes in the way of settling tax liabilities of foreign employees and assignees</b></p> <p>Polish tax offices have begun to question the taxpayer-friendly approach that allowed employers/companies as "agents/intermediaries" to settle tax liabilities for foreign employees. The practice of employers paying liabilities was previously widely accepted and used by entities employing mobile workers. Now, offices are starting to require strict adherence to regulations, which indicate that taxpayers (employees) should make tax payments themselves. These changes affect both monthly advances on personal income tax and annual settlements. Rejection of payments made from a company account results in an unsettled obligation and interest for delay. In extreme cases, this can lead to enforcement from the employee's account and criminal tax sanctions.</p>	<p>Design a new procedure for making tax payments that will consider and help reduce the risk of employees not settling liabilities.</p> <p>If possible, modify the way of paying tax liabilities so that taxpayers (employees) personally make payments directly to the tax offices.</p> <p>Ensure proper communication to employees about the changes introduced and support in their implementation.</p> 

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17	<p><b>The border price adjustment mechanism (CBAM) is now in effect!</b></p> <p>As of October 2023, new regulations related to the Carbon Border Adjustment Mechanism (CBAM) are in effect - the system imposes additional fees and administrative burdens on imports into the EU of products in the iron and steel, aluminum, cement, fertilizer, hydrogen and electricity sectors.</p> <p>For the period from 1 October 2023 to 31 December 2025, there are transitional provisions of reporting obligations - entities importing products covered by CBAM are required to submit quarterly reports on imported products and embedded emissions. As of the period from 1 July 2024, businesses must report actual data on the emissivity of imported goods.</p>	<p>In connection with this:</p> <ul style="list-style-type: none"> <li>▶ Check if your goods are covered by the CBAM.</li> <li>▶ Remember about quarterly reporting obligation.</li> <li>▶ Engage with suppliers to get real-world values.</li> </ul> <p>Failure to do so could result in potential financial penalties (for each tonne of emissions not reported) and even a ban on imports of goods covered by the CBAM from 2026.</p>
18	<p><b>VAT on international transactions under an increasingly intense watch of tax authorities</b></p> <p>We observe increasingly frequent audits of taxpayers applying the 0% tax rate to cross-border transactions with respect to having the appropriate documentation justifying its application. The documentation collected by taxpayers is questioned due to errors in documents or the inappropriate type of document.</p> <p>It can be particularly difficult to ensure proper control when some tax obligations are fulfilled by another entity on behalf of the taxpayer.</p>	<p>Proper securing of a 0% rate should include:</p> <ul style="list-style-type: none"> <li>▶ Documentation analysis - review the gathered documentation justifying the application of a 0% rate in intra-community supply and export in order to estimate the risk of it being questioned by the tax Office.</li> <li>▶ Process analysis - review the processes of collecting documentation and identify areas that require changes.</li> <li>▶ Application for an individual interpretation from the Director of National Fiscal Information.</li> </ul>

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