

Poland defers key impact of withholding tax reform

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On 28 June 2019, Poland's Ministry of Finance Decree (the decree), deferring the application of the key amendment to the new withholding tax (WHT) regime, entered into force.

Under the decree, the obligation to collect WHT at the statutory rates of 19% or 20%, regardless of relief at source available under a tax treaty or domestic exemption based on the European Union (EU) directives, is further deferred until the end of December 2019.

As a brief reminder, the key changes under the WHT reform introduced as of 1 January 2019 include:

- ▶ The obligation to collect WHT at the statutory rates of 19% or 20%, regardless of relief available under a tax treaty or domestic exemption based on the EU directives (pay and refund system). This obligation was originally deferred until end of June 2019,¹ and the decree of 28 June 2019 further defers the obligation to 31 December 2019.
- ▶ A new, more rigid definition of the beneficial owner.
- ▶ The Polish tax remitters' explicit obligation to exercise due diligence to determine if the payment recipient is eligible to benefit from relief at source.

It is important to note that other stringent elements of the reform are not subject to deferral and have already applied as of 1 January 2019. That is, the Polish tax remitter is now obliged to exercise due diligence to determine if the payment recipient is eligible to benefit from relief at source. The new, more rigid definition of the beneficial owner is also already in force.

The additional time resulting from the postponement to collect WHT at the statutory rates of 19% and 20% is a good opportunity for taxpayers and tax remitters, making cross-border payments, to analyze the impact of the new WHT regime and to secure their tax positions.

Endnote

1. See EY Global Tax Alert, [Poland's decree deferring certain provisions of new withholding tax reform enters into force](#), dated 16 January 2019.

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