

July 2021

## New rules for collecting WHT postponed again until 31 December 2021

**On 28 June 2021, the latest decrees of the Minister of Finance were published in the Polish Journal of Laws. The decrees are to amend:**

- 1) the decree on excluding or limiting the application of Article 26(2e) of the Corporate Income Tax Act and**
- 2) the decree on excluding or limiting the application of Article 41(12) of the Personal Income Tax Act.**

**The new decrees provide for further postponement of entry into force of the new WHT collection mechanism in CIT, which was initially scheduled for 1 January 2019, until 31 December 2021.**

With regard to PIT, although the regulations on the new withholding tax collection mechanism remained in effect for half a year in 2019, the decrees also provide for their further suspension until 31 December 2021.

The decrees came into force on 30 June 2021.

### **The purpose behind the decrees**

Essentially, the decrees refer to the new obligations imposed on withholding tax remitters by the Act of 23 October 2018 amending the Personal Income Tax Act and the Corporate Income Tax Act (Journal of Laws, item 2193), according to which, a Polish taxable person paying interest, dividends,

license fees or remuneration for certain intangible services to foreign taxpayers will be required to collect WHT (at the standard rate of 20 percent or 19 percent) and only once it is collected, foreign taxpayers or the remitters themselves (if they bore the economic burden of tax) may apply for a refund of the collected WHT (under the pay and refund mechanism).

### **Regulations remaining in force**

Note that the postponement applies only to the mechanism of collection of withholding tax.

In turn, the regulations obliging tax remitters to exercise due diligence when verifying the conditions of applying WHT exemption or lower WHT rate, and to qualify the recipients as their beneficial owners in line with a new broader definition of the term (including the obligation to verify whether they conduct actual business activity), continue to remain in force.

### **Further developments**

According to the explanatory notes to the decrees, the reason for another postponement is the prolonged state of the COVID-19 pandemic. Given the situation, it is justified to limit the remitters' obligations related to the collection of WHT.

In addition, the Ministry of Finance reminded that although it is currently working on amending the material provisions, it wishes to spare the taxpayers and remitters the effort of adjusting to the new requirements during the pandemic. According to the information coming from the Ministry, legislative work on the draft amendments to the WHT regulations is almost finished. The Ministry expects that a suite of comprehensive WHT amendments is to be passed by the end of 2021.

The details thereof, however, remain unknown.

### **Contact us**

If you would like to learn more about the issue discussed, please do not hesitate to contact us.

## KPMG offices

### **Warsaw**

ul. Inflancka 4a  
00-189 Warsaw  
**Tel. :** +48 22 528 11 00  
**Fax:** +48 22 528 10 09  
kpmg@kpmg.pl

### **Gdańsk**

al. Zwycięstwa 13a  
80-219 Gdańsk  
**Tel. :** +48 58 772 95 00  
**Fax:** +48 58 772 95 01  
gdansk@kpmg.pl

### **Kraków**

ul. Opolska 114  
31-323 Kraków  
**Tel. :** +48 12 424 94 00  
**Fax:** +48 12 424 94 01  
krakow@kpmg.pl

### **Katowice**

ul. Francuska 36  
40-028 Katowice  
**Tel. :** +48 32 778 88 00  
**Fax:** +48 32 778 88 10  
katowice@kpmg.pl

### **Poznań**

ul. Roosevelta 22  
60-829 Poznań  
**Tel. :** +48 61 845 46 00  
**Fax:** +48 61 845 46 01  
poznan@kpmg.pl

### **Łódź**

ul. Składowa 35  
90-127 Łódź  
**Tel. :** +48 42 232 77 00  
**Fax:** +48 42 232 77 01  
lodz@kpmg.pl

### **Wrocław**

ul. Szczytnicka 11  
50-382 Wrocław  
**Tel. :** +48 71 370 49 00  
**Fax:** +48 71 370 49 01  
wroclaw@kpmg.pl



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

© 2021 KPMG Tax M. Michna sp. k., a Polish limited partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.