

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.

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