



# Tax Alert |

## Tax consequences of revoking the state of epidemic in Poland

KPMG in Poland

May 2022

During a press conference held on 6 May 2022, the Minister of Health announced the change from the state of epidemic to the state of epidemic threat, effective as of 16 May 2022. Poland has been under the state of epidemic from 20 March 2020. Polish tax law has been amended in many ways to include reliefs/preferences to alleviate the impact thereof. Some of the reliefs and preferences were brought for a specific period, until the state of epidemic is revoked, others, however, are to remain in force as long as the state of epidemic threat persists. To ensure tax compliance, particular attention must be paid to such a differentiation.

**Key information on how the lift of the state of epidemic is to impact tax and reporting compliance can be found below.**

### Tax on revenue from buildings

**The exemption from tax on revenue from buildings ceases to apply with the end of the month in which the state of epidemic is revoked.**

Under the Act of 28 November 2020 amending the Act on CIT and the Act on PIT (in force from 1 January 2021), an unconditional exemption from the tax on revenue from buildings has been extended from 1 January 2021, until the month, in which the state of epidemic is to be revoked - for the state of epidemic declared due to COVID-19 after 31 December 2020 (Article 38ha of the CIT Act and Article 52pa of the PIT Act).

**Because of the lift of the state of epidemic expected on 16 May 2022, the exemption from tax on revenue from buildings is to remain available until the end of May. On 1 June 2022, the obligation to settle the tax on revenue from buildings will be restored.**

## IP BOX

Another change brought by the lift of the state of epidemic is the expiry of the right to apply a 5 percent PIT/CIT rate to income from eligible IP rights used to counteract the COVID-19 epidemic effects (at the stage of calculating advances). The right covers income earned, inter alia, in tax years commencing after 31 December 2019, however, not later than in the month in which the state of epidemic declared due to COVID-19 is revoked (Article 52u of the PIT Act and Article 38m of the CIT Act). **The lift of the state of epidemic means that May will be the last month in which the reduced CIT rate can be applied, while PIT payers will still be able to use the material preferences until the end of 2022.**

## R&D relief

Switching to the state of epidemic threat also means the expiry of the right to include eligible R&D costs incurred to develop products for counteracting the COVID-19 epidemic in PIT/CIT advances, for expenditure incurred from 2020 until the end of the tax year in which the state of epidemic declared due to COVID-19 is revoked (Article 52t of the PIT Act and 30l of the CIT Act). CIT payers may also deduct the expenses referred to above from the income being the basis for calculating the advance payment referred to in Article 25(1) or (1b) of the CIT Act, during the tax year that began after 31 December 2019, but not later than in the month in which the state of epidemic declared due to COVID-19 is revoked; thus, the last deduction - in respect of advance payments - will be possible in **May 2022**.

## Caps on PIT exemptions

Increased caps on selected PIT exemptions on benefits paid to employees (Articles 52l and 52t of the PIT Act) will continue to apply **until the end of a tax year in which the state of epidemic declared due to COVID-19 is revoked** (Articles 52l and 52t of the PIT Act). This includes:

- special assistance benefits other than those listed in Article 21(1)(26) of the PIT Act, paid from the funds of an enterprise and inter-enterprise branch of a trade union to its members - up to PLN 3,000;
- hardship benefits granted due to unforeseen circumstances, natural disasters, prolonged illness, or death, financed from current assets - up to PLN 10,000;
- value of in-kind benefits received by an employee in connection with the financing of social activities referred to in the provisions on the Company's Social Benefits Fund and cash benefits received in this respect, financed entirely from the funds of the Company's Social Benefits Fund or trade union funds - up to PLN 2,000;

- subsidization of leisure activities organized by entities conducting business activity in this regard, including holiday, summer camps and winter camps, as well as activities combining leisure with learning, treatment in health resorts, rehabilitation and training facilities or treatment and care facilities, and travel related to such leisure and treatment stay - for children and adolescents under 18, financed from sources other than the Company's Social Benefits Fund - up to PLN 3,000;
- downtime benefits granted due to the COVID-19 epidemic are tax-exempt.

Due to revoking the state of epidemic in May 2022, using the increased caps on PIT exemptions will be possible only **until the end of 2022**.

### > MDR deadlines

For domestic arrangements, the MDR deadlines shall not run, and if that period has already started, it shall be suspended, from 31 March 2020 until the 30th day following the lift of the state of epidemic or the state of epidemic threat introduced in connection with the COVID-19 epidemic (Article 37y of the Act of 2 March 2020 on special measures related to preventing, counteracting and combating COVID-19, other infectious diseases and emergencies caused by them). **Given that the state of epidemic threat will continue to apply (despite the lift of the state of epidemic), the MDR deadlines will remain suspended.**

### > Certificate of tax residency

**During the state of epidemic or epidemic threat and two months after it is recalled**, remitters can continue to use certificates of residence issued for 2019, provided that they obtain a taxpayer's statement that the data contained therein has not changed. Moreover, when making payments, a remitter may rely on an indefinite validity certificate, provided that the period of 12 consecutive months from the date of its issue expires during the period of the state of epidemic or epidemic threat. Under the special provisions, it is also possible to use a copy of a residency certificate, provided that there are no doubts as to its validity (Article 31ya(19) of the Act of 2 March 2020 on special measures related to preventing, counteracting, and combating COVID-19, other infectious diseases and emergencies caused by them). **Given that the state of epidemic threat will continue to apply (despite the lift of the state of epidemic), special tax residency provisions will remain in force.**

### > Bad debt relief

Not later than until the end of the tax year in which the state of epidemic declared due to COVID-19 is revoked, under certain circumstances (such as suffering negative economic consequences of the COVID-19 pandemic/drop in revenue), it is possible to exclude the obligation to increase the taxable base in advance payments by the value of unpaid liabilities included in tax-deductible costs (bad debt relief) (Articles 52q and 52w of the PIT Act and Articles 38i and 38o of the CIT Act). Due to revoking the state of epidemic in May 2022, the exclusion will be available only **until the end of 2022**.

## > One-off depreciation write-off on fixed assets used in manufacturing goods helping to counteract the COVID-19 epidemic

Importantly, switching to the state of epidemic threat means the expiry of the right to make a one-off depreciation write-off on fixed assets used in manufacturing goods helping to counteract the COVID-19 epidemic. The right is to continue to apply until the end of the month of revoking the state of epidemic (Article 52s of the PIT Act and Article 38k of the CIT Act). Consequently, **due to revoking the state of epidemic on 16 May 2022**, the possibility to make a one-off write-off will be available only **until the end of May 2022**.

## > Deduction of donations intended for counteracting the effects of the COVID-19 pandemic

The change brings about the expiry of the right to deduct from income in PIT/CIT donations to counteract the effects of the COVID-19 pandemic made to selected institutions/NGOs from 1 January 2022 until the end of the month in which the state of epidemic declared due to COVID-19 is revoked, in the amount of 150 percent or 200 percent of the donation, depending on when it was made. The deduction can be applied by taxpayers making donations of laptops or tablets, provided that they were transferred from 1 January 2022 **until the end of the month in which the state of epidemic declared due to COVID-19 is revoked** (Articles 52n and 52x of the PIT Act and Articles 38g and 38p of the CIT Act).

## > Whitelist of VAT payers

During the state of epidemic and the state of epidemic threat declared due to COVID-19, the deadline to notify about making a payment to an account outside the so-called Whitelist of taxpayers was extended from 7 to 14 days from making the transfer (Article 15zzn of the Anti-Crisis Shield 1.0). **Given that the state of epidemic threat will continue to apply (despite the lift of the state of epidemic), the deadline to notify about making a payment to an account outside the Whitelist will remain extended to 14 days.**

## > Extended deadlines for being granted an individual ruling

In the case of applications for individual rulings submitted and not examined by 31 March 2020 or submitted in the period from 31 March 2020 **until the date of revoking the state of epidemic threat and state of the epidemic declared due to COVID-19**, the deadline for issuing an individual ruling has been subject to statutory extension by 3 months (Article 31g of the Anti-Crisis Shield 1.0). **Given that the state of epidemic threat will continue to apply (despite the lift of the state of epidemic), deadlines for issuing individual ruling will still be extended.**

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