

February 2021

Draft bill on advertising contributions

On 2 February 2021, a draft bill on additional proceeds of the National Health Fund, National Fund for the Protection of Heritage Monuments and on the creation of the Fund for Support of Culture and National Heritage in the Media Area, imposing on traditional and online advertisers a new levy, referred to as advertising contributions and intended to be a kind of counterpart of a digital tax, was published on the website of the Ministry of Finance.

The contributions will be due from traditional and online advertisers. As explained by the government, the proceeds from the contributions will be used to mitigate the long-term health, economic and social effects of the COVID-19 pandemic.

The review of the key measures provided for by the draft bill can be found below.

Traditional advertising contributions

Traditional advertising contributions will be payable by media service providers, broadcasters, cinema managing entities, outdoor advertising media providers along with publishers who earn revenue in the territory of the Republic of Poland from the following services:

- advertising through TV and radio, screening of ads in cinemas or placing ads on outdoor advertising media, the value of which exceeds PLN 1 million;

- publishing ads in press, the value of which exceeds PLN 15 million.

The obligation to pay the traditional advertising contribution will arise upon achieving the aforementioned amounts in a given calendar year and will apply to revenues exceeding the set caps.

The basis for calculating the traditional advertising contribution will be the total revenue earned in a given calendar year, where the revenue is defined as all types of proceeds from payments made for advertising services less VAT (excluding, inter alia, revenue covered by the online advertising contribution).

For TV, radio, cinema, and outdoor media advertising, except for advertising of qualified goods, the rates of traditional advertising contribution will be:

- 7.5 percent of the contribution assessment basis – in the part in which it does not exceed PLN 50 million;
- 10 percent of the excess of the contribution assessment basis over PLN 50 million – in the part in which it exceeds PLN 50 million.

In the case of qualified goods (the group of which is to include, inter alia, medicinal products, dietary supplements, medical devices and beverages containing substances used for their sweetening properties), the applicable rates will be as follows:

- 10 percent of the contribution assessment basis – in the part in which it does not exceed PLN 50 million;

- 15 percent of the excess of the contribution assessment basis over PLN 50 million – in the part in which it exceeds PLN 50 million.

If the revenue is earned from press advertising, the rates of the traditional advertising contributions will amount to:

- 2 percent (4 percent for qualified goods) of the contribution assessment basis – in the part in which it does not exceed PLN 30 million;
- 6 percent (12 percent for qualified goods) of the excess of the contribution assessment basis over PLN 30 million – in the part in which it exceeds PLN 30 million.

Online advertising contributions

Online advertising contributions will be due from entities rendering online advertising services in the Territory of the Republic of Poland, provided that the following conditions are met:

- the service provider's revenues or the consolidated revenues of the group of entities to which the service provider belongs, regardless of where they were earned, exceeded the equivalent of EUR 750 million in the given financial year;
- the service provider's revenues or the consolidated revenues of the group of entities to which the service provider belongs, earned from rendering online advertising services in the Territory of the Republic of Poland, exceeded the equivalent of EUR 5 million in the given financial year.

The online advertising contribution will amount to 5 percent of the contribution assessment basis.

The basis for assessment of online advertising contributions will be the product of the revenue earned from online advertising, regardless of where it was achieved, and the percentage of the number of recipients located in the Territory of the Republic of Poland in the total number of recipients of online advertising provided by the remitter or group entities to which the remitter belongs. Revenue shall mean all types of proceeds from payments made for online advertising services less VAT. Revenue will be deemed to have been earned when it becomes due.

According to the draft bill, online advertising means every digital service that allows the service user to direct the advertisement to the recipient, in particular by displaying or broadcasting it in the form of sound or audio-visual material on the recipient's device, as well as any other digital service relevant to directing the advertisement to the recipient.

Online advertising is deemed to take place in the Territory of the Republic of Poland, if at the time of receipt of the advertisement, in particular when it is displayed or broadcast in the form of audio or audio-visual material, the recipient remains in the Territory of the Republic of Poland. The assessment of whether the recipient of the advertisement is in the Territory of the Republic of Poland will be made by determining the place of use of the recipient's device applied to receive the advertisement.

Payments and proceeds

Traditional advertising contributions are to be payable twice a year: by July 25, an advance payment for the contribution for the first half of the year is to be made, and the annual contribution is to be paid by January 25 of the following year.

Online advertising contributions are to be payable for annual accounting periods, by February 25 of the year following the one for which the contribution is due.

Furthermore, the obliged entities will be required to submit declaration on timely contribution payments to the competent authority, i.e. the Head of the Second Tax Office for Śląsk in Bielsko-Biała.

It is estimated that in 2022 revenues from advertising contributions may amount to approximately PLN 800 million and are to contribute 50 percent of proceeds of the National Health Fund, 35 percent of proceeds of the Fund for Support of Culture and National Heritage in the Media Area, and 15 percent of proceeds of the National Fund for the Protection of Heritage Monuments.

At present, the draft bill has been put out to consultation, open to all interested entities. Comments and opinions on the draft bill can be submitted until 16 February 2021.

New regulations are expected to enter into force on 1 July 2021.

If you would like to learn more about the issues discussed, please do not hesitate to contact us at: mampytanie@kpmg.pl

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