

Regular contact
with an adviser?

DZP's legal and tax alerts.

INFORMATION ON THE IMPLEMENTED TAX STRATEGY - A NEW OBLIGATION FROM 01.01.2021.

Dear Sirs,

On January 1, 2021 a new amendment to the tax legislation, introducing a new obligation to prepare and publish **information on the implemented tax strategy**, came into force.

The first tax strategy for 2020 should **already** be published. Its preparation may involve difficulties due to a wide range of information to be disclosed and vaguely worded requirements, on the one hand, and due to the risk of disclosure of sensitive data, on the other. It is necessary to exercise caution **in the context of the management's responsibility in the event of disclosure of confidential information**.

OBLIGATED ENTITIES

The obligation will apply to:

- taxpayers whose revenue exceeded the equivalent of EUR 50 million in the tax year,
- tax capital groups.

KEY ASSUMPTIONS

The new regulations provide that the taxpayers will be required to prepare and publish information on the tax strategy being implemented, in particular:

- **processes and procedures for managing the performance of tax obligations** and ensuring their proper execution and voluntary forms of cooperation with the authorities of the National Revenue Administration (KAS),
- fulfillment of the tax obligations,
- number of information on the tax schemes (MDR) submitted to the Head of KAS,
- transactions with related entities, the value of which exceeds 5% of the balance sheet total of assets,
- **restructuring activities** planned or undertaken by the taxpayer,
- submitted applications for a general tax ruling, individual tax ruling, binding rate information (WIS) or binding excise duty information (WIA),
- tax settlements in countries applying harmful tax competition,

excluding information covered by trade, industrial, professional or manufacturing process secrets.

This obligation applies to all taxes.

Information on the implemented tax strategy for the tax year should be published on the taxpayer's website by the end of the twelfth month following the end of the tax year. In the future, information on the executed strategy for each year should be available on the website.

The taxpayer will also be required to provide the competent head of the tax office with information about the address of the website where the information was published.

CONSEQUENCES OF A FAILURE TO COMPLY WITH THE OBLIGATIONS

A taxpayer who fails to comply with the obligations may be **fined up to 250 thousand zlotys**.

THREATS

The new information obligation is made more difficult to comply with by the fact that it was formulated using terms that are vague or did not previously exist in tax law. The burden of properly determining the minimum information to be published has therefore been shifted to entrepreneurs. This will require prudence and precision so that the statutory obligation is duly fulfilled without exposing the enterprise to disclosure of, in particular, commercial or industrial secrets.

HOW CAN WE HELP?

The publication of the tax strategies may pose a **business and legal threat to the disclosure of company secrets**, therefore it will be important to involve people with not only tax but also legal experience.

The Domański Zakrzewski Palinka law firm team, consisting of both legal and tax experts, can support you in filling in the new obligation, in particular with respect to:

- defining the minimum information that must be published,
- defining the scope of legally protected business secrets,
- development of materials for publication,
- analysis of already existing procedures in terms of their completeness,
- support in the development of new procedures.

We encourage you to contact us.



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