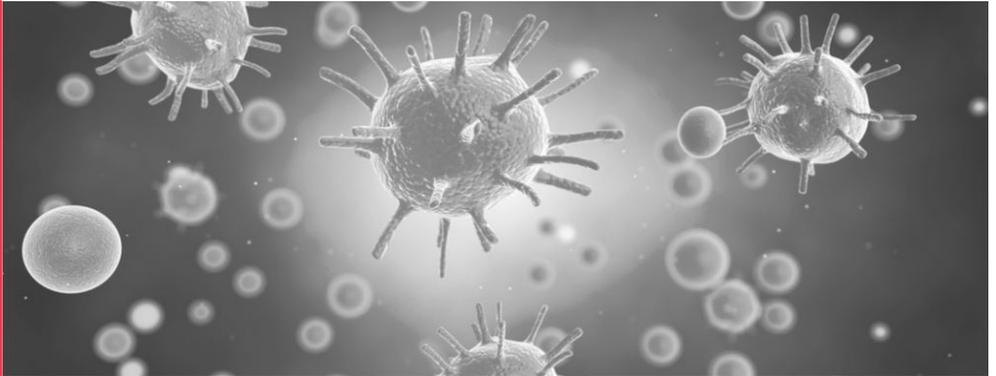


## CORONAVIRUS ALERT

24/7



# Business support 24/7 during coronavirus pandemic

## Tax law

The occurrence of the COVID-19 epidemic in Poland is causing serious difficulties for businesses. The introduction of an epidemic state of emergency has led to far-reaching limitations and restrictions for entities operating in numerous sectors, which in turn has resulted in stressed financial liquidity.

In this situation, many businesses may have problems paying their tax dues on time, including as remitters of personal income tax.

### So what can a business do if it does not have the funds to pay taxes?

#### Tax reliefs

The current provisions of the Tax Code allow taxpayers to apply to the tax administration authorities for relief from tax liabilities.

There are basically three options:

- 1) Deferment of tax payment date or payment of tax arrears with interest,
- 2) Payment of tax or tax arrears with interest in instalments,
- 3) All or some tax arrears and interest being written off.

What is important is that taxpayers must file an application for tax relief (application procedure) in which they have to indicate the tax/tax arrears that the application concerns and the form of relief in which they are interested.

Taxpayers must also demonstrate that grounds for relief have arisen in their individual case. Legislation provides for two grounds: "important taxpayer interest" and "public interest". In the current situation caused by the COVID-19 pandemic, it seems that taxpayers can invoke both grounds. For example, after analysing their position, taxpayers may rely on circumstances such as the financial (economic) situation relating to the coronavirus threat, restriction or closure of activities due to restrictions imposed, fall in demand, raw material supply disruptions, employee absenteeism, etc.

The grounds for the application have to be adapted to each taxpayer's individual situation (its analysis) and taxpayers should attach to the application documents confirming their financial or personnel situation.

It should also be remembered that, in the case of businesses, any tax relief granted may constitute state aid or *de minimis* aid, which will be checked by the tax administration authority examining the application. The authority may, e.g. ask the taxpayer to state whether it has received such aid in the past and in what amount. It is possible that, under the so-called support package prepared by the Ministry of Development, restrictions related to state aid will be reduced or lifted (though they still apply today).

Filing an application for tax relief does not mean that relief will be granted – in this respect the tax administration authority issues discretionary decisions (the tax authority may or may not grant the relief).

In the light of current regulations, taxpayers being granted relief in the form of deferment of the tax payment date or tax being spread in instalments involves the taxpayer having to incur a cost in the form of an extension fee on the amount of tax or tax arrears (equal to the reduced late payment interest rate). The Ministry of Development has announced that, as part of the support package, the extension fee will be abolished (though it still applies at present).

Tax reliefs may apply to all types of taxpayer liabilities (e.g. PIT, CIT, VAT) and to amounts due from tax remitters (e.g. PIT prepayments on salaries).

### **Deferral of tax return filing date**

Taxpayers generally have to file tax returns/recapitulative statements by the deadlines resulting from statutory regulations (for example, VAT-7 by the 25th day of the month for the previous month).

However, the current provisions of the Tax Code allow taxpayers to file an application with the tax authorities for the deadlines provided for in tax law to be deferred. This means that taxpayers may apply for the time limit for specific actions to be extended for a specified time (e.g. for deferral of the deadline for filing: tax returns, information on MDR tax schemes or JPK records). However, deferral may take place for periods that have not yet expired (periods that have already expired cannot be extended). Decisions to defer a deadline or refusing deferral are taken by the tax authorities.

In their applications, taxpayers must indicate the deadline (for which action) that is to be deferred and the deferral period.

Taxpayers must also demonstrate that one of the grounds for tax deadline deferral, i.e. an "important taxpayer interest" or "public interest", has occurred in their individual case. Taxpayers must therefore give reasons justifying the deferral. In the current situation caused by the COVID-19 pandemic, it seems that taxpayers may invoke both grounds (though it is sufficient to demonstrate that one of them is met). The grounds for the application have to be adapted to each taxpayer's individual situation (its analysis) and taxpayers should attach to the proposal documents confirming their financial or personnel situation.

### **Anti-crisis shield (support package) developed by the legislator**

The legislator is in the process of developing a package of changes to existing regulations called the anti-crisis shield or support package to protect companies and employees from the effects of the coronavirus epidemic. The information provided to date by the Ministry of Development shows that, as regards tax obligations, the anti-crisis shield would cover the following areas of support:

- possibility of postponing the payment deadline for public and legal dues (PIT, CIT, VAT, ZUS) without additional extension fees;
- extending the deadline for filing PIT returns to the end of May;
- settlement of the whole of this year's tax loss next year;
- industries particularly affected by the macroeconomic crisis (e.g. transport, tourism), where a company's revenues fall by 50% in 2020 compared to 2019, will gain the right to reduce their taxable income by the amount of the loss in 2020 through a CIT adjustment for 2019 up to a limit of PLN 5 million;
- postponing the entry into force of the new VAT JPK – from 1 July 2020;
- postponing the requirements to report data to the Central Register of Beneficial Owners.

We will keep you informed!

## **We are at your disposal**



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