

TAX Alert

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Minimum tax reinstatement

The minimum tax was introduced as part of the so-called Polish Deal in 2022, however, the Polish parliament suspended the minimum tax provisions for two years. Thus, taxpayers were exempt from paying tax from January 1st, 2022 to December 31st, 2023. Due to the expiry of the suspension period, on January 1st, 2024, the provisions on the minimum corporate income tax will go back into effect.

Who is affected by the minimum tax?

The minimum tax applies to companies – CIT taxpayers – which are taxed in Poland on their total income, and tax capital groups that have incurred a loss or achieved a low level of profitability. The obligation to pay the minimum income tax applies to CIT taxpayers who, in the tax year:

- incurred a loss from a source of income other than capital gains (operating loss), or
- achieved a share of income from an income source other than capital gains, in revenue other than capital gains, in the amount of no more than 2% (profitability ratio).

Entities not subject to minimum tax

According to the provisions of the CIT Act, the obligation to pay the minimum tax does not apply to:

- taxpayers starting their business activity (up to 3 tax years from its commencement)
- financial companies
- taxpayers who in a given tax year earned 30% lower revenues compared to the previous year

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- taxpayers whose shareholders or partners are only natural persons and if the taxpayer does not hold, directly or indirectly, more than 5% of:
 - shares in the capital of another company, or all rights and obligations in a company which is not a legal person
 - other property rights related to the right to receive a benefit as a founder or beneficiary of a foundation, trust or other entity or legal relationship of a fiduciary nature
- taxpayers who are part of a group of at least two companies, in which one company holds, directly or indirectly, at least 75% of shares in the other companies in the group throughout the tax year, provided that the tax year of the group companies overlaps and the share of total income in the total revenues of these companies* in a given tax year is greater than 2% - this group of taxpayers will be obliged to provide the tax office with information about the companies in the group that meet these conditions
- taxpayers placed in bankruptcy, liquidation or subject to restructuring proceedings
- taxpayers who are a party to the cooperation agreement
- taxpayers who are so-called small taxpayers (taxpayers whose annual revenues do not exceed EUR 2 million)
- taxpayers who earned a share of income from a source of income other than capital gains in one of the three tax years immediately preceding the tax year for which the minimum income tax is paid, in the amount of at least 2%

Amount and tax base

The taxable base in the minimum tax is to be the sum consisting of the following three elements:

- 1.5% of the company's revenues (other than capital gains) plus
- the amount of debt financing costs incurred for the benefit of related entities exceeding the value of 30% of the so-called taxpayer's EBITDA
- the amount of costs of services (m.in consulting, market research, advertising) or intangible rights incurred for the benefit of related entities – exceeding the value of PLN 3 million plus 5% of the so-called EBITDA

The tax base can be reduced by the following values:

- the value of deductions reducing the tax base in the tax year calculated in accordance with Article 18 of the CIT Act (the value of donations or B+R reliefs). It is not possible to reduce the tax base by a deduction for the so-called bad debt relief in CIT

- revenues generated in connection with the transaction, if the price or the method of determining the price of the subject of the transaction results from the provisions of the acts or normative acts issued on the basis thereof
- deduction of income from the tax base of the zone income in place of the deduction of income from in-zone operations
- revenues in the amount of excise duty included in the price of excise goods sold by the taxable person trading those goods
- the value of revenues from the sale of receivables to an entity which is a financial institution whose core business is the provision of financial services consisting in the purchase of receivables arising from the conclusion of a contract for the sale of goods or services between the creditor and the debtor (factoring)

Taxpayers also have the option of choosing a simplified calculation of the minimum tax. In this case, the taxable base is the amount corresponding to 3% of the value of revenues (other than capital gains) earned by the taxpayer during the tax year. The taxpayer informs about the choice of this method of determining the tax base in the return submitted for the tax year in which they made such a choice.

Minimum tax settlement

Entities subject to the minimum tax regulations are not exempt from CIT on general principles. However, taxpayers can reduce the minimum tax by the value of the "classic" income tax. They should pay the minimum tax reduced in this way to the account of the relevant tax office within the deadline provided for CIT. Taxpayers will be required to report in their tax return the tax base, its reductions, as well as the amount of the minimum income tax.

Important: The amount of minimum income tax paid for a given tax year can be deducted from the "classic" income tax in subsequent years. However, the deduction can only be made in the annual tax return for the next 3 tax years immediately following the year for which the taxpayer paid the minimum income tax.

Income taxpayers with a tax year equal to the calendar year will pay the minimum income tax for the first time by March 30th, 2025. Taxpayers with a tax year other than the calendar year will pay the minimum income tax at the end of the 3rd month from the last month of the tax year that began before January 1st, 2024 (i.e., the deadline for filing their CIT-8 return).

Should you need our support in the field of minimum tax, we are at your disposal.

About KR Group

KR Group was established in Poland in 2000. Over the years the company has built a considerable position on the highly competitive market of accounting, tax, audit, payroll and HR services. KR Group applies an excellent understanding of business realities to its core services, thus attracting the most renowned companies in its portfolio of clients.

Expanding in the CEE region? Choose a single regional provider

Instead of looking for service providers in each country and multiplying your expenses, cooperate with us. We can help you unleash your regional synergy by cutting unnecessary costs and speeding up your processes.

Our offer includes a variety of integrated services for pan-regional groups in CEE, such as:

- Single point of contact, including dedicated account manager and team to facilitate cooperation across KR Group offices
- Harmonization of VAT compliance processes and one-stop shop for settlement of VAT in the CEE-5
- One-time reporting system, including unified management reporting and HR & payroll reporting
- Centralized payment process management services
- Pan-regional tax team capable of dealing with cross-border transfer-pricing projects and accounting software localization
- Interfaces and integration developed for most accounting and reporting software
- Knowledge-sharing tools and procedures ensuring time efficiency
- In-house developed accounting data warehouse connected with local accounting software.

For more information visit our website at www.krgroup.eu



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