



## CE Tax&Legal Highlights

### Poland

**JPK\_V7M and JPK\_V7K applicable from 1 July 2020. Entry into force likely to be postponed for large enterprises**

It appears that provisions regarding new VAT records for large enterprises will come into effect only on 1 July 2020. With the spread of the coronavirus in Poland and potential business disruptions, the Ministry of Development is working on the draft special-purpose act. This is good news. Perhaps more time will allow various doubts as to the provisions concerning JPK\_V7M and JPK\_V7K to become dispelled.

The [Public Information Bulletin](#) website now features the new versions of the JPK\_V7M and JPK\_V7K structures, which have undergone cosmetic changes. The structures have also been published as electronic document models in the [Central Repository of Electronic Document Models \(CRWDE\)](#).

Furthermore, the Ministry launched a [test environment](#) available for all SAF-T files, including JPK\_V7M and JPK\_V7K, which will allow verifying whether the files are sent through the REST API gateway correctly.

As regards the scope of the records, there are still doubts concerning the tagging of the provision of telecommunications, broadcasting and electronic services – specified under Article 28k of the Act (i.e. the provision of such services for persons which are not VAT payers) – which involves the special “EE” tag. It is uncertain whether such services have to be tagged in each case where they are provided in Poland (for example also where call costs are recharged to employees) or whether such tagging must be applied only for cross-border services.

Under Article 28k.2, the place of taxation is determined under general rules (it is the place of establishment of the service provider) if, among other things, the total value of said services does not exceed the equivalent of EUR 10 thousand within the (prior) tax year. If this threshold is exceeded, the payer may have to register as a VAT payer in a different Member State. If we take account of the objective of tagging for specific types of transactions – which is monitoring activities to which special rules may apply – it seems that the services that should be tagged in this case are those provided for persons which do not have their place of establishment or residence in Poland. Should the “EE” tag be allocated only for such cases, the moment the threshold mentioned above is exceeded will be easily identifiable.

Another issue worth considering is the proper allocation of the GTU “06” tag. In line with the description of JPK\_V7M/JPK\_V7K structures, the scope of goods covered by the “06” tag is different from that of electronics subject to the obligatory split payment mechanism (under the “MPP” tag). This means that, for example, the “06” tag is not applicable to supplies of television sets covered by SPM. As such, some supplies will be tagged with “06” and “MPP”, whereas other supplies will only bear the “MPP” tag. This constitutes an additional challenge in terms of adapting the IT systems to the requirements.

The GTU “09” tag is also an issue of controversy. This tag is for supplies of medicines and medical devices – medicinal products, foodstuffs intended for particular nutritional uses, and medical devices that are subject to the reporting obligation under Article 37av.1 of the Act of 6 September 2001 – Pharmaceutical Law (Polish Journal of Laws of 2019, item 499, as amended). It would be worth clarifying whether this tag is to be used only for those medicines and medical products with respect to which the intention to export has actually been reported to the Chief Pharmaceutical Inspector or whether those not reported but nonetheless subject to the obligation should also be tagged with GTU “09”.

Those are only some of the uncertainties. In practice, there is still a lack of clarity concerning the internal document, and the need to record data for periodic cash register reports. We will discuss those issues in our next alert.

The Ministry of Finance published a brochure concerning the structures mentioned above on 20 February 2020, which, however, does not provide adequate clarification. One can hope that tax administration authorities will soon dispel those doubts.

#### Contact details:

**Norbert Wasilewski**

**Partner Associate in Tax Advisory Department**

e-mail: [nwasilewski@deloittece.com](mailto:nwasilewski@deloittece.com)

### **Krzysztof Wilk**

**Partner Associate in Tax Advisory Department**

e-mail: [kwilk@deloitteCE.com](mailto:kwilk@deloitteCE.com)

### **Dagmara Sztenc**

**Senior Consultant in Tax Advisory Department**

e-mail: [dsztenc@deloitteCE.com](mailto:dsztenc@deloitteCE.com)

## **Polish Investment Zone – tax-related explanations published by the Ministry of Finance**

**10 March saw the Ministry of Finance publish tax-related explanations concerning the manner of determining tax-exempt income generated within the so-called Polish Investment Zone from business activities specified in support decisions. It has done so as announced, though certainly later than was expected.**

Nonetheless, enterprises still have many doubts as to rules governing tax exemptions within the Polish Investment Zone.

### **The Ministry's explanations**

The Ministry of Finance published tax-related explanations on determining tax-exempt income generated from business activities specified in support decisions with respect to the "Polish Investment Zone". The scope and the subject of those explanations is somewhat surprising.

The Ministry addressed the main issue of how to understand strong functional links between the new investment project and the existing establishment. Nonetheless, it also covered eligible expenses and the definition of the new investment. Some of those explanations, especially with respect to support infrastructure costs, are highly questionable, as they contradict the policy pursued so far on Special Economic Zones (SEZs).

The Ministry also clearly stated that those who hold SEZ permits and Polish Investment Zone support decisions should respectively divide the profits and losses recognised, even though the wording of the legal provisions would point to the contrary.

### **Anti-tax abuse clause**

The explanations also provide a highly restrictive approach to the anti-tax abuse clause for taxpayers who avail themselves of the investment relief, which has been introduced without any minimum amount specified. This means that without business justification, the tiniest of actions affecting the payers' tax liability may have an impact on their right to the entire relief, which is sometimes worth millions of zlotys.

We are currently making efforts to clarify those doubts with other authorities in charge of implementing the Polish Investment Zone – the Ministry of Development and the Management Boards of Special Economic Zones. We will soon inform you of further details in this matter.

*\*Tax-related explanations of the Ministry of Finance:*

<https://www.gov.pl/web/finanse/objasnienia-podatkowe-z-dnia-6-marca-2020-r-dotyczace-sposobu-ustalania-dochodu-zwolnionego-z-opodatkowania-podatkiem-dochodowym-osiagnietego-z-dzialalnosci->

*gospodarczej-określonej-w-decyzji-o-wsparciu-o-ktorej-mowa-w-ustawie-z-dnia-10-maja-2018-r-o-wspieraniu-nowych-inwestycji*

#### Contact details:

##### Marek Sienkiewicz

**Partner Associate in Tax Advisory Department**

e-mail: [msienkiewicz@deloittece.com](mailto:msienkiewicz@deloittece.com)

##### Maciej Guzek

**Partner Associate in Tax Advisory Department**

e-mail: [mguzek@deloitteCE.com](mailto:mguzek@deloitteCE.com)

##### Krzysztof Wojtowicz

**Partner Associate in Tax Advisory Department**

e-mail: [kwojtowicz@deloitteCE.com](mailto:kwojtowicz@deloitteCE.com)

#### "Anti-crisis Shield" Act

##### Analysis of governmental business support package

On 1 April 2020 the Act of 31 March 2020 amending the Act on Special Solutions to Prevent, Counteract and Fight COVID-19, Other Contagious Diseases and Related Crises and certain other acts came into effect. Among others, it has introduced solutions aimed at supporting enterprises during the COVID-19 crisis ("Anti-Crisis Shield").

Below we present a list of solutions of key importance for financial liquidity of businesses, partly resulting from the Anti-Crisis Shield, partly from other legal acts.

##### Solutions regarding tax and social insurance liabilities

- **Deferring tax liabilities :**

- the deadline **to file the CIT-8 annual tax returns form** for 2019 and the settlement of the related tax being postponed to 31 May 2020 for all taxpayers;
- the deadline **to pay PIT on the payroll** for March and April 2020 being postponed to 1 June 2020;
- the deadlines to file **ORD-U and IFT-2R forms** being postponed until 31 May 2020 (in case of ORD-U the literal meaning indicates the end of April; nevertheless, the lawmakers seem to have intended the date of 31 May 2020);
- the deadlines **to report tax schemes** being postponed until the date of revoking the state of epidemic threat/epidemic announced in relation to COVID-19, not later, though, than until 30 June 2020;
- the deadline **to pay income tax on revenue generated from real estate ownership** for the period from March to May 2020 being postponed until 20 July 2020;
- the deadline of filing **the first JPK\_V7M/JPK\_V7K report (for July 2020)** being postponed until 25 August 2020 for all taxpayers; additionally, if an entity fails to adjust errors in the submitted files within 14 days, tax authorities *may* fine it with PLN 500 per error

(the former version provided for "*finis imposed by tax authorities*");

- the effective date **of the VAT Matrix provisions** being postponed until July 2020; provisions regarding the protective function of the Binding Rate Information (WIS) obtained prior to the effective date have been amended respectively;
- the deadline **to pay the tax on retail sale being postponed until 1 January 2021.**
- **During the state of epidemic threat/epidemic and 30 days after its revoking the prolongation fee shall not be charged (which does not qualify as public aid)** with regard to decisions on deferred payment / instalment payment / cancelled payment of tax liabilities (**which qualifies as *de minimis* aid**). **The prolongation fee shall not be charged** on deferred payment / instalment payment of social insurance premiums, either.
- **Municipality Councils** may pass resolutions **to defer the payment of real estate tax instalments** due for the period April-June 2020 for **groups of businesses whose liquidity has deteriorated as a result of the pandemic**, not later, though, than until 30 September 2020 and **exempt these businesses from the real property tax for a part of 2020.**
- **The use of Polska Klasyfikacja Wyrobów i Usług 2008 (Polish NACE) for VAT purposes has been extended**, as well as **its application related to** Appendix 15 to the VAT Act (**obligatory divided payment**) **so that it will remain in use until the end of 2020 (a separate ordinance).**
- **Issuing e-bills by cash registers** upon buyer's approval and sending it in a manner agreed with the buyer has been permitted. For taxpayers using cash registers with electronic or paper record of copies, paper bills will remain the only option.
- **The effective date of the amended principles of losing the title to apply the simplified import procedure has been postponed** (the loss of the tile resulting from a failure to provide import settlement documents within 4 months shall be maintained until July 2020) since the effective date of JPK\_V7M reporting regulations has been deferred.
- During the period from 1 April 2020 until the date of revoking the state of epidemic threat/ epidemic related to COVID-19, tax and customs inspectors are permitted **to resign from the presence of the inspector** when activities subject to such inspection are carried out or from the performance of the inspection **regarding the excise tax for entities that produce, transport and use excise goods (to include in particular production, processing, reprocessing, denaturing, bottling, receiving, storing, releasing, transporting and destroying), as well as regarding the use and application of excise stamps to such goods.**
- **Solutions directly related to the counteracting against the epidemic:**

- making **donations for counteracting against COVID-19** tax-deductible until 30 September 2020, allowing the deduction of 200 percent of the amount donated for those made by the end of April and of 150 percent of the amount donated for those made in May;
- introducing a **0 percent VAT rate for donations** including medical products, diagnostic tests, drugs, protective clothes, glass, lab devices, disinfectants **provided to** Agencja Rezerw Materiałowych (Material Backup Agency), Centralna Baza Rezerw Sanitarno-Przeciwepidemicznych (Centre for Sanitary and Anti-epidemic Provisions) and healthcare entities recorded by NFZ (National Health Fund) that provide hospital care related **solely to COVID-19** (upon the conclusion of a written donation contract);
- allowing **one-off depreciation charges** on fixed assets purchased in order to produce goods used to counteract against COVID-19,
- allowing **the deduction of eligible R&D expenses** related to the development of products used to counteract against COVID-19 and apply a 5 percent IP Box tax, if eligible intellectual property rights are used to counteract against COVID-19, also **when calculating tax withholdings**;
- if certain conditions are met, allowing **retrospective settlement of 2020 tax loss in 2019** (the maximum amount allowed is **PLN 5 million**);
- **suspending regulations** that impose increasing taxable income with “**bad debt**” amounts;
- **extending** the deadline to inform tax authorities about payments made to a bank account not included in the **White List to 14 days**.

### Liquidity support

- Businesses of **any size** that have experienced a turnover drop may apply for **subsidies from Funds of Guaranteed Employee Benefits, including social insurance premiums payable for employees** (individuals working on employment contracts, outwork contracts, contracts of mandate or other service contracts) **affected by the economic stoppage or reduced worktime** (the mechanisms cannot be applied jointly to the same employees).

A decrease in turnover resulting from the pandemic is understood as a drop in the value or volume of sales of goods or services:

- **by at least 15 percent** - the turnover for any period of two consecutive months (60 days) in 2020 prior to the motioning compared to the corresponding period in 2019; or
- **by at least 25 percent** - the turnover for one month (30 days) prior to the motioning compared to the prior month.

**Economic stoppage** means that an employee does not provide services and is entitled to 50 percent of salary, not lower, though, than the minimum wage (including the worktime involved). In such cases, employers are entitled to subsidies up to **50 percent of the minimum wage (approx. PLN 1,300)**.

**Under the Anti-Crisis Act, the reduced worktime** means that the time of work performed by an employee may be reduced by 20 percent, not lower, though, than to 0.5 FTE, subject to the minimum wage condition (including the worktime involved). **The subsidies** amount to half of the salary, **but cannot exceed 40 percent of the average wage** from the preceding quarter (**approx. PLN 2,000**).

Employees whose salary in the month preceding that of the motioning exceeded PLN 15.000 (approximately) do not qualify for the subsidy.

**Terms and conditions of providing work** during the economic stoppage or reduced worktime period **shall be agreed with employees** acting through labour unions or employee representation. Employers cannot introduce these solutions without reaching such agreement.

The subsidies are paid for three months of the contract date with an option to extend to six months.

**The Act does not introduce a cap for subsidising remuneration of employees affected by the economic stoppage or reduced worktime.**

- The mayor of the county where a business is registered **may subsidise a portion of payroll and social insurance expenses of micro-enterprises, SME and medium-sized enterprises as defined by the EU regulations** that have experienced a turnover drop caused by COVID-19 in 2020, calculated on a year-on-year basis as turnover for 60 consecutive days.

**The subsidies may be granted for three months** (with an option to extend) and calculated as the **product** of:

- the number of employees and 50 percent of remuneration, not higher, though, than the minimum wage, should the turnover drop by at least 30 percent;
- the number of employees and 70 percent of remuneration, not higher, though, than the minimum wage, should the turnover drop by at least 50 percent;
- the number of employees and 90 percent of remuneration, not higher, though, than the minimum wage, should the turnover drop by at least 80 percent.

**Employers are obliged to maintain the headcount** included in the subsidy during the contract period and after its expiry - for a period equal to the subsidised one.

- County mayors may **subsidise sole proprietors, agents, individuals working on contracts of mandate or other service contracts** and **offer micro-loans** to entities qualifying as **micro-enterprises**.
- **Medium and large enterprises** may apply for **guarantees and sureties** to be issued by Bank Gospodarstwa Krajowego and to secure **up to 80 percent** of new or renewed loans aimed at **supporting liquidity**. The guarantee amount may range from **PLN 3.5 million to PLN 200 million** with the maximum duration of **27 months**.
- **The total aid value including:**

- Subsidies and loans granted by county mayors;
- Real property tax exemption;
- Cancellation of social insurance premiums

**cannot exceed EUR 800,000 per business** (in line with the provisions of *Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak*).

**Norbert Wasilewski**

**Director in Tax Advisory Department**

e-mail: [dalicka@deloittece.com](mailto:dalicka@deloittece.com)

**Dominika Alicka**

**Senior Manager in Tax Advisory Department**

e-mail: [dalicka@deloittece.com](mailto:dalicka@deloittece.com)

**Adam Kałużny**

**Senior Manager in Tax Advisory Department**

e-mail: [akalazny@deloittece.com](mailto:akalazny@deloittece.com)

**Paweł Komorowski**

**Senior Manager in Tax Advisory Department**

e-mail: [pkomorowski@deloittece.com](mailto:pkomorowski@deloittece.com)

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more about our global network of member firms.

Deloitte provides audit, consulting, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 245,000 professionals make an impact that matters, please connect with us on [Facebook](#), [LinkedIn](#), or [Twitter](#).

Deloitte Central Europe is a regional organization of entities organized under the umbrella of Deloitte Central Europe Holdings Limited, the member firm in Central Europe of Deloitte Touche Tohmatsu Limited. Services are provided by the subsidiaries and affiliates of Deloitte Central Europe Holdings Limited, which are separate and independent legal entities. The subsidiaries and affiliates of Deloitte Central Europe Holdings Limited are among the region's leading professional services firms, providing services through nearly 6,000 people in 41 offices in 18 countries.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.