



## Tax&Legal Highlights

### Poland

#### Online cash registers – fiscal sales e-reports go live

The lengthy legislative process has come to an end. The law amending the Value Added Tax Act and the Measures Act has been adopted by the President. A gradual revolution in fiscal sales reporting is about to begin. The time has come for online cash registers.

#### Online cash registers – legislative process

For some time now, the Ministry of Finance has been planning to launch electronic reports on sales recorded by fiscal cash registers. The first draft of the new law was published on the website of the Government Legislation Centre in September 2017 and its final version was passed on to the Sejm at the end of April 2018. The parliamentary work began at the outset of 2019 and finally ended on 22 March 2019, when the adopted law was forwarded to the President to be signed.

Notwithstanding the legislative process in progress, cash register manufacturers have for some time been getting ready for the introduction of online cash registers. This is allowed under the Regulation of the Minister of Entrepreneurship and Technology of 28 May 2018 *laying down the criteria and technical conditions to be met by cash registers*, which apply to this type of registers. What is more, during the last quarter of 2018 the

Ministry of Finance published technical specifications for manufacturers, including a technical description of the communication protocol referred to in the Regulation.

Meanwhile, users are awaiting the adoption of a new regulation on cash registers. Its draft version, which is currently examined by the Council of Ministers, has been subject to public consultation, review and interministerial discussions.

### Online cash registers

Currently, taxpayers selling goods or services to individuals other than sole traders use cash registers that record transactions on paper (double roll cash registers) or electronically.

The amendments have introduced a new type, namely **online cash registers**, which will transfer data and information about events on an ongoing basis, automatically and independently of the taxpayer from a cash register to the Central Cash Register Repository. What is important, the Repository will not only receive and store data but also enable their inspection and analysis. The seller will be subject to the obligation to ensure a connection enabling the transfer of data between the cash register and the Repository. Generally, data will be reported in a short form, whereas the taxation authorities will be able to determine the frequency of their submission and the documents which have to be provided in detailed form, in a schedule sent to each cash register.

This way, the taxation authorities will have ready access to data contained in fiscal documents (such as receipts, invoices or daily reports) and non-fiscal documents printed by the register (e.g. stock issue confirmations).

Additionally, online cash registers will provide the Repository with information concerning events which are important to the operation of the register, including information on switching the register to the fiscal mode, tax rate changes, technical inspection dates or point of sale address changes. Submission of information on the last type of event should lessen the burden assumed by taxpayers, who are required to notify the tax authorities of each change in the location where the cash register is used.

### New online cash registers – when?

Although the new law will come into effect on 1 May 2019, it does not mean that the new cash registers will appear in points of sale immediately. It is the legislator's intention to introduce online cash registers gradually so that they replace double roll and electronic registers entirely. Therefore, in accordance with the amendments:

- Double roll registers will be sold **until 31 August 2019**, after which time all certificates confirming compliance with the criteria as well as functional and technical requirements for such devices will become invalid. Thus, in the event that a cash register needs to be replaced or a new one purchased, the choice will be limited to electronic or online versions of the device.
- Electronic cash registers will be sold until **31 December 2022**, after which time all certificates issued for this type of devices will become invalid. Where a cash register has to be replaced or a new one purchased, online registers will be the only option available.

Notwithstanding the above, the legislator has prescribed special time limits for selected, "sensitive" goods and services the sales of which will have to be recorded using online cash registers:

- **Effective from 1 January 2020:**

- sale of motor gasoline, diesel fuel and gas for internal combustion engines;
- provision of motor vehicle and moped repair services, including tyre fixing, installation, retreading, recapping, as well as motor vehicle and moped tyre or wheel change.

- **Effective from 1 July 2020:**

- provision of food and beverage services only by catering establishments, including seasonal, as well as temporary accommodation services;
- sale of coal, briquette and similar solid fuels produced from coal, brown coal, coke and semi-coke and intended for heating purposes.

- **Effective from 1 January 2021:**

- provision of hairdressing, beauty treatment and cosmetology services, construction services, medical care services by doctors and dentists, legal services as well as services related to the activities of fitness facilities (exclusively as regards entry).

#### **Online cash registers – what next?**

In the first place, taxpayers selling “sensitive” goods and services which are recorded with the use of fiscal cash registers should remember to arrange the replacement process carefully and buy online cash registers at a reduced cost, as proposed by the legislator.

As for the data reported by online cash registers, it will be necessary to ensure their accuracy. It is also worth considering reliance on such data for tax analytic purposes in the taxpayer’s business.

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#### **Changes to Country-by-Country Reporting laws in Poland – amendments to the Act on Exchange of Tax Information have been signed by the President**

The law amending the Act on Exchange of Tax Information with Other Countries and Other Acts (the “amended act”) was signed by the President on 11 April 2019. The previous version of the Act on Exchange of Tax Information entered into force two years ago (on 4 April 2017).

The primary purpose of the amended act is to clear up doubts over the use of the legislative solutions introduced originally, also in the context of the EU law as well as the guidelines set out by the Organisation for Economic Co-operation and Development (OECD). The most significant changes brought about by the amended act concern Country-by-Country Reporting ("CbCR"), which the act refers to as **provision of information on a group of entities**. The amended act sets out in detail the obligations imposed on Polish taxpayers with respect to automatic exchange of information which is derived from information concerning group companies.

**The major modifications introduced by the amended act in relation to CbCR include:**

*(applicable retrospectively to entities whose reporting financial year begins after 31 December 2017)*

- a change of the definition of a group of entities – departure from references to the Accounting Act;
- determination of the threshold amount of PLN 3.25 billion for a group preparing its consolidated financial statements in PLN (thus far, the threshold amount had been set only in EUR);
- laying down in detail the principles for conversion of the threshold amount for groups whose consolidated financial statements are prepared in a currency other than EUR (in accordance with the amended act, while converting the threshold amount a reference has to be made to the calculation methodology adopted by the parent company's country);

*(applicable retrospectively to entities whose reporting financial year begins after 31 December 2016)*

- provision of the substitute reporting option for countries where CbCR is not required but the country is subject to the obligation to make the CbCR filing in Poland (the amended act elaborates on the provisions which have been in force before);

*(applicable following the expiry of fourteen days of the publication of the amended act – to future reporting periods)*

- determination of the threshold amount calculation methodology where the reporting financial year of a group of entities is other than twelve months – one-twelfth for each month of the reporting financial year which has already begun;
- imposition of a requirement to provide additional information or explanations in CbCR, both in the Polish and in the English language version;
- setting out specific requirements for the submission of notifications, including a definition of electronic communication means, and elimination of notifications in paper form;
- introduction of the option to modify CbCR filings and notifications which have already been submitted;
- extension of the time limit for submission of notifications – under the amended act, the aforesaid time limit is three months of the end of the

reporting financial year (thus far, notifications have had to be submitted by the end of the reporting financial year of the group).

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