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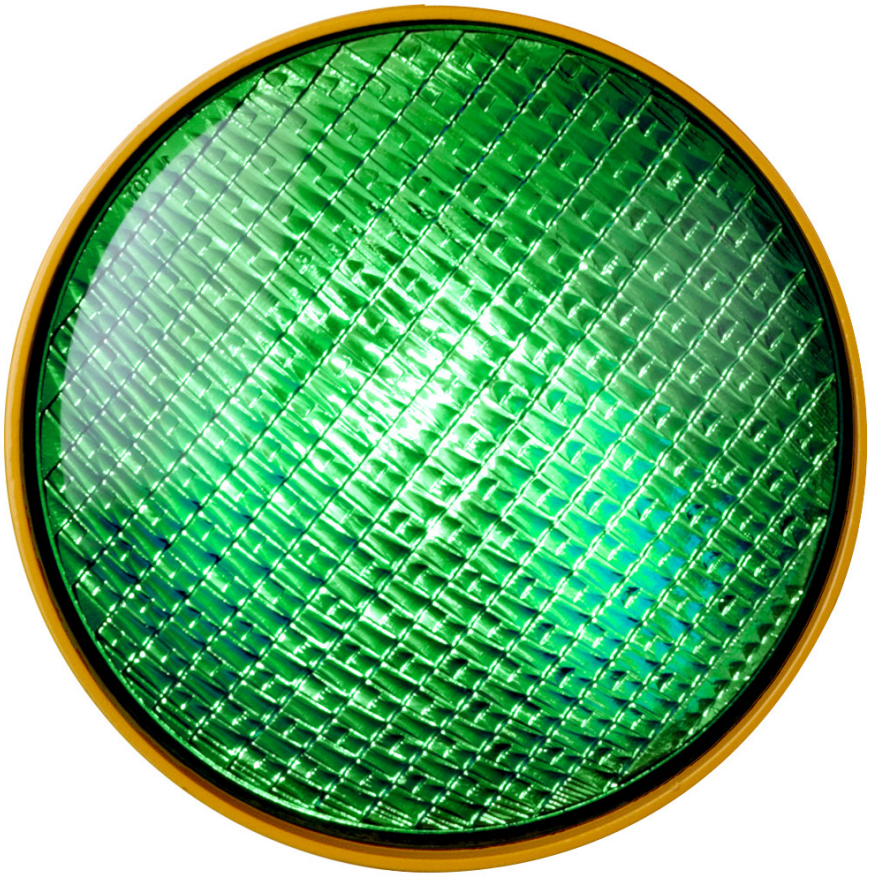


Deloitte Poland Tax News for Financial Institutions | June 2020

Selected forms of the coronavirus (COVID-19) tax and business relief

Since the official announcement of the COVID-19 outbreak in Poland (March 14, 2020) the Polish government has introduced certain measures to mitigate the economic impact of coronavirus disease. Although these solutions are not dedicated specifically to financial institutions in Poland, a number of the available instruments can be used by the financial sector as well. Recent data and our practice show that, at this moment, loan companies and car leasing & management firms are among those financial institutions which are most affected by COVID-19.

The coronavirus relief available in Poland (commonly referred to as the anti-crisis shield) covers:

- subsidies for employee salary costs and social security contributions;
- extension of deadlines for submitting CIT and PIT returns/declarations, preparing and approving financial statements, payments of PIT and social security contributions;
- preferential financing for entrepreneurs from the Polish Development Fund;
- a temporary loss carry-back scheme: a tax loss incurred for 2020 up to PLN 5m can be offset with 2019 income;
- a reduction of the maximum amount of noninterest cost of consumer credit.

New VAT reporting form as from October 2020

The Polish law has introduced a new form of VAT reporting: JPK_V7M file (for taxpayers submitting their quarterly VAT returns - JPK_V7K file), which was known as "JPK_VDEK" at the earlier stages of the legislative process. The file is supposed to replace the existing JPK_VAT files and the local VAT return. As compared to the current JPK file, the most important changes include:

- a large number of special product codes, which do not always clearly cover all transactions;
- codes identifying certain types of transactions, e.g. triangular transactions, transactions to which obligatory split payment applies, transfers of single purpose vouchers (SPVs), distance sales, certain customs procedures or transactions carried out with a related party;
- codes identifying certain document types (e.g. collective documents concerning sales documented with a cash register or internal documents).

Due to the coronavirus outbreak the effective date for the new requirements has been postponed until October 1, 2020 (originally: April 1, 2020).

CIT updates

ATAD 2 (hybrid mismatch arrangements)

The changes have been introduced as part of the implementation of the provisions of the ATAD 2 Directive in respect of hybrid mismatch arrangements.

The basic aim of the adopted regulations is to prevent situations where the same expenditures incurred by the same entity are treated differently in different jurisdictions. In practice, taxpayers will be required to analyse expenses in terms of using hybrid instruments or hybrid entities with regard thereto, otherwise they might be deprived of the right to classify them as tax deductible costs.

The amended provisions indicate cases in which, in principle, taxpayers will not be entitled to include in the tax deductible costs a payment resulting in:

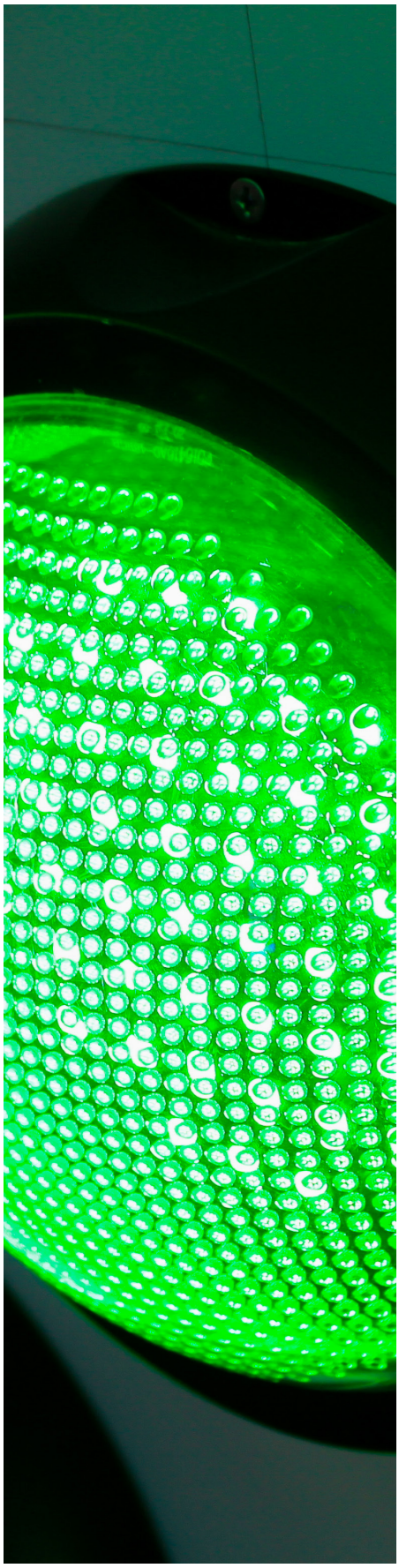
- double deduction - consisting primarily in multiple recognition of costs on the same basis in different countries, without the corresponding indication of income in these countries;
- deduction without tax (deduction / no inclusion) – consisting in the recognition of the benefit as tax costs without the corresponding recognition of that benefit in the income in the recipient country.

TP

Since 2019, management boards of Polish entities have been required to submit statements confirming that transactions with their related parties are made on arm's length terms.

These statements have to be signed by all members of the management board and submitted within 9 months of the end of the financial year. Due to the coronavirus outbreak, the deadline for 2019 will be extended until December 31, 2020.

A failure to submit, late submission or submission of a false statement constitutes a criminal offence, which is punishable by fine under the penal fiscal code.



DAC6 / Mandatory disclosure rules

A law amending the Polish mandatory disclosure requirements (MDR), which implements the sixth version of the EU directive on administrative cooperation (EU Directive 2018/822, commonly referred to as DAC6), is now expected to go into effect on July 1, 2020.

Most EU member states have already passed the necessary legislation to implement DAC6 directive into their domestic laws, as they were required to do so by December 31, 2019, with the provisions applying as from July 1, 2020. The laws will generally require specific entities to disclose to the tax authorities information about cross-border arrangements that meet certain criteria (hallmarks) and will allow the tax authorities in EU member states to exchange this information to assist them in their fight against harmful tax practices and tax evasion. Beneficiaries and intermediaries entering into or advising on cross-border arrangements involving EU jurisdictions will need to monitor where reporting will be required, and disclose information when necessary.

Poland has also decided to extend the deadline for reporting tax planning schemes (both domestic and cross-border ones) as well as other information under its MDR rules until June 30, 2020. Deadlines for domestic arrangements would still be suspended after that date, up to 30 days after the state of emergency declared in relation to COVID-19 is lifted.

The proposed amendments to the Polish MDR legislation require all entities involved in the reporting process, i.e., promoters, beneficiaries, and service providers (auxiliaries), to report cross-border tax schemes. Because the effective date of the new rules has been postponed until July 1, 2020, the reporting requirement will cover all cross-border tax schemes for which the first implementation activity (i.e., the trigger) was carried out between June 26, 2018 and June 30, 2020 (instead of March 31, 2020). It is important to note that this requirement will apply also to cross-border tax schemes that have already been reported, or will be reported, by or before June 30, 2020 (i.e., some schemes will have to be reported twice).

Contact us:

Jakub Żak
Partner
Tax Advisory Department
e-mail: jazak@deloitteCE.com
tel.: +48 513 136 220

Agnieszka Ostrowska
Partner Associate
Tax Advisory Department
e-mail: aostrowska@deloitteCE.com
tel.: +48 604 949 986

Przemysław Skorupa
Director
Tax Advisory Department
e-mail: pskorupa@deloitteCE.com
tel.: +48 502 788 720