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Minimum corporate income tax

Beginning from 1 January 2024, the exemption (which was introduced via a regulation in 2022) from the new minimum corporate income tax, as governed by the CIT Act, is no longer valid. The said minimum CIT amounts to 10 percent of the tax base. It is applicable to corporate income taxpayers that incurred a loss from operating activities and those whose break-even point, i.e. share of income in operating revenues, was not more than 2 percent during a tax year. It should be pointed out that the minimum CIT is yet another levy on taxpayers not reporting income and those reporting it in a minimal amount (real-estate sector taxpayers have been paying the tax on revenues from buildings, which actually is a tax on property, for several years now).

The provisions introducing the minimum CIT pose a number of interpretative problems, the first of which is determining whether an entity is subject to that levy or not. Certain doubts arise concerning the method of calculating the criterion of losses and the 2 percent break-even point – the imposed method leaves out many items, which necessitates preparing separate calculations only for the purpose of that tax. Moreover, in order to determine whether the obligation to pay the minimum CIT has arisen, after calculating the profitability threshold for a given year, the levels of profitability in three previous tax years must be verified as well.

Correct calculation of the tax base can also prove difficult. As a rule, the tax base consists of: (i) 1.5 percent of the value of income other than capital income, (ii) the amount of debt financing costs incurred for related entities and exceeding the 30 percent tax EBITDA limit, and (iii) costs related to the acquisition of among others, advisory services or fees for the use of copyrights or related property rights incurred for the benefit of related entities to the extent that they exceed the PLN 3m limit + 5 percent of tax EBITDA.
The correct calculation of the above-mentioned values may generate additional administrative burden and will certainly be time-consuming. In view of this complication the legislator has provided for a simplified solution, but taxpayers who opt for it must determine the tax base at the amount of 3 percent of the value of generated revenues.

The new minimum CIT will be settled for the first time in 2025 (as part of the settlements pertaining to 2024). Taxpayers need to bear in mind that it is parallel to the “ordinary” CIT, so the two levies may potentially overlap. However, if the current income tax turns out to be higher than the calculated minimum tax, then as per the CIT regulations, the company will not be obliged to pay the minimum tax, and if it does, it will be able to deduct it from CIT over the following three years. Even though the minimum CIT obligation will arise only in 2025, we believe that taxpayers should start monitoring this matter today so as to avoid any unpleasant surprises after the tax-year end.

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