

Anti-crisis shield in Poland

- taxes, financial statements, loans, tax arrears

President Andrzej Duda has signed a package of laws constituting the so-called anti-crisis shield. The anti-crisis shield is a set of several laws prepared, among others by the departments of: development, finance and family and work. They are the new steps in the fight against the coronavirus in Poland. The laws was published on 31/03/2020 and updated as the shield 4.0 on 23/06/2020.

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1 Financial statements - deadlines

The deadlines for recording, preparing, approving, sharing and submitting financial statements or information have been postponed. The solutions introduced in the regulation provide for extension of the deadlines by from 21 days to 3 months, depending on the type of a given unit. The deadline for: preparing the statement is 30.06.2020, confirming the statements is 30.09.2020. The final statement should be submitted to the National Court Register by 15/10/2020. On the other hand, the deadline for submitting the financial statements of natural persons conducting business activities, which is submitted to the Head of the National Revenue Administration was postponed to July 31, 2020.

2 Preparing and sending certain tax information

There has been extended:

- ✓ The deadline for preparing and sending the tax information referred to in Art. 82 § 1 item 2 of the Tax Ordinance Act (ORD-U) (by legal persons, organizational units without legal personality and natural persons conducting business activity). This period was to expire between March 31, 2020 and May 31, 2020. It has been postponed to the fifth month from the end of the tax year for which the information is drawn up.

- ✓ The deadline for sending the tax information referred to in Art. 26 § 3 point 2 of the CIT Act (IFT-2R) (by legal persons, organizational units without legal personality and natural persons who are entrepreneurs), if the tax year ended in the period from December 31, 2019 to January 31, 2020. The deadline was moved to the end of the fifth month of a year following the tax year in which payments listed in art. 26 section 1 of this Act were made.
- ✓ The CIT-8 declaration can be sent to the Tax Office by 31.05.2020. Also payment of corporate income tax must be made by the above date. Public benefit organizations (at least 80% of all income is an income from public benefit activities) and taxpayers achieving only exempt income (Article 17 (1) of the CIT Act) can submit a CIT-8 declaration by 31.07.2020.

3 Property tax

Depending on the decision of a district council, property tax installments that should be paid by entrepreneurs for April, May and June can be finally paid by 30/09/2020.

Exemption from tax on income from buildings for shopping malls, department stores, office buildings, warehouses, hotels and other buildings rented or leased) for the period from March 1, 2020 to December 31, 2020. This solution applies to all taxpayers, because it has been made subject to any conditions that must be met.

4 More time to submit the PIT return

The annual statements PIT-37 and PIT-38 can be submitted until 31/05/2020. Previously the deadline was set on 30th April this year.

Filing the PIT return for 2019 and payment of the income tax due from natural persons by June 1, 2020 do not result in negative penal fiscal consequences. The same applies to submitting a declaration of the amount of solidarity levy and paying it by June 1, 2020. This deadline was extended from April 30, 2020. Also interest will not be charged for late payments made up to June 1, 2020. Entrepreneurs applying for financial support under government programs will not include tax arrears in the period from April 30th to June 1, 2020.

5

Advance payments for PIT made by employers and principals

The payment of advances for PIT by employers and principals for March and April has been postponed till 01/06/2020.

6

Payment to an account not included in the list of VAT payers

During the state of epidemiological emergency as well as of the epidemic, the deadline for submitting a notice of payment to an account not listed in the register of VAT payers is extended to 14 days from the date of the transfer order.

7

Transfer prices

The deadline for submitting information on transfer prices (referred to in Art. 23zf paragraph 1 of the Act of 26 July 1991 on personal income tax and Art. 11t paragraph 1 of the Act of February 15, 1992 on the Corporate Income Tax) for entities whose tax year began after December 31, 2018 and ended before December 31, 2019 has been extended to September 30, 2020.

The deadline for fulfilling obligations related to transfer pricing documentation has changed. It was extended by 3 months until the end of 2020. This applies to submitting a statement on the preparation of local transfer pricing documentation and information on transfer pricing (TPR). Submission of the Master File documentation has also been postponed. This means that attaching group documentation to the local documentation of transfer prices ultimately will happen to the end of the third month from the day following the day on which the deadline for submitting the declaration expired. The obligation to prepare transfer pricing documentation will not apply to transactions between a medical university and a health care provider.



8 Deduction of the loss incurred in 2020 in the tax return for 2019

The Polish government enabled CIT and PIT taxpayers, who bear negative consequences of COVID-19, to deduct the loss incurred in 2020 (no more than PLN 5.000.000) from the income from economic activity generated in 2019. The condition is to achieve lower revenues by at least 50% in 2020 - compared to 2019. To make such a deduction, a taxpayer must file a corrected return for 2019.

9 Central Register of Real Beneficiaries

The obligation to submit information on real beneficiaries to the Central Register of Real Beneficiaries (Act on counteracting money laundering) was postponed to July 13, 2020.

10 One-time loan for costs of running business

The group of people entitled to receive support was expanded and every entrepreneur, not only employing employees, will be able to take advantage of a one-time loan. The loan with interest can be redeemed (at the request of a micro-entrepreneur) only if the micro-entrepreneur maintains business for 3 months from the date of granting the loan. The statement on maintaining the business for 3 months must appear in the loan application. The loan does not constitute income within the meaning of CIT and PIT regulations.

✓ *Co-financing of the costs of running the business by the starost*

An entrepreneur may apply for co-financing of part of the costs of business. He is obliged to run a business for the period for which the subsidy has been granted, but not longer than 3 months from the month when the application was submitted.

✓ *Modification of loan agreements - First Business Program - start-up support.*

In connection with the outbreak of the coronavirus, you can submit an application to change the terms of your loan agreement. It must be submitted to a financial intermediary with whom it was concluded.

Conditions that may change are:

1. suspension of repayment of principal and interest installments - however, not longer than for 6 months. The suspension results in extending the loan repayment period.
2. extension of the repayment period not longer than by 12 months, or

3. reducing the interest rate of a loan to 0% per annum, however the rate will be in force not longer than for 12 months,
4. extension of the grace period by no more than 6 months - only if no repayment of principal and interest installments has begun.

An entrepreneur can also submit an application to the financial intermediary for permission to:

1. suspension of business activity before the expiry of 12 months - the period is counted from the first month in which the loan was used to start a business activity, or
2. failure to maintain employment on a created workplace before the end of the 36-month period - the period is counted from the first month in which the employee was employed for the mentioned position.

The application may be submitted for no longer than 6 months. No negative consequences are then incurred (Article 61o (1), (1a), (2) or (3) of the Act of 20 April 2004 on employment promotion and labor market institutions). The reason and the period of suspension or vacancy of created position should be included in the application.

An entrepreneur may apply to a financial intermediary for permission to terminate a business or to liquidate a job position within 36 months.



In the previous version the condition to benefit from the loan was that the start of running the business took place before March 1, 2020. The new date is April 1, 2020. A one-off loan will be granted to micro-enterprises, including those not employing employees, if they keep their business operating for 3 months. Such a loan will be canceled upon application.

11 Tax arrears - waiving the determination of the prolongation fee; waiver of interest.

The tax authority, at the request of the taxpayer, in cases justified by the important causes related to the situation of the taxpayer or to the public interest, may:

- ✓ defer tax payment deadline or spread the tax payment into installments;
- ✓ defer or spread into installments the payment of tax arrears together with interest for late payment or interest on unpaid tax advances.

During the state of epidemiological emergency or of the epidemic announced in connection with COVID-19 or within 30 days following their cancellation, the regulations of Art. 57 § 1 and 8 of this Act do not apply, so no prolongation fee is collected. In addition, the minister competent for public finance may, by way of an ordinance, waive - in whole or in part - collecting interest from tax arrears.

The right to demand interest for payment periods longer than 30 days (Article 5 of the Act on Prevention of Excessive Delays in Commercial Transactions) limited only to entrepreneurs who are not large entrepreneurs. It also applies to contracts concluded by the amendment, for which the deadline did not expire before the date of entry into force of the amendment. (Articles 55 and 88 of the Amendment).

12 New subjective exemption

Income tax-free (the amount of tax allowance for the following benefits has been increased) are:

- ✓ financial aid paid out of the funds of a company or inter-company trade union organisations to employees who belong to the organisation - in 2020: up to PLN 3,000;
- ✓ financial aid paid out from other sources - up to an amount not exceeding PLN 10,000 in a tax year - art. 52 I point 2 of the PIT Act.
- ✓ amounts constituting the reimbursement of costs of taking care of a child or a dependent person, received on the basis of the provisions of separate acts or executive provisions to these acts, financed from the state budget, budgets of local government units, the Labor Fund or the European Union budget - in 2020: up to PLN 10,000;

- ✔ the value of benefits in kind (received by an employee in connection with the financing of social activities as referred to in the provisions on the company's social benefit fund) and the cash benefits received by him/her in this respect, financed entirely from the funds of the company's social benefit fund or trade union funds, jointly up to an amount not exceeding in the tax year - in 2020 and 2021 - PLN 2,000 (benefits in kind are NOT: vouchers, coupons and others entitling to be exchanged for goods or services);
- ✔ subsidies for: leisure organized by entities conducting activity in this field, in the form of: holidays, colonies, camps and winter quarters, including combined with: education, stay on sanatorium treatment, in medical and sanatorium facilities, rehabilitation, training and medical&care facilities, as well as journeys related to the leisure and stay during treatment - children and adolescents up to 18 years of age (financed from sources other than social fund, company's social benefit fund and in accordance with separate regulations issued by the competent minister) - in 2020 and 2021 - up to PLN 3,000.
- ✔ to be received or disposed by the taxpayer in 2020: downtime benefits, accommodation and meal benefits referred to in the Act on COVID-19.

13 Donations to help with the fight against COVID-19

The taxpayer may deduct from the tax base the donations made in the period from 01/01/2020 to 30/09/2020 for the fight against COVID-19 in organizations mentioned in the act. In the case of a donation made:

- 1) by April 30, 2020 – 200% of the amount of donation is deductible;
- 2) in May 2020 – 150% of the amount of donation is deductible
- 3) from June 1, 2020 to September 30, 2020 - the amount corresponding to the value of the donation is deductible.

The catalog of donations that can be deductible has been expanded. This applies to donations made, among others for homes for mothers with underage children and pregnant women, night shelters, social welfare homes, homeless shelters, laptops and tablets (serviceable and not older than three years) handed over from January 1, 2020 to September 30, 2020, including educational institutions.

14 A simplified form of paying advances

Small taxpayers who have chosen the simplified form of advance payments for 2020 may opt out of this form of advance payments for the months March-December 2020 during the tax year, if they experience negative economic consequences due to COVID-19.

15 One-time depreciation

Taxpayers can write off the depreciation one-time from the initial value of fixed assets that were acquired for the production of goods related to counteracting COVID-19, referred to in the Act on COVID-19.

16 Unpaid benefits - so-called "bad debts"

Exempted has been: the obligation to increase an income that is the basis for calculating the tax advance (included in tax deductible costs) on the value of the obligation to pay a cash benefit that has not been settled - for individual accounting periods falling in 2020, in which the following conditions are jointly met:

- ✓ the taxpayer suffered negative economic consequences in a given tax period due to COVID-19;
- ✓ the income obtained by the taxpayer in a given settlement period are lower by at least 50% in comparison to the same period of the previous tax year, and in the case of taxpayer who started running a business in 2019 – in comparison to the average income gained in this year.

PIT and CIT taxpayers will be able to take advantage of the bad debt relief earlier if they have negative economic consequences stemming from COVID-19. Revenues will be reduced starting from the settlement period, which will expire 30 days from the date of exceeding the payment deadline specified on an invoice (bill) or in a contract. Currently, it can be done after 90 days.



17 New matrix of VAT rates

The new matrix of VAT rates will become effective from July 1, 2020, and not as it was to occur on April 1, 2020.

The deadline for implementing the new JPK_7 structures has been moved to October 1, 2020 (not as announced on July 1, 2020). This structure is intended to merge the current JPK_VAT file and the VAT declaration.

18 Postponement to July 1, 2020 of the obligation to submit new JPK_VAT with a declaration for large taxpayers

Large entrepreneurs gain additional 3 months to adapt their systems to the requirements of the new reporting method. Entry of new JPK_VAT files with a declaration has been postponed until July 1, 2020.

19 Fee for movie streaming services (VOD) - "Tax on Series"

Entities operating streaming platforms (providing on-demand audiovisual media service) were covered by a new tax. They will have to pay to the Polish Film Institute a quarterly fee in the amount of 1.5% of revenues obtained from fees for access to publicly available content (on-demand) or 1.5% of revenues from broadcasting commercial communications, if that revenue increases in a given quarter. This obligation also covers entities from other EU Member States operating such streaming platforms with content on demand. Foreign entities determine payments only on the basis of revenues obtained on the territory of the Republic of Poland. Fees, similarly to tax liabilities, will include: default interest, possibility of overpayment, limitation periods. These fees are tax deductible costs on the date they are incurred.

20 Unfreezing deadlines

Deadlines of tax proceedings and controls, as well as customs and fiscal controls, which have been frozen by the shield 1.0 and have not started or have been suspended, will be resumed. The deadlines are to start or are to be continued after 7 days from the date of the entry of the shield 3.0.

21 Certificate of no tax arrears from the Tax Office

Tax arrears, from which interest collection has been waived, shall not be taken into account when issuing certificates on lack of tax arrears or certificates confirming the status of arrears issued pursuant to art. 306e of the Tax Code. This applies to the period covered by the discontinuation of collecting interest. This rule does not apply to certificates issued to buyers of an enterprise or an

rganized part thereof, which may include arrears covered by discontinuation of collecting interest. To benefit from financial support under government programs, one condition is that there are no tax arrears. Arrears from which interest collection has been abandoned are not an obstacle to such support.

22 Exemption from income tax for benefits received by farmers

Allowance received when farmers and their household members are quarantined, subjected to epidemiological supervision or hospitalization in connection with COVID-19 are exempt from the personal income tax.

23 Dematerialization of shares

The deadline for dematerialization of shares was moved from January 1, 2021 to March 1, 2021. Therefore the binding force of the share documents will expire 2 months later. The date of the first call of shareholders was also postponed. The submission of share documents to the company was moved from June 30, 2020 to September 30, 2020.

24 Extension of the urgent matter catalogue

In the event of the court closing due to COVID-19, urgent cases heard by designated courts include, among others:

- proceedings after the opening of the restructuring procedure,
- bankruptcy proceedings and also after the declaration of bankruptcy.

This means that the bankruptcy and restructuring courts should keep proceedings pending.



25 Special rules for conducting trials

A trial can be conducted remotely. However, the simultaneous direct image and sound transmission should be kept. This applies during the period of epidemic emergency or epidemic status and one year after their cancellation. Remote trials may also take place before the Voivodship Administrative Court and the Supreme Administrative Court or as proceedings in closed session. Oznacza to że sądy upadłościowe i restrukturyzacyjne powinny na bieżąco prowadzić postępowania.

26 Prohibition of transfer of the ownership right to residential premises as security

Outside the banking system invalid will be certain contracts concluded by natural persons obligating them to transfer housing property in connection with securing contractual claims not related to the business or professional activity of that person.

27 Certificate of residence

The certificate of residence whose validity period (12 months) expires in the epidemic threat or epidemic state, will not expire. When collecting the tax, the payer may use the certificate in these states and for 2 months after the states are revoked. The certificate issued for 2019 will also be considered valid if a payer has a taxpayer's statement that the data contained therein has not changed.

28 Tax schemes

Deadlines for the tax scheme will not start and those started are suspended from March 31, 2020 to the 30th day following the date of cancellation of the epidemic status as well as the epidemic threat status. As a result, the deadline for reporting national tax schemes has been extended. The deadline for submitting a cross-border scheme has not changed and should be done by June 30, 2020.

29 PLN 5000 loan from the Labor Office

New changes regarding the loan granted from the Labor Office introduced redemption of the loan ex officio and not at the entrepreneur's request. New loans under this program will be granted only on the basis of electronic applications.

30 Penalties and compensations

Revenue will be reduced by penalties and compensations paid for defects in the delivered goods, performed works and services, and delays in the delivery of goods free of defects, delays in removing defects in goods, performed works and services. The condition is that they are related to the epidemic threat or epidemic status due to COVID-19.

31 Tax card

Entrepreneurs using a tax card were exempted from the obligation to notify the Head of the Tax Office about a break in conducting business activity due to bans introduced because of COVID-19.

32 Manufacturing costs or purchase price

Tax costs will be costs of production or a purchase price of things or rights, which will then be transferred in the form of a donation, from January 1, 2020 to September 30, 2020, e.g. to counteract COVID-19. This applies to entities performing medical activity or an educational institution.

33 Exclusion from revenues

The value of donations received from non-agricultural business activities by medical or educational establishments (in connection with COVID-19) was excluded from January 1, 2020 to September 30, 2020. It applies only to activities which are not subject to inheritance and donation taxes on received donations.

34 Subsidies for interest rates on loans

Additional payments apply to both new and existing revolving loans (renewable and non-renewable), and can be granted until December 31, 2020. The amount of subsidies for interest-bearing loans depends on the size of an enterprise:

1. micro, small and medium-sized enterprises may benefit from interest subsidies of 2 pp, and
2. large enterprises in the amount of 1 pp, for a maximum period of 12 months.

Loans with subsidies may be granted by banks that have concluded a cooperation agreement with BGK. Subsidies for loans are considered to be public aid aimed at remedying serious disturbances in the economy, approved by the European Commission on April 19, 2020.

35 Fee for perpetual usufruct / rent - real estate of the State Treasury

There is a possibility of reducing the annual fee for perpetual usufruct for 2020 regarding real estate of the State Treasury. It applies to entities with a decrease in turnover following COVID-19.

The reduction of the fee shall be proportional to the number of days in the year in which the epidemic threat or epidemic status prevailed. Conditions for the reduction are:

- notification to the authority of a payment of the reduced fee, and
- no tax arrears and no social insurance contributions arrears.

This support is considered to be public aid.

There is a possibility of an exemption from rent and lease as well as fees for the use of real estate to the State Treasury for the next three months in 2020 (applies to contracts concluded for a period of at least three months). The exemption applies to entities with a decrease in turnover following COVID-19. Conditions for the exemption from paying the rent:

- notification to the authority of an exemption from the rent, and
- no tax arrears and no social insurance contributions arrears.

The support is considered to be public aid.

36 Fee for perpetual usufruct / rent – real estate of local government

There is a possibility of reducing the annual fee for perpetual usufruct for 2020 regarding properties of local government. It is also possible to not collect (exempt) the rent and the lease as well as the fees for using properties of local government for a period of 3 months in 2020 after notification (regarding contracts concluded for a period of at least three months). It applies to entities with a decrease in turnover following COVID-19.

Conditions (reduction of the fee / the exemption from the rent):

- adoption of an appropriate resolution by local authorities,
- notification (by the entity concerned) to the authority of the payment of a reduced fee, and
- no tax arrears and payment of ZUS contributions.

The support is considered to be public aid.

37 Simplified restructuring proceedings

Until 31st June 2021, any entrepreneur who is insolvent or threatened with insolvency can open a simplified restructuring procedure to conclude an arrangement with creditors. It is enough for him to sign a contract with a licensed restructuring advisor and make (on his own initiative) a notice in the Court and Economic Monitor about opening proceedings. There is no control made by the restructuring court at this stage. The entrepreneur will have 4 months to work out an agreement and make an arrangement with creditors. During this time, he is protected from executions and uses a moratorium on the repayment of debts incurred before the announcement at the Court and Economic Monitor. The concluded agreement is approved by the restructuring court.

38 Extended investment control

Over the next two years, the President of the Office of Competition and Consumer Protection (UOKiK) will have the opportunity to object to acquisitions of companies operating in specific sectors (e.g. energy, telecommunications or IT), companies with critical infrastructure and public companies, made by entities outside the EU / EEA / OECD or their subsidiaries, as long as they generate annual revenues of at least EUR 10 M. Conditions for objecting to a transaction will be at least a potential threat to public order, security or public health in the Republic of Poland, as well as possible negative impact on projects and programs of European Union interest. Opposition will lead to the invalidity of the transaction, and failure to notify the President of UOKiK of the transaction may be considered as a criminal offense.

39 Authority of the Office of Competition and Consumer Protection (UOKiK)

Granting access to tax files to the President of UOKiK in connection with ongoing proceedings (Article 40 of the Amendment).

40 Payment deadlines - interest

The right to demand interest for payment periods longer than 30 days (Article 5 of the Act on Prevention of Excessive Delays in Commercial Transactions) limited only to entrepreneurs who are not large entrepreneurs. It also applies to contracts concluded by the amendment, for which the deadline did not expire before the date of entry into force of the amendment. (Articles 55 and 88 of the Amendment).

Questions?
Contact us!

VGD Sp. z o.o.
ul. Chorągwi Pancernej 43
02-951 Warszawa
Poland

T.: +48 22 885 90 05
@: office.warsaw@vgd.eu