

ANTI-CRISIS SHIELD 2.0 – ONLY A FEW CHANGES IN PUBLIC LEVIES

The so-called **Anti-Crisis Shield 2.0 (Shield 2.0)** changes relatively little in taxes and social security contributions as compared to the Act enacted in March. However, it is worth noting its regulations on **public levies**.

How not to miss the opportunity to give 1% of tax to public benefit organisations?

For many taxpayers, the decision to designate a public benefit organisation that will receive 1% of their income tax is an important element of the annual PIT return process. This should not come as a surprise, since a great many of those required to submit the tax return do not, in fact, have to do so: the tax administration does the work for them on the basis of the data submitted by the remitters (mainly employers and mandators). Thus, 1% for a public benefit organisation becomes the only issue for taxpayers to decide.

The epidemic has made a significant complication here. The condition for 1% of our tax to be actually paid to the selected organisation is to indicate that organisation in the tax return submitted



within the statutory deadline (by 30 April), or in the correction of the return submitted by the end of May at the latest. Although the first version of the Anti-Crisis Shield (Shield 1.0) provided for the absence of penalties in the case of late submission of the tax return for all taxpayers who submit the return by 1 June, at the same time it did not postpone the time limit for effectiveness of our decisions to transfer 1%.

The current Act rectifies this omission: according to the new Article 52v of the PIT Act, the indication of a public benefit organisation in the tax return submitted by 1 June or in a correction submitted by 30 June will also be effective.

Less stringent requirements for tax groups

The conditions for the establishment and operation of a tax group include the requirement that the companies that are members of the group must not be in arrears with taxes constituting State budget revenue and must have at least a 2% share of income in the group's revenue in each year of its operation. According to the new provision of Article 38n of the CIT Act, these conditions, regardless of their actual fulfilment, are deemed to be fulfilled if the taxpayer suffered negative economic consequences due to COVID-19 in 2020.



Virtual currencies – definitely without the TCLT

Alongside the anti-crisis measures, the issue of the tax on civil-law transactions (TCLT) in respect of sale or exchange of virtual currencies has been finally clarified.

Currently, these transactions are not taxed on the basis of a temporary solution, i.e. Regulation providing that no TCLT will be charged on such transactions until the end of June 2020. From 1 July 2020, Article 9 (1a) of the TCLT Act will come into force, under which the sale and exchange of virtual currencies will be exempt from TCLT.

Exemptions and extensions of deadlines for real estate tax – more powers for the municipality council

Pursuant to Article 15p of Shield 1.0, the municipality council may introduce, by resolution, for a part of the year 2020, exemptions from the tax on real estate: land, buildings and structures related to business activity, for **certain groups of undertakings** whose financial liquidity has deteriorated due to the negative economic consequences of COVID-19. Currently, those eligible for the exemptions may also include non-governmental organisations and other entities performing public benefit activity (e.g. church legal persons, social cooperatives) in relation to land, buildings and structures related to business activity conducted by these entities.

Similarly, in relation to these entities, the municipality council may – as it has done so far in relation to undertakings – extend the deadlines for payment of tax instalments (Article 15q).

Higher limit of state aid for undertakings

Article 15zzzh of Shield 1.0 has been amended to the effect that the support obtained, among others, on the basis of the Tax Ordinance Act (i.e. cancellation of tax arrears, rescheduling or deferral of tax payments) constitutes state aid aimed at remedying a serious disturbance in the economy. In practice, this means that the “traditional” limit of *de minimis* aid (EUR 200,000) has been increased fourfold (EUR 800,000).

Longer deadlines for submitting transfer pricing information

Earlier, related entities were granted an extension until 30 September of the deadline for submitting transfer pricing information for the previous year (Article 31z of Shield 1.0). As a result of the amendment, the extension also applies to the statement on preparation of local transfer pricing documentation. The deadline for attaching group transfer pricing documentation to the local transfer pricing documentation has been extended until 31 December.

Extended exemption from the obligation to pay social security contributions

Article 31zo of Shield 1.0 gave the self-employed and entities with no more than 9 employees the right to be exempted from the obligation to pay social security contributions for March, April and May 2020.

This right has been extended to social cooperatives, regardless of the number of employees.

It also applies to other entities with 10 to 49 employees, but for this group of remitters the right applies only to no more than 50% of the contributions due.

Since the deadline for payment of contributions for March has already passed, the exemption would make no sense with regard to the part of the contributions already paid by the remitters, if it were not for Article 113 of Shield 2.0, according to which the paid contributions will be returned by the Social Insurance Institution (ZUS).

The Social Insurance Institution (ZUS) may waive the collection of interest on arrears

According to Article 31zy10 of Shield 1.0 (added by Shield 2.0), for economic reasons connected with COVID-19, the Social Insurance Institution may, at the debtor’s request, waive the collection of interest on arrears in respect of contributions due for the period after 31 December 2019. The request may be submitted during the continuity of the state of epidemic threat or the state of epidemic, or within 30 days after they end.



Change in the rules on the service of letters in tax matters, but not for all

Article 98 of Shield 2.0 introduces the principle that letters in administrative proceedings that have not been collected, where the time limit for receipt falls during the state of epidemic threat or the state of epidemic, **cannot be deemed to have been served during the state of epidemic threat or the state of epidemic and before the lapse of 14 days after these states are lifted**. In other words, the tax authority cannot consider letters in tax proceedings to have been served if the taxpayer decides not to actually collect them at the post office.

However, this rule does not apply to proceedings aimed at counteracting the use of the financial sector for tax fraud and to tax inspection, customs and fiscal inspection and tax proceedings, **if these inspections or proceedings are connected with a suspicion of a criminal or fiscal offence**.

The problem is that it is not clear what determines that the inspections or proceedings “are connected with a suspicion of a criminal or fiscal offence”. Practically any tax inspection or tax proceeding may be related to a suspected criminal or fiscal offence...

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This material is prepared based on the legal status as of 20 April 2020.

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If you have any questions, please feel free to contact us.

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