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The President signed an income taxes law amendment beneficial to entrepreneurs, which will come into force later this year

Tax Alert

Dear Readers,

On 19 July 2017, the President signed the Act of 7 July 2017 amending the Act on income tax from individuals and the Act on income tax from legal entities, which will enter into force after 14 days from the amendments' publication in the Journal of Laws. In this Tax Alert, we will briefly present to you the positive changes for entrepreneurs introduced by the amendment, governing the limits of tax depreciation and the rules for the collection of withholding tax on airline tickets.

ANNUAL ONE-OFF DEPRECIATION UP TO PLN 100,000

The first change relates to the limit of a one-off fixed asset tax depreciation. So far, the provisions of the income tax laws provided for two possibilities of direct inclusion of expenditure on the acquisition of fixed assets in the tax deductible costs:

- if the initial value of the fixed asset is equal to or less than PLN 3,500, taxpayers may include the price of its purchase in their costs (Art. 22f item 3 of the PIT Act or Article 16d item 1 of the CIT Act);
- if in the tax year in which the taxpayers started their business activity, and small enterprise taxpayers acquired fixed assets included in the 3-8 Classification group, excluding cars, the taxpayers may include the equivalent of EUR 50,000 in the tax deductible costs (Article 22k item 7 of the PIT Act and Article 16k item 7 of the CIT Act). In such case, recognizing a one-off deduction is classified as *de minimis* aid.

Under the new legislation, an additional possibility to include in the tax deductible costs the expenses for the purchase of fixed assets up to the amount of PLN 100,000 during the fiscal year has been introduced. It should be emphasized, however, that the taxpayer is entitled to deduct this amount only if he has purchased brand new fixed assets included in the groups 3-6 and 8 of the Classification of Fixed Assets, and thus one cannot write off a fixed property or means of transport. The taxpayers will benefit from the new limit if:

- the initial value of one purchased fixed asset is at least PLN 10,000, or
- the total initial value of at least two fixed assets is at least PLN 10,000, and the initial value of each of them exceeds PLN 3,500.

Using the possibility of a one-off inclusion of the amount of PLN 100,000 related to the purchase of new fixed assets in the tax deductible costs is not regarded as *de minimis* aid, and thus also the entrepreneurs who have

already exhausted their limits associated with the state aid they are entitled to through, e.g. obtaining funding from the EU, will be entitled to exercise the right in question.

LACK OF THE OBLIGATION TO COLLECT WITHHOLDING TAX ON AIRLINE TICKETS

Another change in the Acts on income tax applies to the obligation to collect the withholding tax on the *income earned in the territory of Poland by air transport enterprises* referred to in Article 29 item 1 Point 4 of the PIT Act and Article 21 item 1 Point 4 of the CIT Act by the taxpayer. After the amendment in question, this obligation will *not apply to the so-called revenue from scheduled air passenger transport the use of which requires the passenger to possess an airline ticket.*

So far, taxpayers have struggled with a number of problems related to the settlement of the withholding tax. The first problem was to obtain, which is often practically a miracle, the certificates of residence from foreign carriers, who are reluctant to submit such documents to their customers. Another problem was associated with the tax collection. In the absence of a certificate, taxpayers were obliged to deduct the withholding tax, since when purchasing the tickets via the Internet there was no possibility to deduct from the fee paid for the ticket to a foreign carrier the amount of the withholding tax. It meant that, ultimately, the taxpayers bore the economic burden of the tax, as there was no other way to meet the obligation to calculate, collect and pay the withholding tax.

Fortunately, the legislator noticed that in practice the system of the flat-rate withholding tax on airline tickets collection does not function properly, and, consequently, the amendments in question have been introduced, which undoubtedly will free the Polish entrepreneurs from a number of formalities related to the implementation of the taxpayer's obligations, and will reduce the cost of airline tickets purchase, which were previously increased by a 10% withholding tax in a situation where it was not possible to collect the tax from a foreign carrier.

EFFECTS OF THE AMENDMENT

The introduction of the changes to the Acts on income tax should be assessed as a positive step. Abolishing the obligation to collect the withholding tax will reduce the payers' charges and will enable them to retain additional financial means in the company. It should be remembered, however, that the regulations in this area will apply to the payment for airline tickets that will be made after the new regulations enter into force, and thus as far as the previously purchased tickets are concerned, the payers are still obliged to calculate and pay the withholding tax. The newly introduced limit for one-off new fixed asset depreciation will certainly encourage entrepreneurs to increase capital expenditure. It should be emphasized that the regulations concerning the one-off depreciation apply to the fixed assets purchased after 1 January 2017, and thus we encourage everyone to verify the purchases of fixed assets made this year in the perspective of the possibility to include these expenses directly in the tax deductible costs. If you have any doubts or questions, do not hesitate to contact us.

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Should you wish to discuss the above mentioned amendments in detail, feel free to contact us:

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