

## INCOME TAXES

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### Cost adjustment obligation - past-due liabilities

In the event that a taxpayer includes the amounts arising from received invoices and bills in his tax costs while at the same time fails to make the payments within 30 days from the date of expiration of the time limit for payment, the taxpayer will be obliged to decrease the tax deductible expenses by the amount arising from such documents. In the event that the time limit for payment is longer than 60 days, the cost adjustment has to be effected after 90 days from the date of inclusion of the invoice or bill amount in the tax costs. The above limitations also apply to depreciation write-offs effected in relation to purchase and production of fixed assets as well as purchase of intangible assets.

The above change will force taxpayers to monitor their payments for purchased goods and services on an ongoing basis and will lead to an increase in the volume of effected tax settlement adjustments.

### Changes in regard to leasing

The amendment to the relevant legislation has brought favourable changes in provisions concerning leasing taxation. In particular:

- the minimum term of a property leasing agreement has been reduced from 10 to 5 years,
- it is now possible to include the right of perpetual usufruct of land within a leasing agreement,
- it is now possible to change the parties to a leasing agreement during its term without having to amend the nature of the agreement for tax purposes, and
- it is now possible to determine the value of an asset leased on a repeated basis based on its market value.

The above mentioned measures apply to leasing agreements concluded after 1 January 2013.

### Limitations in regard to recognition of flat-rate tax costs by authors (PIT)

So far, authors were able to recognize flat-rate costs amounting to 50% of achieved income without any limitations. However, from the beginning of 2013, flat-rate costs cannot exceed the amount of PLN 42,764. In other words, only authors whose annual income does not exceed the top limit of the first tax band, i.e. PLN 85,528, will be able to apply the 50% costs. Should, however, a taxpayer be able to prove that the tax deductible expenses actually incurred by him are higher than the flat-rate costs, he will be able to recognize them in full as tax costs.

It has to be pointed out that the above change may impede the correct settlement of taxes by tax remitters, i.e. entities, who pay remuneration to authors.

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## VAT

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### Bad debt relief and past-due liabilities

A taxpayer who does not receive payment for a service rendered or goods supplied is able to adjust the amount of the output VAT using the so-called bad debt relief. So far, taxpayers were able to take advantage of the relief after 180 days from the date of expiration of the time limit for payment. The amendment brought a reduction of the above term to 150 days. At the same time, the obligation to notify the debtor of the intent to take advantage of the bad debt relief has been abolished. However, the obligation to notify the relevant tax authority of the effected adjustment remains in force.

Notably, a new obligation has been introduced to automatically adjust the input VAT of the debtor who fails to pay the amount due within 150 days from the date of expiration of the time limit for its payment. In the event that the purchaser (debtor) fails to effect a suitable adjustment, the relevant tax authority will impose on him an additional sanction amounting to 30% of the input tax subject to adjustment.

The above changes will, on the one hand, make it easier for creditors to take advantage of the bad debt relief, and, on the other hand, will make it necessary for debtors to monitor their payments and correctly effect adjustments of the input tax.

### Securing bank loans with VAT refund

The amendment makes it possible to refund excess input VAT to a bank or cooperative savings and credit union (SKOK) identified by the taxpayer. A tax refund effected by the tax authority in this manner is treated as a refund effected to the taxpayer's account. Notably, payment of such refund to the bank takes priority before:

- arrears and current tax liabilities of the taxpayer, and
- attachment of claims from tax refunds in enforcement proceedings.

The above measure is aimed to facilitate obtainment by taxpayers of loans intended e.g. for the financing of VAT and in reality will most probably apply to the financing of investments on account of which taxpayers are able to deduct VAT.

### Tax obligation for intra-community transactions

As regards Intra-Community Supply of Goods and Intra-Community Acquisition of Goods effected on an ongoing basis for a period longer than one month, a supply will be deemed to be effected at the end of each month up until the moment when the supply of goods is concluded. At the same time, receipt or payment of an advance do not result in emergence of a tax point in regard to Intra-Community Supply of Goods and Intra-Community Acquisition of Goods.

### Cash accounting

Small taxpayers taking advantage of cash accounting for settlement of VAT no longer have to recognise output VAT after 90 days from the date of supply of goods or provision of services. Their tax obligation arises only at the moment of receipt of payment. Notably however, in the event of sales to non-VAT taxpayers, a taxpayer taking advantage of cash accounting still has to recognize his tax obligation despite not receiving payment.

In reality, as regards small taxpayers, the above changes will link receipt of payment to emergence of a tax obligation, while at the same time they will make it necessary for those small taxpayers to verify the VAT status of their business partners.

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## The ECB average exchange rate

As an alternative to applying the National Bank of Poland (NBP) average exchange rate for conversion for VAT purposes of amounts denominated in foreign currencies, from 1 January 2013 taxpayers are able to apply the average exchange rate published by the ECB. When applying the ECB exchange rate for conversion of currencies other than the Euro, one applies the exchange rate for such currency to the Euro.

## Invoicing

The amendments also introduce a number of changes in regard to invoicing, in particular:

- ability to issue invoices by taxpayers registered as VAT-exempted,
  - simplification of the rules in regard to the so-called self-invoicing by purchasers of goods and services,
  - ability to issue the so-called simplified invoices for transactions whose value does not exceed EUR 100 or PLN 450,
  - ability to issue summary invoices for separate supplies effected within one month,
  - abolition of the obligation to issue internal invoices.
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## BSJP Brockhuis Jurczak Prusak Sp. k.

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The BSJP tax department provides services in regard to, among others:

- ✓ assessment of tax consequences and drawing up of most advantageous scenarios for conclusion of transactions safe from the tax point of view, as well as tax advisory throughout the transaction;
- ✓ development of optimum tax structures used for conducting business activities, including international structures;
- ✓ conducting mergers and acquisitions and restructuring programmes in the most advantageous manner safe from the tax point of view;
- ✓ tax optimization in regard to management remuneration;
- ✓ tax analysis of agreements concluded by our clients aimed at elimination and mitigation of tax related risks;
- ✓ ongoing tax advisory in relation to business activities conducted concerning, among others: income taxes, VAT, transfer tax and real estate tax;
- ✓ drawing up of documentation in regard to transfer pricing;
- ✓ client support and representation during tax proceedings and before administrative courts.

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