

Changes in tax haven transactions (direct and indirect)

On October 21, 2022 the president signed the Act of 7 October 2022 amending the act on corporate income tax and some other acts, which included the liberalization of documentation obligations for the transactions with tax havens. The act includes changes to both indirect and direct transactions with entities from tax havens.

Below we present details of the introduced changes:

Indirect tax haven transactions

In reference to numerous works and suggestions regarding changes to the regulations in the area of indirect tax haven transactions, it **was finally decided to the repeal of the provisions of Art. 11o section 1a and section 1b of the CIT Act (and accordingly the PIT Act)**, and thus taxpayers were released from the obligation to verify their contractors as beneficial owner of receivables from transactions (both with related and unrelated entities) and the documentation obligations.

As part of the act, a transitional provision was introduced, which allows the choice of **retroactive application of the above-mentioned changes** to transactions started and not completed before January 1, 2021 and **transactions concluded after December 31, 2020**.

Pursuant to the justification to the act, the provisions soften the rules of documenting transactions with tax havens, so their retroactive application does not violate constitutional standards.

Direct tax haven transactions

The legislator also decided to **increase the documentation thresholds for direct transactions** with entities from tax havens, i.e. to the amount of:

- PLN 2,500,000 - for financial transactions,
- PLN 500,000 - for transactions other than financial transactions.

The new thresholds apply both to transactions concluded with unrelated entities (transaction other than a controlled transaction) and to controlled transactions (carried out with related entities).

As with indirect tax havens transactions the amended regulations apply to transactions started and not completed before January 1, 2021 and **transactions concluded after December 31, 2020**, which **in practice** means the application of these regulations since FY2021.

Direct tax haven transactions with a foreign establishment

In addition, it has been clarified that **the provisions on direct transactions with tax haven entities also apply to a foreign establishment located in a tax haven**.

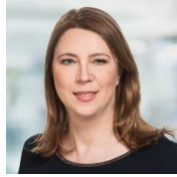
Thus, taxpayers who perform **controlled transactions and transactions other than controlled transactions with a foreign establishment** located in the territory or in a country applying harmful tax competition are required to prepare local transfer pricing documentation, if the value of this transaction exceed:

- PLN 2,500,000 - for financial transactions,
- PLN 500,000 - for transactions other than financial transactions.

The amended regulations apply to transactions started and not completed before January 1, 2023 and transactions concluded after December 31, 2022, which **in practice** means the application of these regulations **to FY2023**.

This document has been prepared for information purposes only and covers general nature. Before taking any action based on the above information, we recommend that you obtain a valid opinion of TPA experts.

CONTACT US



Joanna Kubińska
Associate Partner
+48 502 184 882
[Email](#)



Magdalena Goławska
Supervisor
+48 781 660 662
[Email](#)

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