



A bill introducing tax changes with respect to real estate companies from 2021 planned changes

From 2021, the below amendments to income tax acts relating to real estate industry are intended to be introduced. The bill is currently in the Parliament

No.	Issue	Planned changes
1.	CIT taxpayer status for limited partnerships and for some general partnerships	Limited partnerships (pol. <i>spółka komandytowa</i>) are to become CIT taxpayers. The planned change will lead to double taxation of profits of limited partnerships: CIT at the level of partnership and subsequently CIT or PIT at the level of its partners at the moment of distribution. There will be a possibility for proportional tax deduction for the general partner and certain exemptions for limited partners (up to EUR 14,000). General partnerships will also become CIT taxpayers if 1) not all of their partners are natural persons and 2) information concerning the partners is not disclosed to the competent tax office.
2.	Introduction of a definition of a real estate company	A real estate company will be deemed to be an entity, other than a natural person, obliged under separate regulations to prepare a balance sheet, in which: a. on the first day of the tax year, at least 50% of the market value of its assets is <u>real estate</u> located in Poland or rights to such real estate – in the case of entities starting their business activity; b. as at the last day of the year preceding the tax year, at least 50% of the book value of assets is <u>real estate</u> located in Poland or rights to such real estate – in the case of entities other than those specified in item (a).
3.	A real estate company will be a tax remitter of tax on income from the sale of its shares	An obligation to settle CIT or PIT on the profit obtained by shareholders from the sale of shares will be placed on a real estate company. The obligation will arise if at least one of the parties to a transaction is an entity with its seat outside Poland. The new obligation has not been precisely regulated in the bill and a number of practical situations may raise doubts.
4.	Providing information about shareholders	Real estate companies and their shareholders will be required to provide information about their direct and indirect shareholders. The provision does not contain a minimum share level from which a(n) (indirect) shareholder should be reported.
5.	Obligation to publish information	An obligation to prepare and publish information on the implementation of tax strategy will be imposed on: a. tax capital groups (regardless of the amount of revenues);

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	on the implemented tax strategy	b. taxpayers other than tax capital groups with revenues for a given year exceeding the equivalent of EUR 50 million.
6.	Publication of data from CIT returns of real estate companies	The Minister of Finance will publish individual data of taxpayers from their annual CIT returns (including revenues, costs, income, tax). In the current wording of the bill, the data of all real estate companies will be published, regardless of the value of their assets or turnover.
7.	A mandatory obligation to appoint a tax representative	<p>Companies owning real estate in Poland which are not subject to taxation in EU or EEA are to be obliged to appoint a tax representative. The obligation will arise even if company's shares are not sold in a given year. Failure to appoint a tax representative is to be subject to a penalty of up to EUR 250,000 and in the current form of the bill, this obligation will arise from 1 January 2021 (there are no transitional provisions).</p> <p>A tax representative will perform the duties of a tax remitter for and on behalf of a real estate company and will be jointly and severally liable with the company for tax obligations in this respect. A tax representative may only be an entity that meets the criteria specified in the bill, e.g. it holds the right to provide tax advisory services or bookkeeping services.</p>
8.	Extension of an exemption tax on revenues from buildings	If the epidemic is not cancelled in 2020, the exemption will continue to apply until the end of the month in which the epidemic is cancelled in Poland.
9.	Taxation of a transfer of liquidation assets	The transfer of non-monetary property of a liquidated company between the partners will be subject to CIT at the level of the liquidated company, as if the property had been sold.
10.	Raising a limit that allows a reduced CIT rate to be applied	The limit for application of the 9% CIT rate will be raised from EUR 1.2 million to EUR 2 million (including VAT).
11.	Limitation of depreciation and amortization	<p>Taxpayers will not have the right to change amortization or depreciation rates of fixed or intangible assets entered into the records after 31 December 2020 and used in business activity whose income is exempt from CIT, during the period of using such exemption.</p> <p>Fixed assets entered into the records after 31 December 2020 will be treated as "used" if a taxpayer proves that before their acquisition they were used by an <u>entity other than the taxpayer</u> for a proper period. Currently, it is sufficient if fixed assets are used for a proper period, regardless of whether they were used by the taxpayer or another entity.</p>
12.	Extension of the definition of income from the sale of shares in a company whose assets consist of at least in 50% of real estate properties	The definition of income from the sale of shares in a company whose assets consist directly or indirectly of at least 50% of the assets located in Poland or rights to such real estate is to be extended. Currently, the share of real estate in assets is verified on the last day of the month preceding the sale of the shares. Following the amendment, the assets will be reviewed over the last 12 months before the sale. This provision will apply unless the relevant double taxation agreement provides otherwise.



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