



#TAXALERT

New obligation in the
Accounting Act

Read #MORE >>

Large multinational entities based and operating in Poland will be obliged to publish reports related to income tax paid in the countries in which they operate.

The purpose of the amendment to the Accounting Act, which sets out the rules for the preparation, publication and disclosure of income tax reports, is to introduce into the Polish legal system EU provisions that require large multinational entities to publish data on income taxes paid. Act of April 12, 2024 concerns information on taxes paid in the European Economic Area, i.e. the European Union countries and Iceland, Norway and Liechtenstein, and does not include Switzerland.

The obligation to prepare, publish and make available the income tax report will be:

1. the top-level parent entity (i.e. the entity which prepares annual consolidated financial statements covering the largest possible number of affiliated companies in the capital group) - provided that the revenues recognised in the annual consolidated financial statements of that entity exceed for each of the last 2 financial years the amount of PLN 3.5M,

2. an independent entity (i.e. an entity which is not part of a capital group) - if the revenues recognised in the annual financial statements of this entity exceed for each of the last 2 financial years the amount of PLN 3.5M.

Both top-level parent and stand-alone entities should operate in the form:

- a) a capital company (limited liability company, simple joint-stock company and joint-stock company);
- b) a limited liability partnership [LLP];
- c) a general or limited partnership, all of whose partners with unlimited liability are corporations, LLPs or companies from other countries with a similar legal form to those companies.

No reporting obligations in a purely 'domestic' relationship

The obligation to prepare, publish and make available income tax reports will not apply, inter alia, where the top-level parent entity and all its subsidiaries and their branches, or the independent entity and its branches, have their registered office or permanent place of business exclusively in Poland. This situation may be referred to as a 'domestic' relationship, where the entities constituting the capital group are not located outside Poland (nor is business conducted outside Poland through a branch/branch).

Opportunities to "pass on" responsibilities to a subsidiary/branch

In the situations indicated in the amending act, the obligation to prepare, publish and make available income tax reports may, in turn, be imposed on a specific subsidiary or a branch of a foreign entrepreneur located in Poland. What is particularly important, the indicated obligation may "pass" to the subsidiary or branch - if they are not duly performed by the top-level parent entity or the independent entity.

Place of publication of the income tax report

The manager of the top-level parent entity (as well as the independent entity) should:

1. file the income tax report (and other prepared statements/refusals of signature) with the relevant court registry, and
2. post the income tax report on a website (as is the case for CIT taxpayers obliged to prepare and publish information on their tax strategy) – provided that the report should be available on the website for at least 5 years.

Discontinuation of the reporting obligation

The top-level parent entities (as well as the independent entities) will not be longer obliged to prepare, publish and make available income tax reports in the event that for each of the last 2 financial years:

- a) with regard to the top-level parent entity – the revenues recognised in the annual consolidated financial statements are lower than PLN 3.5M;
- b) in respect of the independent entity – the revenues recognised in the annual financial statements are lower than PLN 3.5M.

Income tax reporting date

The income tax report will be prepared as at the balance sheet date and will include information on all activities of either the independent entity or the top-level parent entity (including information on the activities of all subsidiaries included in the consolidated financial statements of the top-level parent entity, for the financial year).



Elements of the income tax report

The income tax report will include:



name of the top-level parent entity or independent entity;



list of all subsidiaries included in the consolidated financial statements of the top-level parent entity (in respect of the financial year) and established in a country of the European Economic Area [EEA] – covering EU Member States, Norway, Iceland and Liechtenstein) – or in the tax jurisdictions listed in Annexes I and II to the Council Conclusions on the EU list of non-cooperative jurisdictions for tax purposes (Official Journal of the EU C 438, 19 December 2017, p. 5, as amended; [Council Conclusions]);



financial year;



currency of presentation of the income tax report;



brief description of the nature of the activities of the top-level parent entity, its subsidiaries (included in the consolidated financial statements) or the independent entity;



the number of FTE employees;



revenues, including from related party transactions as defined in the IAS, which are:
a.in the case of entities not applying IAS having their registered office or management in Poland: the sum of income, excluding value adjustments and dividends received from related entities,
b.in other cases: income within the meaning of the financial reporting framework on the basis of which the financial statements are prepared, excluding value adjustments and dividends received from related entities;

Elements of the income tax report



the amount of profit or loss before tax;



the amount of income tax payable in the financial year, which represents the current tax charge on taxable profits or losses in the financial year recognised by the entities and branches in the tax jurisdiction (excluding deferred tax and provisions for conditional tax liabilities);



the amount of income tax paid during the financial year by entities and branches in the tax jurisdiction, including the amount of withholding tax paid by other entities in respect of payments to entities and branches within the group;



the amount of retained earnings at the end of a given financial year, comprising the amount of profit from previous financial years and the amount of profit from a given financial year for which no decision on distribution has been taken, whereby, in the case of branches, retained earnings means the retained earnings of the entity which established the branch;







information that the report has been prepared in accordance with the aforementioned rules or on the basis of the legal regulations issued pursuant to Article 87(2) of the Act of 9 March 2017 on the exchange of tax information with other countries (currently: the Regulation of the Minister of Development and Finance of 13 June 2017 on the detailed scope of data provided in the information on the group of entities and the manner of its completion).

The income tax report may include, where appropriate at group level, a general description providing an explanation of material discrepancies between the amounts of income tax payable and paid (indicated in paragraphs 9 and 10 respectively) – including the relevant amounts that relate to previous financial years.

Presentation of information in the income tax report

The information contained in the income tax report should be presented:

-  in machine-readable format and using a common template as defined by the European Commission by means of implementing acts pursuant to Article 48c(4) of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013;
-  separately for:
 - a) any EEA country;
 - b) any tax jurisdiction which, as at 1 March of the financial year for which the income tax report is to be prepared, is listed in Annex I to the Council Conclusions;
 - c) any tax jurisdiction which, as at 1 March of the financial year for which the income tax report is to be prepared and as at 1 March of the previous financial year, was listed in Annex II to the Council Conclusions;
-  in aggregate form – for tax jurisdictions other than those listed above;
-  collectively at the level of the EEA state concerned – where that state includes more than one tax jurisdiction;

Presentation of information in the income tax report



on the basis of registered office, permanent establishment – in respect of any tax jurisdiction in which the activities of the group or independent entity may be subject to income tax;



as the sum of the information relating to the activities of each related entity and its branches in a given tax jurisdiction – where the activities of more than one related entity and its branches may be subject to income tax in a single tax jurisdiction (information about a given activity cannot be attributed to more than one tax jurisdiction at the same time);



in such a way that, on an ad hoc basis, they do not have a materially detrimental effect on the market position of the entity to which the income tax report relates – by temporarily omitting the "sensitive" information from that report (the omission and its reason should then be indicated – the omitted information should, however, be disclosed in a subsequent income tax report within a maximum period of 5 years from the date of omission of the "sensitive" information (note that the legislator does not allow this exception for information relating to tax jurisdictions listed in Annexes I and II to the Council Conclusions).



Person responsible

The manager of the top-level parent entity (and also of the independent entity).



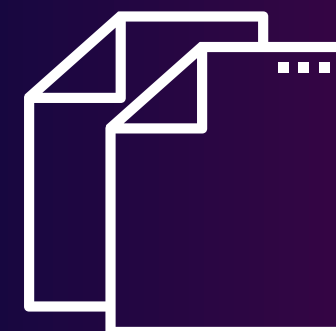
Language

Polish



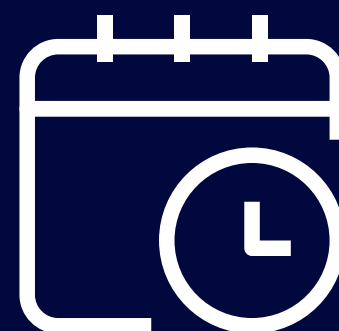
Signature

Qualified electronic signature, a trusted signature or a personal signature.



Format

Electronic



Deadline

12 months from the balance sheet date.



Currency

PLN (Polish zloty)

Appropriate application of selected provisions of the AIA

The legislator has additionally indicated that the provisions are to be applied to the income tax report (and the relevant statement provided for in the amending act), respectively:

1. Article 52(1) of the Accounting Act – in terms of presenting this report to the competent authorities, and
2. Article 52(2)-(2e) of the Accounting Act, except that this report (or the statement provided for in the amending act) should not be signed by the person responsible for keeping the accounts.

First financial year covered by the requirements of the amending act

Pursuant to Article 4 of the amending act, the obligation to prepare, publish and make available income tax reports will occur for the first time for the financial year beginning after 21 June 2024.

Penalties for non-compliance with new obligations

Failure to comply with the obligations provided for in the amending act may involve the application (to the responsible persons) of severe sanctions stipulated in the Act of 10 September 1999 – Fiscal Penal Code, and as a consequence lead to the liability of the collective entity (on the basis of the relevant provisions of the Act of 28 October 2002 on liability of collective entities for acts prohibited under penalty).

How can we help?

MDDP can provide support in:

- determining the extent of the obligations imposed on the entity you represent;
- identifying available data for the automatic generation of an income tax report;
- preparing required descriptions and other essential elements of the income tax report;
- implementing the requirements related to the publication of the income tax report.

If you are interested in the above information and its impact on your business, please contact us at:



Contact us

Monika Dzedzic

Tax advisor | Corporate Income Tax
monika.dzedzic@mddp.pl
(+48) 501 104 156



Łukasz Kumkowski

Tax advisor | Corporate Income Tax
lukasz.kumkowski@mddp.pl
(+48) 660 428 394



Magdalena Michniewicz

Chartered Accountant | Reports
magdalena.michniewicz@mddp-outsourcing.pl
(+48) 502 413 975

