

Extending reporting obligations for the companies of international capital groups

The act of March 9, 2017, on the exchange of tax information with other countries entered into force on April 4. The act imposes new reporting obligations on Polish companies belonging to international capital groups. Failure to comply with new obligations may result in a financial penalty amounting to even PLN 1,000,000.

DOMINANT COMPANIES OBLIGED TO FILE CbCR AND ITS SCOPE

The new act repealed the regulations of the CIT Act - in force since 2016 - on providing tax authorities by the largest Polish entities acting on the international scale which lead capital groups, with reports on the amount of income and tax paid by dependent entities, the places of conducting business activity, and foreign branches (the so-called **country-by-country reporting**), still before these entities have submitted first information.

Analogously to the existing regulations, Polish companies which draw up consolidated financial reports and whose consolidated revenues exceed EUR 750 million (dominant entities) will provide **the Chief of the National Tax Administration with the electronic information on the group of entities within 12 months from the end of the financial year**. For the year commenced after December 31, 2015, but before January 1, 2017, i.e. for the first period for which the information shall be lodged, the deadline for its submission has been extended up to **18 months from the end of the financial year**.

Detailed scope of data to be provided in the information will be stipulated in the ordinance.

ADDITIONAL OBLIGATIONS FOR POLISH DAUGHTER COMPANIES

So far the regulations imposed the obligation to draw up the above-mentioned information solely on dominant entities. However, the new act **extended the obligation to submit information also to daughter companies** (or units managed on the territory of Poland) **which belong to international capital groups in the case when:**

- the dominant company does not have the obligation to draw up information on the group of entities for a particular year pursuant to provisions binding on the territory of the country of its seat, or
- the country of the registered office of the dominant company is a party to the international agreement regarding the exchange of tax information, however within the period of 12 months from the date of the end of the financial year, the appropriate bodies did not conclude an agreement on the exchange of information on the group of entities, or
- the country of the registered office of the dominant company ceased the automatic exchange of information on the groups of entities or permanently did not fulfil the obligation to automatically provide Poland with possessed information (a list of these countries will be provided on the website of the Public Information Bulletin).

New provisions also provide for special cases in which a Polish daughter company still will not have to prepare information on the group of entities even when the dominant company also does not draw up such information (e.g. information will be prepared by another company from the capital group indicated to do so).

OBLIGATION TO NOTIFY OF THE ENTITY PREPARING THE INFORMATION	<p>New obligation for the Polish companies and units of foreign enterprises is to notify the Chief of the National Tax Administration <u>on the last day of the financial year at the latest of:</u></p> <ul style="list-style-type: none"> ■ having a status of the dominant company, its designation by the group as an entity obliged to transfer information, the obligation to provide information despite not having a status of the dominant company, or ■ designation of the reporting entity together with an indication of the country in which the information will be provided. 				
SEVERE CONSEQUENCES OF NON-FULFILMENT OF THE OBLIGATIONS	<p>Failure to fulfil the obligation to submit information on the group of entities by dominant companies or designated entities and failure to notify of an entity which will submit information in the capital group is subject to a financial penalty in the amount up to PLN 1 million imposed by a decision of the Chief of the National Tax Administration who considers the kind and scope of the non-fulfilment of the obligations and their performance so far.</p> <p>The act also introduces a new provision to the Penal Fiscal Code pursuant to which filing untrue information for the purposes of information on the entities composing the group is subject to a fine of up to 240 daily rates.</p>				
DEADLINES	<p>Important deadlines (with the assumption that the financial year is the calendar year):</p> <ul style="list-style-type: none"> ■ October 31, 2017 - first notification of the entity which will provide information on the group of entities for the year 2016 for the capital group, ■ December 31, 2017 - next notification of the entity which will provide information on the group of entities for the year 2017 for the capital group, ■ June 30, 2018 - first information on the group of entities for the year 2016 submitted by the Polish dominant company, ■ December 31, 2018 - next information on the group of entities for the year 2017 submitted by the Polish dominant company. 				
CONTACT	<p>Should you be interested in the subject in question, please contact your TPA Poland advisor or one of the listed specialists.</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;">  <p>Małgorzata Dankowska <i>Partner</i> +48 663 877 788 malgorzata.dankowska@tpa-group.pl</p> </td> <td style="width: 50%; vertical-align: top;">  <p>Damian Kubiś <i>Partner</i> +48 604 338 546 damian.kubis@tpa-group.pl</p> </td> </tr> <tr> <td style="vertical-align: top;">  <p>Beata Czarnecka <i>Supervisor</i> +48 604 999 400 beata.czarnecka@tpa-group.pl</p> </td> <td style="vertical-align: top;">  <p>Remigiusz Fijak <i>Manager</i> +48 604 999 370 remigiusz.fijak@tpa-group.pl</p> </td> </tr> </table>	 <p>Małgorzata Dankowska <i>Partner</i> +48 663 877 788 malgorzata.dankowska@tpa-group.pl</p>	 <p>Damian Kubiś <i>Partner</i> +48 604 338 546 damian.kubis@tpa-group.pl</p>	 <p>Beata Czarnecka <i>Supervisor</i> +48 604 999 400 beata.czarnecka@tpa-group.pl</p>	 <p>Remigiusz Fijak <i>Manager</i> +48 604 999 370 remigiusz.fijak@tpa-group.pl</p>
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