

PNP LAW'S LEGAL NEWSLETTER



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Lawyers' team at PNP LAW would like to introduce you to selected legal issues as part of this Newsletter.

Legal status as at 22 April 2021

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CHANGES IN DEADLINES TO DRAW UP AND APPROVE FINANCIAL STATEMENTS FOR FINANCIAL YEAR ENDED ON 31 DECEMBER 2020

On 30 March 2021, the Regulation of 26 March this year entered into force, amending the regulation on specifying other deadlines to fulfil obligations in the scope of records as well as drawing up, approving, making available and submitting to a proper register, entity or authority statements or information (Journal of Laws of 2021 item 572).

The Regulation extends the deadline for commercial companies to draw up financial statements by additional 3 months i.e. until 30 June 2021 (Article 52 item 1 of the Accountancy Act) provided that the financial year ended on 31 December 2020.

The Regulation also extended the deadline for shareholders of commercial companies to approve financial statements by additional 3 months i.e. until 30 September 2021 (Article 53 item 1 of the Accountancy Act), provided that the financial year ended on 31 December 2020.

The above-mentioned changes are applicable to obligations concerning the financial year ending after 29 September 2020, however not later than on 30 April 2021, the deadline of which did not lapse before 31 March 2021.

If there was no regulation, the deadline for a commercial company to draw up financial statements would be 31 March 2021 at maximum (Article 52 of the Accountancy Act) and for shareholders to approve it – 30 June 2021 (Article 53 item 1 of the Accountancy Act), provided that the financial year of a company ended on 31 December 2020.

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STATUTE OF LIMITATIONS AFTER DEFERRAL OF PAYMENT

The Supreme Court adopted an important resolution (11 September 2020, case no. III CZP 88/19) specifying the rules for running of the statute of limitations after a deferral of payment (creditor's extension of the payment deadline). Under the resolution, if payment was deferred, the statute of limitations begins to run again from the new payment deadline. The view expressed by the Supreme Court allows the repayment of the debt to be divided into instalments together with deferral of the due date, and thus postponement of the beginning of the limitation period.

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CONTRACT FOR SPECIFIC WORK ONLY AFTER MEETING CONDITIONS

On 9 February 2021, the Supreme Administrative Court, in judgment II GSK 1251/18, reminded that a contract not having features of contract for specific work indicated in the Civil Code, regardless of its name given by the parties, will be treated as an innominate contract for providing services. By the same token, regulations concerning contracts of mandate will apply to it and the contract itself will be subject to an obligation of health insurance. It should be clarified that the significant elements of the contract for specific work are as follows: individualisation of future specific work enabling subsequent verification of its performance as well as specification of

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remuneration for a person accepting an order. The contract for specific work creates an obligation to achieve a certain result, contrary to the contract for providing services which creates a due diligence obligation.

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HOUSING RELIEF PASSES TO HEIRS

The Supreme Administrative Court in its judgment of 3 December 2020 (case no. II FSK 1760/18) decided that the exemption from the PIT connected with fulfilling own housing purposes constitutes a property right which may pass to heirs. The court found that, in principle, in the case-law the so-called housing relief is uniformly recognised as a property right subject to inheritance. This is about money obtained from the sale of real properties sold within 5 years of their acquisition, which should be spent on housing purposes in order to avoid taxation with PIT. If a heir failed to spend such money on housing purposes within the designated time limit of 3 years because they died, their heirs may do it and avoid the taxation as well.

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SUBSIDIES OF INTEREST ON BANK CREDITS GRANTED TO ENTREPRENEURS AFFECTED BY CONSEQUENCES OF COVID-19 UP TO 100% OF INTEREST

The Ministry of Development, Labour and Technology prepared a bill amending the act on subsidies of interest on bank credits granted to entrepreneurs affected by consequences of COVID-19 and on simplified arrangement approval proceedings due to COVID-19. It is planned to increase the amounts of subsidies of interest on bank credits granted to entrepreneurs affected by consequences of COVID-19 up to 100% of interest due to the bank. The support is to cover entrepreneurs who, until 31 December 2019, mainly conducted business activity particularly affected by consequences of COVID-19. The business activity will be determined by way of a regulation by the minister competent for economic issues in the form of types of activities classified according to the Polish Classification of Activities. Subsidies in the proposed amount (full interest) will be applied to credits granted on the basis of agreements concluded as of the day following the day the act enters into force, as well as to credits granted before the day the act enters into force if the agreements are adjusted to conditions specified in the act.

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SUPPORT FOR ENTREPRENEURS WHO DESPITE CORONAVIRUS PANDEMIC DECIDED TO COMMENCE ACTIVITY

The Regulation of the Council of Ministers of 26 February 2021 on supporting participants of business trading suffering due to the COVID-19 pandemic provides for:

1. benefits for protecting the employment;
2. downtime pay;
3. subsidy to cover current costs of conducting business activity;
4. exemption from the obligation to pay social security contributions.

The previous regulation of 19 January 2021 did not solve a problem related to supporting newly established companies which did not have a possibility to indicate a decrease in revenues in a particular month, compared to revenues from the same month from the previous year. Granting the support depended on whether the revenue from a given activity, within the meaning of the tax regulations, obtained in one out of three months preceding the month in which the application was submitted was lower due to the occurrence of COVID-19 by at least 40 per cent, in relation to the revenue from the last month or the same month from the previous year. Currently, the government proposed to compare the decrease in turnover also to September 2020.

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ANNUAL CIT RETURN UNTIL THE END OF JUNE

As of 30 March 2021 entered into force the Regulation of 25 March 2021 of the Minister of Finance, Funds and Regional Policy on extending the deadline to submit a tax return on the earned income (losses sustained) and payment of due tax by taxpayers of the corporate income tax. The regulation extends until the end of June 2021 the deadline to submit a tax return on the earned income (losses sustained) and pay due tax by taxpayers of the corporate income tax. The regulation entered into force as of the day following the day of announcement because, in the opinion of the draft's authors, a significant state interest required regulation's immediate entry into force and the principles of a democratic state ruled by law were not an obstacle. This is because the proposed solution is beneficial for taxpayers.

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VAT E-COMMERCE PACKAGE AS OF 1 JULY 2021

As of 1 July 2021, the so-called e-commerce package will be introduced to the VAT Act. The e-commerce package means a range of EU solutions concerning the sale of goods via sales platforms of different types. The package aims at eliminating loopholes in the intra-community VAT arrangements and simplifying VAT obligations for entrepreneurs conducting cross-border sale of goods or services via the Internet for the benefit of end-users, who are represented by broadly understood EU consumers (B2C). The e-commerce package assumes that a uniform sales threshold B2C will be established for mail order for all EU countries, up to which it will be possible to settle VAT in a supplier's country and according to the rate binding therein. The threshold will amount to EUR 10,000 and after it is exceeded, the goods delivery will be subject to VAT taxation in the country of consumption.

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CHANGE IN COMPETENCE OF TAX OFFICES

As of the beginning of 2021, the competence of tax offices changed. The change pertains in particular to big economic entities and to the smaller ones, with foreign capital. The changes are a part of the programme named 'Client in the centre of attention of the National Revenue Administration' and aim at improving the quality of taxpayers service through transferring of a part of tasks to specialised entities. The introduced changes do not concern customs and tax offices.

The change in competence took place by operation of law, which means that entities covered with the changes do not have to update registration data.

The biggest taxpayers, i.e. entities which in a preceding fiscal year achieved net revenue in the sum of at least EUR 50 million, being companies of commercial law, are currently handled by the Head of the Mazovian Tax Office. The same authority, regardless of the earned revenue, handles also i.a. tax capital groups and companies within the groups, as well as listed companies.

Rhe beginning of 2021 witnessed also the appearance of 19 new specialised tax offices. The offices handle i.a. foreign entrepreneurs who in a fiscal year achieved revenue of at least EUR 3 million net (natural persons exclusive), br

anches and representative offices of foreign entrepreneurs as well as all commercial companies which achieved in a fiscal year net revenue exceeding EUR 3 million, but not exceeding EUR 50 million, under business activity, from the sale of goods, products and services.

In turn, foreign entrepreneurs whose annual revenue amounts to at least EUR 3 million and who have a permanent establishment of business activity on the territory of more than one voivodeship are handled by the Head of Second Mazovian Tax Office, starting from the new year.

The Head of Lubelskie Tax Office in Lublin also gained great significance. The authority handles taxpayers in the scope of a lump-sum corporate income tax i.e. the popular wtiholding tax.

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