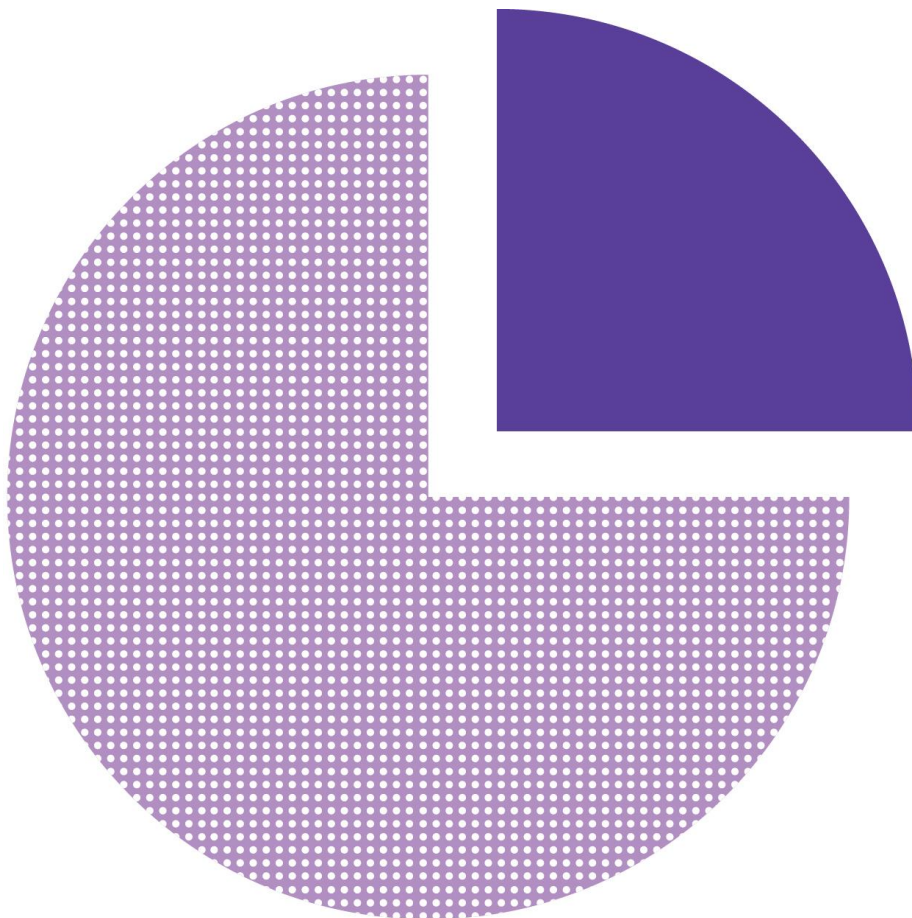


UHY ECA

TAX ALERT

CHANGES TO POLISH WITHHOLDING TAX RULES

OCTOBER 16TH 2018



On 24th August 2018, Poland's Ministry of Finance released a draft bill introducing significant changes to the Corporate Income Tax regulations to enter in force on January 1, 2019. The bill has been approved by the government and forwarded to legislative work. The draft amendment includes important changes to withholding tax regulation (WHT) in force regarding applying exemptions and treaty-based rates for dividend, interest, royalty payments and for certain services.

The draft amendment introduces a new WHT settlement mechanism for payments to a single recipient **exceeding PLN 2 million annually**. In such cases a payer should remit WHT on the excess over PLN 2 million at basic rates (i.e. 19% for dividends and 20% for interest, royalty and service payments). It means that applying exemptions from WHT and treaty-based rates will be limited.

The tax remitter would be allowed to apply reduced treaty rates or exemption from tax to the payments exceeding PLN 2 million (annually) in the situation of providing to the tax authority statement confirming:

- the remitter is in possession of all documents required to apply lower treaty rate or tax exemption, and
- it is not aware of any circumstances that would disallow application of lower WHT rates or exemption (after verification with due diligence if the conditions to apply a reduced treaty rate or tax exemption are met).

The statement should be signed by the head of the tax remitter entity under severe personal sanctions if it turns out that the documents required are not complete and the statement was not in line with facts. Fines and penalties will be applied in accordance with the Penal and Fiscal Code.

Under the new mechanism, the payer of WHT at statutory rate or remitter (depending who incurred the economic burden of tax) has the right to apply for **WHT tax refund**. This will be a procedure similar to the current WHT claims (i.e. formalistic and requiring extensive analysis of source documents).

A WHT exemption based on domestic provisions provided for dividends, interest and royalty payments could also be applied based on a specific opinion issued by a tax office upon request confirming that tax may not be withheld. The tax office would have six months to issue an opinion and, as a rule, it would be valid for 36 months. Application for the Opinion shall be subject to fee.

If the annual total amount of payments does not exceed **PLN 2 million**, the payer will still be entitled to apply a reduced treaty WHT rate or WHT exemption in accordance with the current regulations.

It is envisaged that the new regulations will be effective from 1 January 2019.

This tax alert does not constitute tax advice, but only an indication of information about selected upcoming changes in tax law.

CONTACT

Feel free to contact us in order to discuss in detail the upcoming changes and determine their impact on your business.

Our services in this regard may include preparation of WHT refund application, WHT statement and the motion for a WHT opinion from the tax authorities.

Sincerely,

Adam Trawiński

Licensed Tax Adviser (no: 11860)
Associate Partner

mob.: + 48 602 580 553
phone: + 48 22 633 03 00
e-mail: adam.trawinski@uhy-pl.com

Edyta Krzywańska

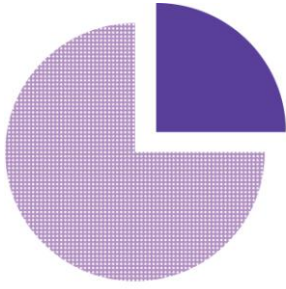
Licensed Tax Adviser (no: 12676)
Manager

mob: + 48 503 344 029
phone: + 48 12 417 78 02
E-mail: edyta.krzywanska@uhy-pl.com

Arkadiusz Juzwa

Licensed Tax Adviser (no: 11296)
Manager

mob: +48 664 407 349
phone: +48 32 376 41 80
e-mail: arkadiusz.juzwa@uhy-pl.com



LET US HELP YOU ACHIEVE FURTHER
BUSINESS SUCCESS

UHY ECA TAX & LAW TRAWIŃSKI SP.K.

UL. MONIUSZKI 50

31-523 KRAKÓW

TEL. +48 12 417 78 00

EMAIL BIURO@UHY-PL.COM

WEB WWW.UHY-PL.COM

UHY ECA S.A. (the "Firm") is a member of Urbach Hacker Young International Limited, a UK company, and forms part of the international UHY network of legally independent accounting and consulting firms. UHY is the brand name for the UHY international network. The services described herein are provided by the Firm and not by UHY or any other member firm of UHY. Neither UHY nor any member of UHY has any liability for services provided by other members."

© 2018 UHY ECA S.A.