

Warsaw, 18 March 2020

Minister

Jadwiga Emilewicz

Minister of Development

Dear Minister,

We highly commend the initiative taken by the government to prepare a package of laws to protect businesses in connection with the spread of the coronavirus. At the same time, we would like to emphasise that, from the perspective of the Association of Business Services Leaders (ABSL), the difficult situation we are all now facing compels us to make the following demands:

Concerning tax and finance

1. Postponement of the deadline for submitting tax declarations and depositions, and the possibility of remote communication with the tax authorities

In a situation where companies cannot ensure continuity of operations, and where there are significant employee absences, it is necessary to postpone the deadlines for:

- a) preparing and signing financial statements for the year 2019 – until at least 30 May 2020
- b) submitting CIT-8 declarations for the year 2019 – until at least 30 May 2020
- c) submitting MDR declarations pertaining to tax schemes – until 30 May 2020
- d) submitting IFT-2R declarations – until 30 May 2020
- e) submitting VAT-7, VAT-8, VAT-9M, VAT-12 declarations, and JPK files – until 30 May 2020
- f) settling payments for environmental exploitation for 2019 – until 30 May 2020
- g) settling payments for product fees for 2019 – until 30 May 2020

The absence of employees due to the need for people to remain in quarantine or care for children is creating incapacity in company accounting departments. Accounting firms, whose services are used by many businesses, are not able to ensure the timely completion of the numerous reporting obligations they carry out on behalf of taxpayers.

It is therefore necessary to allow remote communication with the tax authorities (not only through the epuap, but also through the official email boxes of tax inspectors), as well as the electronic transmission of copies or images of documents.

2. Acquisition of documents in paper form from other jurisdictions (residence certificates, statements and other documents required by law)

We move for the possibility of applying simplified forms of credentials (electronic version, email version) or postponing the requirement to obtain such documents (e.g. currently Italian tax offices do not issue tax certificates in paper form, including residence certificates).

3. Restoration of the possibility to apply quarterly VAT settlement for all taxpayers, and simplification of the procedures for using funds collected on VAT accounts

Taking account of the extraordinary situation in which businesses now find themselves, the possibility of applying quarterly VAT settlements should be restored even temporarily, i.e. in 2020, for all businesses. In the case of monthly settlements, we propose considering that taxpayers be permitted to pay VAT in the months of February, March, and subsequent months as well (as needed) in the amount resulting from their declaration for January, if it is not possible to calculate VAT for February.

4. Financial statements for 2019

In the current circumstances, we demand an extension of the deadlines for preparing, approving and signing financial statements for the year 2019 by at least 2 months. All these actions require face-to-face meetings, particularly with auditors. Further, work on financial statements entails auditors reviewing source documents at the premises of the entities they are reviewing.

5. The Act on an amendment of certain acts in order to limit payment delays of 19 July 2019 (hereinafter: the “Payment Delay Act”)

As of 1 January 2020, new provisions are in force resulting from the Payment Delay Act. In particular, the Act imposes additional tax reporting obligations on the largest companies. In accordance with the new tax regulations, capital groups and entities whose revenue exceeds EUR 50 million annually are obliged to submit reports to the Minister of Entrepreneurship and Technology on their use of payment terminals in commercial transactions. Pursuant to the binding provisions, the first such report must be submitted by the end of January 2021 for the year 2020.

The entrepreneurs belonging to ABSL believe that, in the current situation, the first deadline for submitting such a report should be postponed to 2022, with the first report concerning the year 2021. In the case of large taxpayers conducting many commercial transactions monthly, every new reporting obligation entails changes in their accounting systems in order for the required data to be generated

automatically. The template of the report to be submitted by businesses has not yet been published. All changes to accounting systems and automatic solutions require discussion and analysis by businesses, including with IT experts. Consequently, from the moment the report template is published, adequate time must be ensured for businesses to get ready to meet the new obligation.

In addition, the Payment Delay Act grants new powers to the President of the Office of Competition and Consumer Protection (hereinafter: the OCCP). These include the possibility of imposing penalties on businesses in certain situations. We demand that this be postponed until 2021, so that the new prerogatives of the OCCP President pertaining to the imposition of penalties applies to commercial transactions made in 2021.

6. Tax on retail sales

As entities conducting business in the retail sales sector, we propose a postponement of the obligation to pay retail sales tax until at least the end of the current year. Pursuant to the Act of 12 December 2019 on an Amendment to the Retail Sales Tax Act, collection of that tax was suspended until the end of June 2020.

In the assessment of taxpayers, under the current circumstances collection of that tax should be postponed to the end of 2020. It should be noted that the European Court of Justice (hereinafter: the ECJ) has not yet issued a ruling on whether that tax is in accordance with the rules on state aid.

7. Withholding tax

We also draw attention to the need to extend the period of exclusion or restriction of the application of Article 26 par. 2e of the Corporate Income Tax Act. That provision introduces a requirement to collect withholding tax (WHT) for payments above PLN 2 million in a given tax year for a given taxpayer, without the possibility of applying exemptions or reductions in the tax rate as foreseen in agreements for preventing double taxation and in provisions constituting the implementation of EU Directives. In force at present is the Directive of the Minister of Finance of 31 December 2018 on the Exclusion or Restriction of the Application of Article 26 par. 2e of the Corporate Income Tax Act, which postpones the application of Article 26 par. 2e of the CIT Act until 30 June 2020. We demand an extension of the period of that postponement until an amendment of the CIT Act is adopted within the scope of WHT as announced by the Ministry of Finance.

8. TP-R reporting schemes

Pursuant to the currently binding regulations, businesses performing transactions with affiliated entities are obliged to submit a TPR-C form, that is, information on the transfer prices they applied in 2019. The deadline for submitting the form is 30 September 2020. Our entrepreneurs demand an extension of that deadline to the end of 2020. Completing the form requires the provision of very detailed data in comparison with previous years, which entails more time and more involvement of personnel.

9. Postponement of consultations on certain acts of law, including the draft Act on the taxation of certain digital services and the Digital Technology Fund and on the taxation of digital giants and the creation of a Digital Technology Fund, and the draft 'holiday for startups'.

Given the rapidly changing situation in which businesses now find themselves and the need to create a package that will protect businesses and their employees, we demand a postponement of work on the above drafts until such time as a situation stabilises and the epidemiological threat is over in Poland.

Legal labour regulations and the labour market

10. Teleworking in companies located within an SEZ

The current regulations allow employees to be sent home to engage in teleworking, but do not change the method of working in companies located within a special economic zone.

From our current queries and analyses, it results that employees of companies benefiting from tax relief in special economic zones must perform their work while physically present in such zones.

The current situation shows that this regulation is not in step with reality, and a permanent change thereto is appropriate.

11. Medical examinations and Health & Safety

The situation concerning a return to work after a long absence under an L4 needs to be reviewed. Given the epidemic and the difficulties or impossibility of healthy workers having direct contact with a doctor, and at the same time the possibility of hiring under an employment contract, we move for consent to a temporary solution to last until the end of the epidemiological threat, to include:

- admission of employees to work without a medical certificate stating there are no contraindications to their working at a given position, with possible consent to
- the use of current medical examinations from a previous employer; admission of employees to work without follow-up visits after a medical absence of more than 30 days.

12. Implementation of activities supporting employers and employees

- In view of the current situation and the closure of work establishments, to introduce the possibility of sending healthy workers on overdue leave.
- To enable applications and statements pertaining to labour law to be sent electronically; to consider extended currently valid employee medical examinations. This would make it possible to avoid having to send employees whose certificates have expired for a follow-up examination.
- To formally introduce the possibility of checking employees' temperature before they enter the work establishment.

In light of the current situation, we appeal for the inclusion of the above demands in the protection package for businesses. We also declare our readiness to co-operate and consult on legal and tax solutions to support the Polish economy during this time that is difficult for everyone, including businesses.

Yours faithfully,



Jolanta Jaworska
Vice-President Public Affairs & Regulatory
Association of Business Service Leaders



Marcin Nowak
Head of Management Board
Association of Business Service Leaders

To the attention of:

Mr Mateusz Morawiecki – Prime Minister

Mr Tadeusz Kościński – Minister of Finance

Ms Marlena Małąg – Minister of Family, Labour and Social Policy

Ms Małgorzata Jarosińska-Jedynak – Minister of Funds and Regional Policy