



Pragmatic
Solutions



Law&Tax
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**12 legal
and tax
challenges
for 2020**

12 LEGAL AND TAX CHALLENGES FOR 2020

1. Binding Rate Information (BRI/WIS)

Say goodbye to uncertainties regarding VAT rates! From 1st November 2019, taxpayers have been able to ask the Director of the National Tax Information to confirm which VAT rates apply to their goods and services. The Binding Rate Information ("BRI", or "WIS" in the original Polish version) which is provided in response to such queries protects taxpayers if they are subject to tax inspections or proceedings regarding VAT rates-related proceedings. It should be noted, however, that WIS information is only prospectively applicable, as questions can only be asked about the rates stipulated in the new matrix (which applies from 1st April 2020). Nevertheless, during the transitional period (from 1st November 2019 until 31st March 2020) taxpayers can clarify their doubts by filing for specific (individual) tax interpretations.

How we can help you: SSW can prepare your WIS application, and, during the transitional period, apply on your behalf for an individual tax interpretation. We can also help you to decipher the new VAT matrix.

2. Simplified import VAT

In 2020 it will be easier to settle import VAT as part of your tax refund. Firstly, a larger range of taxpayers will be entitled to use the simplified import VAT settlement procedure with reduced formalities. From 1st July 2020, simplified procedures can be used by active VAT payers, provided that they submit customs declarations via their customs representative.

Moreover, from the same date, a different authority will be responsible for issuing certificates to confirm that a taxpayer is registered as an active VAT payer taxpayer and has no arrears regarding taxes or social insurance contributions. The new authority is the director of the customs and tax office having jurisdiction over the taxpayer's registered office or residential address.

How we can help you: SSW can help you to benefit from the simplified import VAT settlement procedure which applies from 2020.

3. JPK transforms itself into a VAT refund

No more separate JPK VAT and VAT refunds! The new JPK VAT form will include both tax records and refunds. Taxpayers will no longer need to deal with appendices to VAT refunds, as all of the information hitherto provided in appendices will now be included in JPK VAT directly.

How we can help you: SSW can help you to choose and implement proper accounting solutions or verify your submitted tax refunds. Our accounting team can handle all of your tax refunds.

4. Employee Capital Plans (PPK)

As of 1st January 2020, the duty to establish Employment Capital Plans (PPKs) also applies to mid-sized enterprises (with 50-249 employees). Such entities must select a financial institution to manage funds collected in PPKs, agree that selection with the staff, conclude agreements to manage and maintain the PPK and prepare themselves organizationally to handle the PPK.

We have already implemented PPKs in dozens of projects, on behalf of companies employing a total of over 60,000 people.

How we can help you: SSW can advise you on every aspect of PPK-related issues. We help employers to resolve numerous everyday problems concerning PPK implementation and maintenance.

5. Intra-community supply of goods – WDT (so-called Quick Fixes)

On 1st January 2020, amended provisions of the VAT Directive and the Implementing Regulation 282/2011 on intra-Community transactions entered into force. The amendments concern in particular trilateral transactions, statements of intra-Community supplies and call-off stock transactions. The Polish Parliament failed to adapt the national regulations to the amended EU law in time and has stated that, until the new provisions are implemented, taxpayers can choose which regime to apply.

How we can help you: SSW can help you to verify the current procedures of documenting intra-Community supplies of goods and settling trilateral transactions, and advise you on how the new provisions could affect your company's business.

6. White list of taxpayers

Entrepreneurs must be careful when selecting their counterparties! Verifying a counterparty is crucial to:

- retain the right to recognize an expense as an income tax-deductible cost;
- retain the right to deduct VAT imposed tax;
- avoid joint and several liability for your counterparty's tax arrears.

Is your counterparty on the white list?

How we can help you: SSW can help to design internal procedures for your business that allow you to act with due diligence when selecting your counterparties. SSW's litigation team can help you regarding disputes with the tax authorities.

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7. UBO – Ultimate Beneficial Owners

Polish companies have until 13th April 2020 to identify their ultimate beneficial owners ("UBOs" are those natural persons that exercise actual control over a company) and to submit their details to the Central Register of Beneficial Owners. Companies will face criminal liability if they submit false information and those who wrongfully fail to file information to the UBO register could face a fine of up to 1 million PLN. The register is open and publicly available.

How we can help you: SSW will help you to verify your capital structures to determine the actual beneficiaries. If necessary, we will develop and implement a reorganization of capital structures to simplify them. We can also recommend which documents should be available in the event of an audit and train your board members how to properly identify actual beneficial owners.

8. IP BOX

Finally, relief for innovative taxpayers has arrived! Did you, acting as an entrepreneur, earn income in 2019 from intellectual property? Do you already know how much of that income is subject to the preferential rate of 5%? Or perhaps you will earn such income in 2020, but are not yet aware of how to profit from the lower tax rate? SSW will help you to benefit from the IP Box – i.e. tax relief for innovative companies.

How we can help you: SSW can help you to determine which of your income can benefit from the preferential 5% rate. We can also prepare instructions for you on how to store tax information for IP Box purposes. Our accounting team can also keep your books for you.

9. Withholding tax

Do you, acting as an entrepreneur, repay interest to foreign lenders? Or does your company have foreign-investor shareholders to whom you pay dividends? From 2019, taxpayers must be extremely careful when collecting at source the tax which applies to payments to foreign companies. This is especially true in situations where they withhold the tax according to a preferential rate (or do not collect it at all). Do you know when you can benefit from preferential tax rates? Do you know what is an "ultimate beneficiary"? SSW can help you to answer these important questions and avoid problems when collecting tax at source. You should remember that a new mechanism for such tax collection enters in force in 2020 and prepare for it as soon as possible.

How we can help you: SSW will ensure that you withhold the proper tax amounts. We will also prepare internal procedures to help you act with due diligence when collecting tax at source. SSW's accounting team can handle your tax settlements so that you have more time for your business!

10. Mandatory reporting of tax-planning schemes (MDR)

2020 is the second year of the so-called mandatory reporting of tax-planning schemes, or structures designed to achieve tax advantages. The obligation to report such schemes applies to all entrepreneurs, not only professionals such as tax advisors or accountants, notaries or bank employees.

How we can help you: SSW provides comprehensive MDR services, including everything from helping you to identify tax schemes, preparing appropriate reports and developing internal procedures to prevent a failure to report tax-planning schemes.

11. Tax Criminal Code

The last few years have witnessed a significant increase in the number of criminal tax proceedings. The tax authorities also apply the Criminal Code more regularly during proceedings to challenge a taxpayer's tax calculations. This Code contains much harsher sanctions than those found in the Tax Criminal Code. The members of companies' management boards are increasingly found guilty of tax offences.

How we can help you: SSW assists business entities to develop and verify their internal procedures for managing the risk of tax-related criminal liability. We strive to restrict liability to areas which are actually capable of being supervised by the individual who may be potentially liable.

12. Dematerialization of shares

In 2020, all Polish joint-stock companies (S.A.) and limited joint-stock partnerships (S.K.A.) are obliged to dematerialize their shares and subscription warrants. Dematerialization completely changes the rules of trading in shares, the execution of existing incentive-based programs on warrants and enforces permanent incorporation of third party entities (brokerage house or bank) into the corporate governance of private S.A. and S.K.A. companies. These changes will affect current and future M&A contracts (the need to adjust collateral on shares), company's articles of association and incentive programs.

How we can help you: SSW can advise you on the legal aspects of your contracts with brokerage houses or banks, on the process of making calls to submit shares and on customizing investment agreements, partner agreements, collateral established on ESOP actions and programs. We will also help you to evaluate alternative legal forms for conducting your business activities.

Contact



Patrycja Goździowska

Partner, tax advisor

patrycja.gozdziowska@ssw.solutions

phone: +48 664 445 116



Tomasz Wickel

Partner, attorney at law

tomasz.wickel@ssw.solutions

phone: +48 517 270 826



Łukasz Karpiesiuk

Partner, tax advisor

lukasz.karpiesiuk@ssw.solutions

phone: +48 785 299 797



Marcin Cetnarowicz

Partner, attorney at law

marcin.cetnarowicz@ssw.solutions

phone: +48 664 445 123



Katarzyna Solarz

Partner, attorney at law

katarzyna.solarz@ssw.solutions

phone: +48 664 150 784



Barbara Lenarcik

Business Development & Marketing Director

barbara.lenarcik@ssw.solutions

phone: +48 662 026 531

The **SSW** team combines innovation and experience to provide clients with pragmatic solutions to their commercial, legal or tax. We work as a team to help you implement effective solutions for all your business needs. Whether you wish to ensure that your businesses apply the most effective tax structures or successfully expand into new locations and business sectors, we can help you create pragmatic, tailor-made solutions. We invest in new technologies and strategies to ensure we stay ahead of the curve regarding the latest legal, tax and business trends. We help you anticipate and prepare for future challenges. We help you achieve all your business goals, as efficiently and simply as possible.

International rankings, such as Legal 500, Chambers Europe or IFLR 1000, based exclusively on Clients' opinions all confirm our competencies and expertise.

WARSZAWA
Rondo ONZ 1, XII p.
00-124 Warszawa
tel. + 48 22 455 87 00

POZNAŃ
Mielżyńskiego 14, Okrąglak VII p.
61-725 Poznań
tel. + 48 61 625 16 00

KRAKÓW
HighFive, Pawia 9
31-154 Kraków
tel. +48 60 047 41 43