

WITH SHIELD OR WITHOUT SHIELD -
LEGAL AND TAX BUSINESS SUPPORTING SOLUTIONS



THE 24TH OF APRIL, 2020

MDDP ALERT

CREATED BY:
MDDP TEAM



WITH SHIELD OR WITHOUT SHIELD - LEGAL AND TAX BUSINESS SUPPORTING SOLUTIONS

Dear Sirs,

Below we present selected measures for entrepreneurs from the Polish Anti-Crisis Shield, taking into account amendments introduced by the Shield 2.0 . There are some other interesting solutions based on standard regulations –i.e. application for deferred tax payments.

We present also financial tools offered by Polish the State financial agencies.

Kind regards,
Justyna Bauta-Szostak, Monika Dziedzic



WITH SHIELD OR WITHOUT SHIELD - LEGAL AND TAX BUSINESS SUPPORTING SOLUTIONS

Available instruments and scope of suport:

<u>1</u>	<u>CIT (PIT)</u>	<u>6</u>	<u>FINANCING AND SUPPORT INSTRUMENTS FROM PFR GROUP FINANCE SHIELD (FOR MICROENTREPRENEURS)</u>	<u>12</u>	<u>AVAILABLE FINANCING FROM ARP LEASING</u>	<u>17</u>	<u>RET / PERPETUAL USUFRUCT</u>
<u>2</u>	<u>REMUNERATIONS / PIT / SOCIAL SECURITY / PFRON</u>	<u>7</u>	<u>FINANCE SHIELD (FOR SMALL AND MEDIUM ENTREPRENEURS)</u>	<u>13</u>	<u>AVAILABLE GUARANTEE SCHEMES FROM BANK GOSPODARSTWA KRAJOWEGO (BGK)</u>	<u>18</u>	<u>LEASE CONTRACT AND OTHER LEGAL ASPECTS</u>
<u>3</u>	<u>VAT</u>	<u>8</u>	<u>FINANCE SHIELD (FOR LARGE ENTREPRENEURS)</u>	<u>14</u>	<u>SUBSIDIES TO BANK CREDIT INTERESTS FROM BANK GOSPODARSTWA KRAJOWEGO (PLANNED)</u>	<u>19</u>	<u>CONSTRUCTION LAW/ URBAN DEVELOOMENT</u>
<u>4</u>	<u>CHANGES OF OTHER DEADLINES</u>	<u>10</u>	<u>LOANS FROM ARP (AVAILABLE)</u>	<u>15</u>	<u>GRUARANTEES FROM LIQUIDITY GUARANTEE FUND OF BGK (PLANNED)</u>	<u>20</u>	<u>COMMERCIAL COMPANIES CODE</u>
<u>5</u>	<u>TAX AND COURT PROCEEDINGS</u>	<u>11</u>	<u>LOANS FROM ARP (PLANNED)</u>	<u>16</u>	<u>IMIGRATION ISSUES</u>	<u>21</u>	<u>INVESTMENT FUNDS</u>

CIT (PIT)

Available measures:

1. Possibility to individually apply for deferred tax payment or tax payment in installments, no prolongation fee in chosen cases.
2. Postponing of the deadline to pay the minimum tax on revenues from real estate for March, April and May 2020 (to July 20, 2020) in relation to certain taxpayers (conditioned upon fall in turnover).
3. Retroactive deduction of tax loss incurred in 2020 from income earned in 2019 for certain PIT and CIT taxpayers (up to 5 million PLN).
4. Exemption from the so-called bad debts restriction regulations with regard to debtors, who delay payment and incurred negative consequences of COVID-19.
5. Bad debt relief for creditors who did not obtain payment remains in force.
6. Deduction of donations made in relation to the coronavirus pandemic.
7. Tax exemption of income from support obtained from the anti-crisis package support.
8. Possibility to opt out from simplified advance CIT or PIT payments by small taxpayers who in for the months March-December 2020.
9. Extension of the deadline for submitting TP-R till 30 September 2020 for most of the taxpayers.
10. Deadline for filing the CIT-8 tax declaration and payment of the income tax due for taxpayers whose tax year ended between December 1, 2019 and January 31, 2020 has been moved to May 31, 2020.
11. Deadline for submitting ORD-U information, if it falls between March 31, 2020 and May 31, 2020, has been extended to the fifth month from the end of the taxpayer's tax year.
12. Deadline for submitting IFT-2R information for taxpayers whose tax year ended between December 1, 2019 and January 31, 2020 was extended to the end of the fifth month after the end of their tax year.
13. Waiving the requirement of 2% profitability and lack of arrears in payments to the State Treasury – for Tax Capital Group (PGK) which was affected by negative consequences of COVID-19.

How we can help?

1. Preparation of application for deferred payment or payment in installments of tax liabilities/tax arrears.
2. Assessment of possibility to use available measures.
3. Review of amendments in business contracts to ensure that granted discounts or deferrals do not result in CIT or PIT due or do not result in other adverse tax consequences do not arise.

REMUNERATIONS / PIT / SOCIAL SECURITY / PFRON (State Fund of Rehabilitation of Handicapped People)

Available measures:

1. Co-financing of the remuneration of employees in the event of economic downtime, decrease in economic turnover or reduction of working time.
2. Upon payer's request, exemption from social security contributions for 3 months (03-05/2020) for entities that reported up to 9 insured as of 29 February 2020, provided that the entity was registered as payer of social contributions before 1 February 2020.
3. Upon payer's request, exemption from 50% of social security contributions for entities which have submitted 10 to 49 insured persons for insurance.
4. Social security contributions paid for March 2020 may be refunded if the exemption is granted, the refund is performed based on the Social Security System Act.
5. Extension of the deadline for the remitters to make advance payments for the tax on selected salaries collected for March and April (until 1 June 2020).
6. Possibility to request a deferral of payment or payment in instalments under the Social Security System Act.
7. Abolition of the collection of the prolongation fee in the case of deferral of or payment in installments of tax and social security contributions.
8. Deferral or payment in instalments of obligatory payments to PFRON (State Fund of Rehabilitation of Handicapped People).
9. Abolition of the interest for late payment of social security contributions for business reasons related to COVID-19, upon debtor's request. This relief applies to all contribution's payers, regardless of the entity's size.
10. Downtime subsidy.

How we can help?

1. Preparation of an application for exemption from social security contributions.
2. Preparation of documentation for meeting the conditions for payment of PIT advance payments for March and April by June 1.
3. Preparation of applications for deferral of social security contributions / PFRON payments or PIT advance payments.
4. Preparation of applications for abolition of the interest for late payment of social security contributions.
5. Representation of companies in proceedings before ZUS/PFRON/tax authorities.
6. Assessment if decrease in economic turnover entitles to apply for financing
7. Assessment of possibility to use available measures.
8. Preparation of the application for the co-financing of the employees remuneration.
9. Preparation of application for downtime allowance.
10. Preparation of the documentation requested for the obtaining of the financing.
11. Preparation of the application for the downtime subsidies.
12. Representation during the proceedings before the granting authorities.

Available measures:

1. Application for deferred payment or payment in installments, which will be exempt from the prolongation fee, provided the decision is positive.
2. Extension of deadlines for ZAW-NR notification (payment to non-white listed account) from 3 to 14 days.
3. Postponing the obligation to submit a new JPK_VAT from April 1 to July 1, 2020.
4. Extension of entry of the new VAT rate matrix – till June 30, 2020.
5. Bad debt relief remains in force.



How we can help?

1. Preparation of application for deferred tax payment or tax payment in installments.
2. Verification of amendments to the business contracts to ensure that output VAT will not arise despite granted discount, reduction or waiver and that other adverse tax consequences do not arise.

CHANGES OF OTHER DEADLINES

1. Reporting of tax schemes (MDR) - deadlines do not start and the one that has started are suspended (until July 1, 2020).
2. Obligation to report to the Central Register of Beneficial Owners postponed until 13 July 2020.



TAX AND COURT PROCEEDINGS

Available measures:

1. Extension of the deadline for issuing tax ruling up to 6 months (possible further extension up to 3 months).
2. Procedural and court deadlines do not start and the one that has started are suspended, including court proceedings, enforcement, criminal and administrative proceedings, as well as in tax audits carried out under the Tax Ordinance Act and customs and fiscal audits.



FINANCING AND SUPPORT INSTRUMENTS FROM PFR GROUP FINANCE SHIELD (FOR MICROENTREPRENEURS)

Available measures:

Polish Development Fund (PFR) may grant a subsidy to the microentrepreneurs who meet the following conditions:

- employment from 1 to 9 employees (persons with employment contracts);
- annual turnover or balance sheet total not exceeding EUR 2 million (approx. PLN 9 million).
- the drop in turnover (sales revenue) by minimum 25 % in any month after February 1, 2020 as compared to the previous month or corresponding month of the previous year due to the disruption of the economy caused by COVID-19;
- no ongoing bankruptcy, liquidation or restructuring proceedings in the microentrepreneur;
- the tax residency of the entrepreneur (beneficiary of the subsidy) is in Poland and the taxes for the previous 2 financial years were settled in Poland;
- no arrears in payment of taxes or social security contributions as of 31 December 2019 or as of the date of granting the subsidy.

Under certain conditions, the subsidy may be canceled up to 75 % at the end of 12th calendar month from the date of payment of the subsidy.

Maximum subsidy amount within PFR program for microenterprenours is determined based on the product of number of employers and basis subsidy amount (PLN 12,000 per employee).

How we can help?

1. The assessment of the possibility of obtaining the subsidy.
2. Preparation of the instructions regarding obtaining of the subsidy from PFR.
3. Preparation of the application for the subsidy to PFR.
4. Coordination of preparation of the documentation requested for obtaining the subsidy.
5. Commenting on the subsidy agreement and coordination of fulfillment of the conditions for payment of the subsidy.
6. Representation of the client during the process obtaining the subsidy from PFR.

FINANCE SHIELD (FOR SMALL AND MEDIUM ENTREPRENEURS)

Available measures:

PFR may grant a subsidy to the small and medium entrepreneurs, who meet the following condition:

- employment from 10 to 249 employees (persons with employment contracts);
- annual turnover not exceeding EUR 50 million or balance sheet total not exceeding EUR 43 million;
- the drop in turnover (sales revenue) by minimum 25 % in any month after 1 February 2020 as compared to the previous month or corresponding month of the previous year due to the disruption of the economy caused by COVID-19;
- no ongoing bankruptcy, liquidation or restructuring proceedings in the entrepreneur;
- the tax residency of the entrepreneur (beneficiary of the subsidy) is in Poland and the taxes for the previous 2 financial years were settled in Poland;
- no arrears in payment of taxes or social security contributions as of 31 December 2019 or as of the date of granting the subsidy.

Under certain conditions, the subsidy may be canceled up to 75 % at the end of 12th calendar month from the date of payment of the subsidy.

Maximum subsidy amount is determined as a percentage of turnover from 2019 and depends upon decrease in turnover resulting from COVID-19. Average small and medium entrepreneur's revenue is ca. PLN 31.3 million and estimated average amount of subsidy should amount to ca. PLN 1.9 million for one entrepreneur and up to PLN 3.5 million.

How we can help?

1. The assessment of the possibility of obtaining the subsidy.
2. Preparation of the instructions regarding obtaining of the subsidy from PFR.
3. Preparation of the application for the subsidy to PFR.
4. Coordination of preparation of the documentation requested for obtaining the subsidy.
5. Commenting on the subsidy agreement and coordination of fulfillment of the conditions for payment of the subsidy.
6. Representation of the client during the process obtaining the subsidy from PFR.

FINANCE SHIELD (FOR LARGE ENTREPRENEURS)

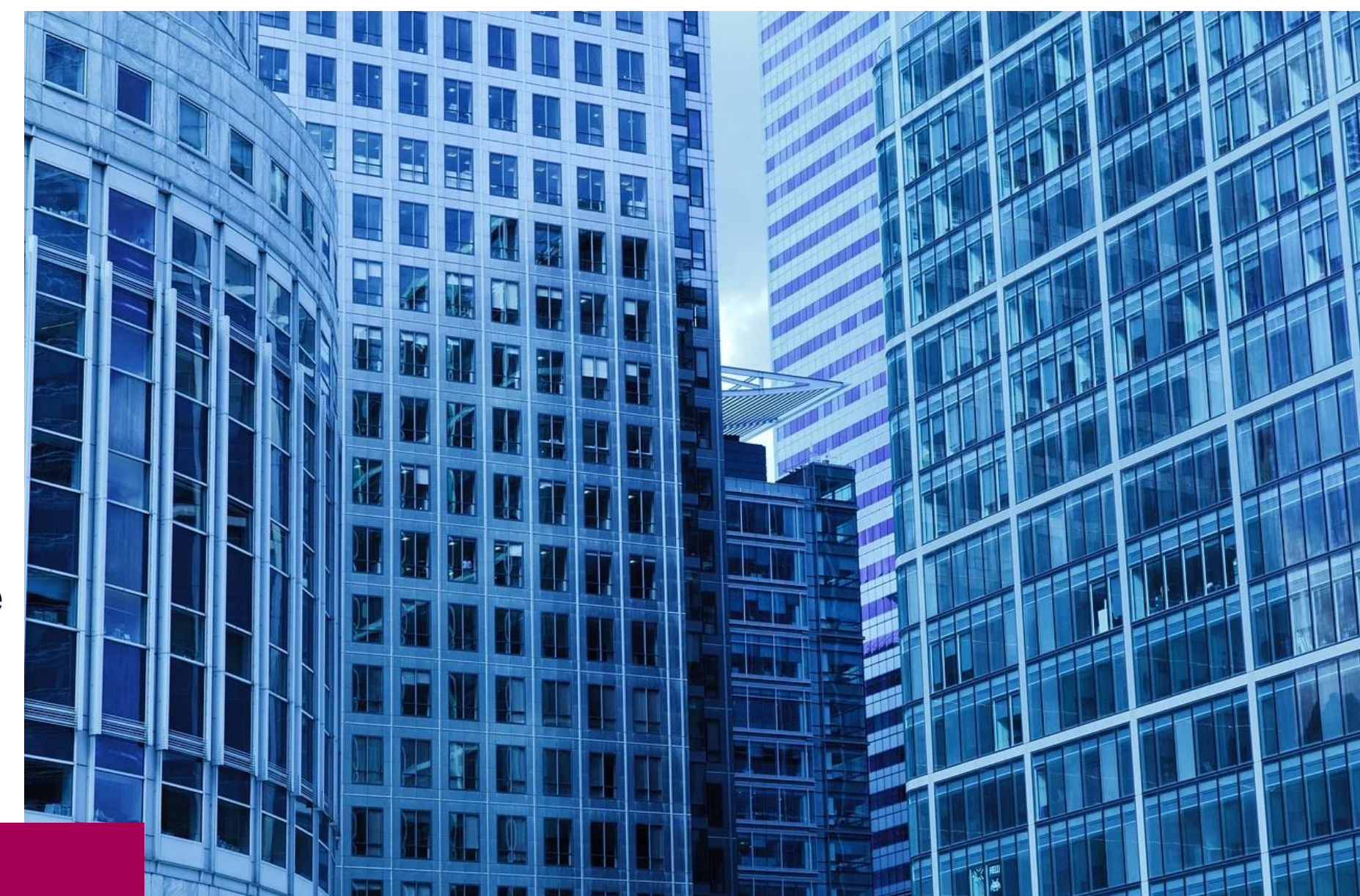
Available measures:

PFR may grant the following financing to the large entrepreneurs, if they meet the following conditions:

1. liquidity financing in the form of loans or bonds or for the period of 2 years with the option of its prolongation by another year up to the value of PLN 1 billion;
2. preferential financing in the form of preferential loans for the period of 3 years partially non-repayable and dependent on the financial loss and maintenance of the employment up to the value of PLN 750 million for the entity;
3. investment financing in the form of the equity instruments (shares or stocks) on the market rules or as a public aid up to the value of PLN 1 billion for the entity.

The conditions which are to be met by the entrepreneur:

- employment of at least 250 employees (persons with employment contracts);
- annual turnover exceeding EUR 50 million or balance sheet total exceeding EUR 43 million;
- the drop in turnover (sales revenue) by minimum 25 % in any month after 1 February 2020 as compared to the previous month or corresponding month of the previous year due to the disruption of the economy caused by COVID-19;
- loss of the production or service capability or incapability of accepting the products or services by the ordering entities due to lack of availability of resources caused by COVID-19;
- not receiving the payments from the sale due to COVID-19 in the amount exceeding 25% of the receivables



FINANCE SHIELD (FOR LARGE ENTREPRENEURS)

- no access to the equity market or credit limits related to the new contracts due to disruption of the financial market;
- the participation in the Sector Program;
- no ongoing bankruptcy, liquidation or restructuring proceedings in the related to the entrepreneur;
- the tax residency of the entrepreneur (beneficiary of the subsidy) is in Poland and the taxes for the previous 2 financial years were settled in Poland;
- no arrears in payment of taxes or social security contributions as of 31 December 2019 or as of the date of granting the subsidy.

Amount of financing for large entrepreneurs was not determined and is conditioned upon justified financing needs of the entrepreneur and analysis of its financial results and economic potential

How we can help?

1. The assessment of the possibility of obtaining the financing.
2. Preparation of the instructions regarding obtaining of the financing from PFR.
3. Preparation of the application for the given financial support.
4. Coordination of preparation of the documentation requested for obtaining the financing.
5. Commenting on the documentation and coordination of fulfillment of the conditions for obtaining the financing.
6. Representation of the client during the process obtaining the financing from PFR.

LOANS FROM ARP (AVAILABLE)

Available measures:

1. The working capital loan for the small and medium entrepreneurs offered by Industrial Development Agency (ARP) for the purposes of financing the current or planned need for the working capital up to the amount of PLN 800,000 for the period adjusted to the needs of the applicant.
2. The investment loan for the small and medium entrepreneurs offered by ARP for the purposes of financing the planned investment expenditures in the owned fixed assets or the fixed assets which are to be acquired.

How we can help?

1. The assessment of the possibility of obtaining the loan.
2. Preparation of the instructions regarding obtaining of the loans from ARP.
3. Preparation of the application for the given loan to ARP.
4. Coordination of preparation of the documentation requested for obtaining the given loan.
5. Commenting on the loan documentation and coordination of fulfillment of the conditions for payment of the given loan.
6. Representation of the client during the process obtaining the loan from ARP.

LOANS FROM ARP (PLANNED)

Planned measures:

1. The working capital loan offered by ARP for the purposes of financing the deficit in the working capital in the amount between PLN 0.8 million to PLN 5 million.
2. Condition: the small or medium entrepreneur with a turnover exceeding PLN 4 million and having the positive financial results for year 2019 (positive EBITDA and net profit), conducting full accounting.
3. The working loan offered by ARP to small and medium entrepreneurs for the purposes of financing of the employees remuneration.
4. Condition: verification of the liquidity gap based on the bank account statement and analysis the short liquidity (with the use of the own resources or via operational agent PKO/Pekao/BGK).

How we can help?

1. The assessment of the possibility of obtaining the loan.
2. Preparation of the instructions regarding obtaining of the loans from ARP.
3. Preparation of the application for the given loan to ARP.
4. Coordination of preparation of the documentation requested for obtaining the given loan.
5. Commenting on the loan documentation and coordination of fulfillment of the conditions for payment of the given loan.
6. Representation of the client during the process obtaining the loan from ARP.



AVAILABLE FINANCING FROM ARP LEASING

Available measures:

The following form of leasing are currently available for small and medium entrepreneurs:

- operating leasing,
- financial leasing similar to the loan financing,
- leaseback (operating or financial) with the effect of liquidity improvement, i.e. connecting leasing agreement with the preceding sale agreement, where the lessee sells its own fixed assets to ARP Leasing maintaining the right to its further use on the terms established in the leasing agreement. The standard period of leasing in the case of the specialized machines and equipment is 5 years, the minimal rent is 10% of the net value of the leasing object, the minimal value of buyout is 1% of the net value of the leasing object.

ARP Leasing offers new solution aimed at supporting the small and medium entrepreneurs from the transport sector, i.e. operating leasing for the purpose of refinancing the existing leasing agreements in the commercial leasing companies and associations with the following parameters:

- currency – PLN,
- age of the vehicle/or semi-trailer up to 3 years,
- the net amount of leasing up to PLN 5 million for the client,
- the financing period up to 6 years (together with the grace period),
- the grace period in the payment of leasing installments up to 12 months.

How we can help?

1. Preparation of the instructions regarding obtaining of the financing from ARP Leasing.
2. Preparation of the application for the financing to ARP Leasing.
3. Coordination of preparation of the documentation requested for obtaining the given financing from ARP Leasing.
4. Commenting on the finance documentation and coordination of fulfillment of the conditions for provision of the financing.
5. Representation of the client during the process obtaining the financing by ARP Leasing.

AVAILABLE GUARANTEE SCHEMES FROM BANK GOSPODARSTWA KRAJOWEGO (BGK)

Available measures:

New terms of granting de minimis guarantees by BGK as a security of the payment of the working or investment credit for the small and medium entrepreneurs who are capable of repaying the credit (this applies only to new credits and does not constitute a subsidy):

- increase of the scope of the guarantee up to 80 % of the credit amount,
- no commission fee for granting the guarantee,
- extension of the maximum guarantee period from 27 to 39 months for working credit,
- dedicated for the entrepreneurs who are not in tax or social security contributions arrears as of 1 February 2020,
- the new terms will be binding until 31 December 2020 with the possibility of further extension.

The implementation of such changes by the crediting banks depends on their individual decisions.

The list of the crediting banks is available on the following website:
www.bgk.pl/pakietpomocy/systemy-gwarancji/gwarancje-de-minimis/

How we can help?

1. The legal analysis of the selected offer regarding de minimis guarantee provided by the crediting bank.
2. Preparation of the instructions regarding obtaining the de minimis guarantee.
3. Preparation and submission of the application for obtaining de minimis guarantee and the credit or verification of the application prepared by the client.
4. Verification and negotiation (optionally preparation) of the credit documentation and the documentation regarding de minimis guarantee.
5. Representation of the client in the process of obtaining the credit from the crediting bank and de minimis guarantee from BGK.

SUBSIDIES TO BANK CREDIT INTERESTS FROM BANK GOSPODARSTWA KRAJOWEGO (PLANNED)

Planned measures:

1. The planned scheme of subsidies of BGK to the interests of the working capital credits for medium and large entrepreneurs affected by COVID-19 – the maximum period of providing the subsidies to the credit is 12 months.

How we can help?

1. Preparation of the instructions regarding obtaining the subsidies to the credit.
2. Preparation and submission of the application for the subsidies and the credit or verification of the application prepared by the client.
3. Coordination of preparation of the documentation required for the abovementioned application.
4. Verification and negotiation (optionally preparation) of the credit documentation or documentation related to the subsidies and coordination of fulfillment of the conditions for obtaining the subsidies and the credit.
5. Representation of the client during the process obtaining the subsidies from BGK.



GRUARANTEES FROM LIQUIDITY GUARANTEE FUND OF BGK (PLANNED)

Planned measures:

1. The planned guarantees for medium and large entrepreneurs affected by consequences of COVID-19 from the newly established Liquidity Guarantee Fund of BGK.
2. The application for the guarantee may be submitted in the crediting banks which sign an agreement with BGK. The list of crediting banks will be published on the internet website of BGK.



How we can help?

1. Preparation of the instructions regarding obtaining the guarantee.
2. Preparation and submission of the application for obtaining guarantee and the credit or verification of the application prepared by the client.
3. Coordination of preparation of the documentation required for the abovementioned application.
4. Verification and negotiation (optionally preparation) of the credit documentation and the documentation regarding guarantee and coordination of fulfillment of the conditions for obtaining the subsidies and the credit.
5. Representation of the client in the process of obtaining the credit from the crediting bank and the guarantee from BGK.

IMIGRATION ISSUES

Avialable measures :

Pursuant to the provisions of the Act on COVID-19, in the case of foreigners whose work permits, seasonal work permits, statements for entrusting work to a foreigner, visas or temporary residence permits expire during the period of epidemic announced due to SARS-CoV-2 infection, the period of validity of this document is extended by law to 30 days after the date on which the period of epidemic is canceled.



How we can help?

1. Verification of the status of foreigners staying and working in Poland
2. Preparation of documents legalizing residence and work after the end of the epidemic
3. Immediate launch of administrative procedures after the epidemic has been abolished

RET / PERPETUAL USUFRUCT

Available measures:

1. Postponing the payment deadline for perpetual usufruct fee to June 30, 2020.
2. Allowing municipalities to extend the deadlines for payment of the real estate tax installments payable in April, May and June 2020 - no longer than until September 30, 2020.
3. Allowing municipalities to introduce the real estate tax exemption.
4. The possibility of canceling fees for the rent, lease and use of real estate owned by the State Treasury or postponing or dividing these payments into installments.



How we can help?

1. Preparation of the application for the deferral of perpetual usufruct fees payment (later than the automatic postponements provided in the shield).
2. Preparation of the petition to the municipalities to introduce the real estate tax exemption.
3. Preparation of the application for deferred payment or payment in installments of rent, lease and use of real estate owned by the State Treasury

LEASE CONTRACT AND OTHER LEGAL ASPECTS

Available measures:

1. Termination (during the ban on operating of large-format shopping facilities) of mutual obligations of the parties of a lease, tenancy or other similar agreement - in exchange for extending the lease period by ban period plus six months by the holder of the commercial space.
2. Extension of lease agreement until June 30, 2002 and prohibition of termination of lease agreement and rent amount until June 30, 2020 (with certain exemptions).

How we can help?

1. Verification of lease agreements in terms of payments and mutual obligations of the parties as well as their tax consequences.
2. Preparation of drafts of correspondence between the lessor and the lessee.
3. Verification of the lease agreements from the perspective of their early termination and change in conditions of rent payment.
4. Verification of the facility agreements in terms of the situation and its consequences on the basis of facility agreements.
5. Verification of other contracts (for example re. media) in terms of the situation and its consequences on the basis of the given contract.
6. Support in the field of labor law (labor contract amendments, mutual agreements with employees, others).
7. Advisory on the payment backlogs in terms of trade payables.
8. Advisory regarding security of claims.



CONSTRUCTION LAW/URBAN DEVELOPMENT

Available measures:

1. Suspension of application of Article 55 par. 1 item 1 and 3 of the Construction Law Act regarding the obligation to obtain a decision on the occupancy permit, and applications for an occupancy permit submitted before the date of entry into force of the Act, if no decision on the occupancy permit has been issued, shall be treated as notification of completion of construction,
2. Determination that the commencement and suspension of dates does not apply to the dates of giving opinions and agreeing projects on the study of conditions and directions of area development, local area development plans and draft resolutions establishing the rules and conditions for the location of small architecture objects.

How we can help?

1. Verification of legal status with respect of the new regulations



COMMERCIAL COMPANIES CODE

Available measures:

1. Facilitating of conducting meetings and adopting resolutions by bodies of companies, management board, supervisory board, shareholder's meeting
2. The amendments provide the option of adopting the resolutions of the management board and the supervisory board by casting a vote in writing via another member of such governing body or by means of a written procedure.



How we can help?

1. Preparation and introduction of amendments to the articles of association,
2. Preparation of draft resolutions of supervisory boards,
3. Verification of the proposed content of the resolutions and evaluation of their compliance with the applicable regulations

INVESTMENT FUNDS

Available measures:

Participation in the investors' meeting may also take place by electronic means of communication, on similar terms to those laid down for fund participants' meetings.

How we can help?

1. Verification of fund statutes and preparation and implementation of changes to funds in accordance with the new rules on electronic participation in meetings of participants and investors.





MORE DETAILS? Contact us

In MDDP, we have also established a CORONAVIRUS CRISIS TEAM our experts assist in all areas of activity that may be affected by the coronavirus epidemic. We monitor the legislative work related to the coronavirus on an ongoing basis and follow the recommendations of the relevant authorities that may affect the business situation.

Questions and doubts should be addressed to: covid19@mddp.pl or directly to persons responsible for specific issues:

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MORE DETAILS? [Contact us](#)

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