



Lump-sum CIT and Special Investment Account - 2021

From 1 January 2021, corporate income taxpayers will be able to take advantage of two new tax incentives, i.e.:

1. a lump-sum CIT (so-called "Estonian CIT") and
2. write-offs to a "Special Investment Account".

1. Which companies may benefit ?

The new regulations are addressed only to selected CIT payers, i.e. companies which jointly meet the following conditions in the first stage:

- limited liability companies and joint-stock companies,
- with annual revenue below PLN 100 mln /approx. EUR 25 mln (including VAT due),
- their shareholders are individuals only,
- they do not hold shares, stocks, units in investment funds, rights in partnerships, relations with foundation, trusts etc.,
- their "passive" revenue constitutes less than 50% of the revenue,
- their financial statements during using the preferences are not prepared according to International Accounting Standards (IAS),
- they are not financial enterprises or lending institutions,
- they do not generate income from their activity in a special economic zone or special investment zone,
- they were not put into liquidation or bankruptcy.

Companies subject to corporate transformations (divisions, mergers, in-kind contributions), including newly-established taxpayers, cannot benefit from lump-sum taxation in the year of establishment (transformation) and in the following year (in each case for at least 24 months after the establishment or transformation).

LUMP-SUM CIT

2. Additional Lump-sum CIT requirements

Lump-sum taxation requires, among others:

- employing at least 3 persons (with an exception for start-ups and small taxpayers),

- incurring investments expenditure, greater than the initial value of fixed assets from groups 3-8 of the Catalogue of Fixed Assets (excluding passenger cars, aeroplanes and other assets serving mainly for the personal purposes of the shareholders or their families) determined on the last day of the tax year preceding the lump-sum taxation:
 - by 15% but not less than PLN 20 thousand/approx. EUR 4.500 (for 2 consecutive years of lump-sum taxation, or
 - by 33% but not less than PLN 50/approx. EUR 11.300 thousand over 4 years of lump-sum taxation, or
- incurring, in the period of 2 consecutive years of lump-sum taxation expenses on salaries increased by 20% (but not less than 30 000 PLN/approx. EUR 6.800),
- separating in the equity capital undistributed profits, divided into capitals and losses from the period before lump-sum taxation,
- including non-tax revenues and non-balance sheet costs in tax revenues and non-balance sheet revenues and non-tax costs in tax costs,
- filing a notice of selection of lump-sum CIT by the end of the first month of the first tax year in which the lump-sum CIT is to be applied.

3. Duration of lump-sum CIT

The lump-sum taxation covers four consecutive tax years and is extended by law for another four tax years unless the taxpayer resigns from the extension.

4. The subject of lump-sum CIT

Taxable income includes:

- profit to be paid to shareholders or to cover a loss,
- the value of benefits whose beneficiary is directly or indirectly a shareholder or entity related to the taxpayer or the shareholder (hidden profits - include e.g. loan granted to the shareholder or depreciation charges on assets not used exclusively for business purposes) and the amount of expenses not related to business activity,
- the sum of previously untaxed profits, in case of ending the taxation with the lump-sum CIT,
- the value of revenues and costs not included in the accounting books, which should have been accounted for (undisclosed business operations).

As long as the above does not happen, the company is not subject to CIT. However, it must submit a tax return for the tax year by the end of the 3rd month of the following tax year.

5. Lump-sum CIT rate and payment deadlines

The lump-sum CIT rate is:

- 15% in the case of the status of a small taxpayer (sales revenues with VAT do not exceed EUR 2 mln per year), or
- 25% in other cases.

These rates may be reduced by 5 percentage points if the taxpayer incurs investment expenditures that are higher than the required minimum.

The deadlines for paying the lump-sum CIT vary depending on the type of income to be included in the lump-sum tax base.

- In the case of profit distribution (to shareholders or to cover a loss), the lump-sum CIT must be paid by the 20th day of the seventh month of the tax year (it seems natural that this is the year following the year for which the income is determined).
- In the case of income from undisclosed business operations and "surtax" on this account - until the end of the third month of the tax year following the year in which the revenues or expenses should have been recorded.
- In the case of income from hidden profits, expenses not related to business activity and "surtax" on this account - until the 20th day of the month following the month in which the payment or expense was made.

Other items that contribute to the income are also subject to taxation and settlement according to specific rules.

6. „Surtax“

For the first time the CIT Act uses the "surtax" term which so far functioned only in the common Polish language. In short, the CIT Act provides for an additional tax obligation of 5% of the amount of income exceeding the lump-sum limit and the lump-sum taxed income.

7. Taxation of the shareholder of the company applying lump-sum CIT

Dividends paid to a shareholders of a company taxed with a lump-sum CIT are subject to personal income tax in a specific way.

The dividend is subject to standard 19% PIT but the tax can be reduced by 37% or 41% or 51% or 71% of the amount being the multiplication of the profit participation and the lump-sum due; the deduction depends on the income from which the lump-sum CIT is paid out.

SPECIAL INVESTMENT ACCOUNT

8. Write-offs to the special investment account as CIT deductible costs

In this variant of the new relief, the company (instead of being taxed with at a lump-sum CIT) is allowed to make write offs to special investment fund account (separated in the reserve capital) which is created from the profit generated in the year preceding the tax year.

The equivalent of the write-offs must be actually remitted/paid to a bank account (or SKOK) and financed from the taxpayer's own resources.

The taxpayer will be obliged to spend the funds remitted to the special investment account **not later than in the tax year following the year in which the write-off was made** unless the company notifies the appropriate tax office on planned investments and the year of spending the funds for these investment and the spending of these funds will take place within three years following the date of the write-off.

The funds assigned to the investment fund account can be spent only on the acquisition of fixed assets from groups 3-8 of the Catalogue of Fixed Assets (without passenger cars, planes and other



assets serving mainly the personal purposes of the shareholders or their families). Therefore, the expenditures for investment purposes, same as within the lump sum CIT model, will be

- expenses on the acquisition of brand new or construction of these fixed assets or
- lease payments (except for operating lease) in the part concerning the repayment of their initial value.

Companies that wish to benefit from the special investment account incentive must meet the "lump-sum CIT" criteria but besides that they calculate the taxable profit as a difference between taxable income and tax deductible costs according to standard rules and pay CIT (monthly, quarterly advances) at standard rates (9 or 19% depending on turnover) at standard dates. The key difference is that the write-offs are tax deductible. Afterwards expenses on the acquisition of fixed assets financed from the fund will not be deductible.

9. Sanctions

In the case of improper disbursement of funds from the special investment account or failure to meet the allowance conditions, as well as failure to use the funds accumulated in the investment account, the write-offs will **be considered as a taxable income (plus interest on tax arrears). Moreover, the taxpayer will not be allowed to benefit from that incentive for the next 3 consecutive tax years.**

If you are interested in obtaining further information, or would like to discuss the impact of the above on your business activity please contact:

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