

Deadline for WH-OSC follow-up statement ever closer

● 4 JANUARY 2024 ●

Tax remitters with tax year same as calendar year are required to file a WH-OSC so-called follow-up statement by 31 January 2024.

Who is affected by this requirement?

If payments subject to withholding tax exceed the PLN 2 million threshold in a given year to a given entity, the Polish tax remitter is, as a rule, obliged to collect withholding tax at the basic withholding tax rate (19% or 20%).

There are two exceptions to that rule:

- ✓ obtaining an opinion on the application of preferences, or
- ✓ submission of a statement that the tax remitter has in its possession the documents required by tax law for the application of the reduced tax rate, the exemption or non-collection of tax resulting from special provisions or double tax treaties - WH-OSC preliminary declaration.

Withholding tax remitters who, in 2023, after filing the primary WH-OSC statement, made further payments to the same taxpayer without withholding tax or at a rate lower than the basic rate, are **required to file a so-called follow-up WH-OSC statement** by the last day of the month following the end of their tax year.

The obligation to file a follow-up WH-OSC statement is incumbent on those withholding tax remitters who exercised their right not to withhold tax or to apply a preferential rate, during 2023:

- ✓ filed the preliminary WH-OSC statement in excess of the PLN 2 million limit, and
- ✓ made subsequent payments of passive nature (not necessarily belonging to the same category as the payments in respect of which the original declaration was made) after the abovementioned preliminary statement.

Filing of a follow-up WH-OSC statement is not just a formality, but is supposed to confirm that at the time of each of the subsequent passive payments made after the filing preliminary statement, the tax remitter has made the necessary verification of the conditions for the application of the non-basic tax rate.

Deadline

For tax remitters with tax year same as the calendar year, this obligation regarding 2023 should be fulfilled **by the end of January 2024**.

For tax remitters with tax year different than the calendar year, the deadline is the **last day of the month following the end of their tax year**.

Sanctions

Failure to submit a WH-OSC follow-up statement may trigger the fiscal penalty sanctions.

How can we help?

We recommend not delaying the verification and preparation of the annual statement until the last moment.

- We will support tax remitters in verifying that the documentation collected during the year can be considered complete.
- We will assess, taking into account the current practice of tax authorities, whether the earlier verification of the conditions for the application of the preference tax rate is proven by an adequate degree of detail.
- We will support with the correct completion of the WH-OSC form and its timely submission.

We would be happy to agree a possible support from our side. Kindly let us know if we could discuss this with you.

Monika Marta Dzedzic

monika.dzedzic@mddp.pl

(+48) 501 104 156

Linked 

Gniewomir Parzyjagła

gniewomir.parzyjagla@mddp.pl

(+48) 48 664 718 736

Linked 

or your advisor from MDDP.

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