

# TAX Alert

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## Replacing the state of epidemic by the state of an epidemic threat - certain tax consequences

On 09.05.2022, the website of the Government Legislation Centre published a draft regulation by the Minister of Health on the declaration of a state of epidemic emergency on the territory of the Republic of Poland. According to the draft, from 16.05.2022 the state of an epidemic will be abolished in Poland and a state of epidemic emergency will be introduced. This change has consequences in terms of tax law.

### Tax on income from buildings

Pursuant to Article 38ha(2) of the CIT Act, income generated from 01.01.2021 till the end of the month in which the state of an epidemic is revoked, is exempt from tax on income from buildings. Therefore, if the state of an epidemic is abolished on 16.05.2022, it means that corporate income taxpayers will again be required to pay tax on income from buildings starting from June 2022 (payment due by 20.07.2022).

**Important:** in case the building was made available for use in part, the income is determined proportionally to the share of the usable area made available for use in the total usable area of the building. - Before paying the tax again, it is advisable to verify the said areas (moreover, the tax is not calculated if the share of the usable area does not exceed 5% of the building's area). The taxpayers of this tax are the owners of commercial properties whose value exceeds PLN 10 million if they rent, lease, or make the area usable on the basis of another similar agreement. The tax rate is 0.035% and the tax base is the initial value of a taxable fixed asset as indicated in the tax records.

### Bad debt relief

Article 38o of the CIT Act introduced a shorter time limit for the bad debt relief for both creditors and debtors - the tax base is reduced/increased by receivables overdue by 30 days (instead of the standard 90 days). This provision shall apply no longer than till the end of the calendar year in which the state of epidemic declared on account of COVID-19 is revoked. If the state of epidemic is revoked on 16.05.2022, the regulation shall apply till 31.12.2022.

### Suspension of deadlines for submitting information on tax schemes (MDR)

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The so-called "Anti-COVID shield" regulations in force during the epidemic state provided for the suspension of deadlines for reporting information on tax schemes. These regulations remain in effect despite the lifting of the epidemic state. The legislator introduced the principle according to which this solution is valid both during the epidemic state and the state of an epidemic threat, and till the 30th day following the day these states are cancelled.

### **Preference with respect to certificates of residence**

The "Anti-COVID shield" regulations in effect during the epidemic state, which provide for changes in the validity of certificates of residence, also remain in effect despite the removal of the epidemic state. The legislator has introduced the principle that these solutions are valid both during the epidemic state and the state of epidemic emergency, and for a period of 2 months after these states are cancelled.

**Important:** during the period of the validity of the mentioned regulations:

- the payer shall take into account certificates of residence that do not contain a validity period, with respect to which the period of consecutive twelve months of validity expires during the period of validity of the state of epidemic emergency or state of epidemic declared in regard with COVID-19;
- the taxpayer's residence and domicile for tax purposes may be confirmed by a copy of the residence certificate if the information from the submitted copy of the residence certificate does not raise reasonable doubt as to its accuracy;
- the condition for the payer to obtain a certificate of residence from the taxpayer is also deemed to be met if the payer has a certificate of residence of that taxpayer covering year 2019 or 2020, and a statement from the taxpayer as to the timeliness of the data contained therein.

### **Timing of issuance of tax rulings**

The "Anti-COVID shield" regulations in force during the epidemic state provide for a 3-month extension of the deadline for issuing individual tax rulings (to a total of 6 months). This extension remains in force despite the end of the epidemic because, in accordance with the will of the legislator, this regulation remains in force until the date of cancellation of the state of the epidemic and the epidemic threat.

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