



## ONLINE MEETING WITH REPRESENTATIVES OF THE MINISTRY OF FINANCE, DEVELOPMENT FUNDS AND REGIONAL POLICY

Wednesday, May 26, 2021

### TADEUSZ KOŚCIŃSKI

Minister of Finance, Development Funds and Regional Policy



*The meeting was as a part of the Ministry initiative "Dialog z Biznesem".*

*During the meeting with the representatives of the Ministry of Finance, participated more than 130 representatives from companies associated with the International Chambers who are a part of the #IGCC (International Group of Chambers of Commerce).*

*The meeting was attended by Minister of Finance **Mr. Tadeusz Kościński**, Ambassador of Belgium to Poland **Mr. Luc Jacobs**, President of the Belgian Chamber of Commerce **Mr. Pierre Detry** and Deputy Minister **Mr. Jan Sarnowski** and **Mrs. Anna Chałupa**.*

## RÉSUMÉ OF THE MEETING

### QUESTIONS RAISED BY THE IGCC

#### before the meeting

#### I. TRANSFER PRICES

Last posted position, in connection with the publication of the project of explanations of the tax-approval of the application of provisions governing the issues related to the presumption and the due relationship in the field of verification of settlements from the so-called Tax Haven, is it possible to temporarily suspend yourself to the assumed target of regulation, until the appropriate legislative changes and the output of the interpretation direction are possible?

*The effects of the new regulations have always been under supervision and monitoring by the Ministry in order to assess them properly. It requires however some time, at least a year, to evaluate new provisions and conclude if any amendments are needed.*

*The new legislation as regards Article 110 of the CIT Act entered into force in January 2021, thus they are relatively new.*

*The Ministry of Finance is of the opinion that the regulations are adequate to the aim and needs.*

*The Ministry has been nowadays working upon finalising the explanatory notes on the application of Article 11o of the CIT Act. We received a lot of comments on the draft of the explanatory notes issued in March 2021. Besides, we have decided to open an in-depth discussion with various stakeholders on the compliance issues sent to us during the consultation process. Upon that we have decide to broaden the content of the explanatory notes so that they cover not only paragraph 1b of Article 11o of the CIT Act but paragraph 1a of that Article as well. We are of the opinion that it will facilitate proper understanding of the provisions. Article 11o must be read as a whole, esp. when it comes to the beneficial owner concept described in paragraph 1a of that Article. The due diligence and presumption – as set out in paragraph 1b of Article 11o – plays a simplification function when there is no way to indicate if the beneficial owner is or not in a tax heaven country. Whenever the taxpayer has the knowledge that the beneficial owner is not situated in a tax heaven, Article 11o paragraph 1b will not apply (as we stop at paragraph 1b of that Article)*

*The Ministry of Finance declares the comprehensive evaluation of the new provisions, esp. as it comes to the compliance issues.*

## **II. CASHLESS & PAPERLESS**

**It is widely known the Minister's focus and the support in the pursuit of dissemination of cashless & paperless, falling with the times, safe for trading and users and enabling the fight against a grey zone. What are the plans of the Minister in this regard? How would the minister come to fairly outstanding comments flowing from the NBP prompting for a cash trading dosage?**

*Ministry of Finance cares for the equality of various forms of payment, so that every citizen can make a payment in a form convenient for him, be it in cash, by card, credit transfer or mobile payment. Freedom of choice is important for us so that citizens can use any form of payment convenient for them at any time, otherwise they may have limited access to the selected goods or services and thus may simply be excluded. Actions taken to ensure the freedom of consumers to choose the means of payments must not, however, obscure continuous efforts of the Ministry focused on supporting non-cash payments, as it contributes to reducing the shadow economy and fosters innovation in FinTech. The constant and dynamic increase in the number of payment terminals in Poland and the intensity of their use in Poland is therefore warmly welcomed by us and further supported. Recent studies show that Polish society is open for innovation, and we are assuming that this trend will continue.*

## **III. STARTUPS**

**We observe that many European countries have defined different programs to support startups and small companies during the pandemic. Is Poland planning to provide additional support to start ups and to small companies to overcome the Covid-19 economic impact and to help them to return to being a growth driver for the Polish economy? What will be the program access conditions and how would this new program materialize?**

### **Answer given by the Ministry of Economic Development, Labour and Technology**

*We need more startups in Europe that grow into innovative SMEs and eventually scale up into even larger, successful corporations and contribute to Europe's digital sovereignty. To do so, startups in every member state need favourable conditions to grow at every stage of their life cycle. Moreover, providing the best framework conditions can help the most promising European startups stay and flourish in Europe, and grow to compete globally.*

The overall system of instruments supporting the innovative activity and strengthening the presence of Polish innovative companies on foreign markets has been developed in the frames of Smart Growth Operational Program 2014-2020 and other operational programs at the national and regional level. Support under operational programs is divided into aid for R&D projects and activities for the creation of innovative start-ups. In the next financial perspective, we also took care of support dedicated to innovations.

The most important element in creating the start-up ecosystem is **the Start in Poland** program. The program creates favourable conditions for the activities of start-ups at every stage of their 3 development, starting from the incubation and acceleration phase, through development and international expansion. Start in Poland is the largest program for start-ups in Central and Eastern Europe and consists of many different components. The budget of the program is equal to nearly PLN 3 billion. Thanks to the program, about 1,500 innovative startups were created in Poland. Support under this program has been and will continue.

During the pandemic, we launched support for the company under the Anti-Crisis Shields. All companies, including small ones and startups, benefited from this help. We have allocated over PLN 200 billion for this purpose.

Using European funds under FENG, we are planning to support development of innovative companies as well as innovators. The program is designed to increase the potential for research and innovation and the use of advanced technologies, contribute to the growth of SME competitiveness, develop skills for smart specialization, industrial transformation and entrepreneurship, and support the transformation of the economy towards Industry 4.0 and green technologies.

## IV. CLIMATE IMPACT

How will the MinFin monitor the impact of the climate-related funds of Next Generation EU on Poland's actual greenhouse gas emissions? Has it defined climate-related indicators of success?

### Answer given by the Ministry of Development Funds and Regional Policy

The Ministry of Development Funds and Regional Policy is responsible for the preparation and coordination of the implementation of EU funds, both those under the cohesion policy, the Just Transition Fund and the Recovery and Resilience Facility. So the EU funds are in one hand, which will facilitate the monitoring of changes, and thus the impact on greenhouse gas emissions in Poland. In this respect, the Ministry cooperates very closely with the Ministry of Climate, local governments and other entities that implement EU funds and also national measures related to green transition. All instruments have been designed to reduce greenhouse gases and harmful substances affecting environment. This is illustrated, for example, by indicators in individual documents - the Partnership Agreement, operational programs or the National Resilience and Recovery Plan (NRRP). Moreover, the last one has been developed in accordance with the "do no significant harm" principle (DNSH).

The NRRP responds to the challenge of transformation of key sectors of the economy to a lowcarbon model using opportunities for development in the area of green technologies. The document outlines the decarbonisation path of the Polish economy. Support will be provided primarily to: RES, green technologies, renovation of buildings, replacement of heat sources, low and zero emission transport. In addition to reducing greenhouse gas emissions and reducing dependence on fossil fuels, this will allow to improve air quality.

*The table of NRRP milestones and targets contains many climate-related indicators, but these are not strictly related to the value of greenhouse gas emissions. These include indicators such as: Heat sources under signed contracts that meet the DNSH requirements or total capacity that meets 4 the DNSH requirements; Final energy savings achieved under the single-family housing program; Reduction of primary / final energy consumption per product unit in enterprises; Installed (offshore wind energy) as a result of project implementation; etc. The NRRP at the strategic level will be monitored by SOPR, and at the project level by programmes.*

## **V. AUXILIARY PROCESSES OF FINANCIAL INSTITUTIONS**

Recently, a very rigorous treatment of auxiliary financial processes in the context of shared service centers as VAT exempt, and which were treated as a taxable Basic VAT rate and so are also treated to entities contracting these processes from abroad - such an inconsistent approach bends to hazard the development of these services in Poland for other European countries - any Ministry in this regard?

*The Ministry of Finance is aware of controversies connected with VAT levied on services performer by Shared Services Centres. Mentioned issue is quite broad and complicated. Firstly, opposing interests of market stakeholders are visible, especially between companies operating on local/domestic market (Poland) and companies rendering services on foreign markets (export of services). Entities operating on Polish market are interested in the broadest possible application of the VAT exemption to mentioned services, while entities exporting those services endeavour to tax it/reduce application of this VAT exemption (what is connected with ability to deduct VAT).*

*The Ministry of Finance is acknowledged of aforementioned problems. For example, in February 2021 tax consultations concerning interpretation of the “management” of the investment funds in VAT have been launched. During these consultations we have received a number of opinions, confirming mentioned contradiction of opinions of various market stakeholders. Due to significant interest in the topic (many comments submitted in response) as well as the high complexity of the consulted issue, we have organized a series of meetings attended by business representatives.*

*In the course of the ongoing consultations, 2 substantive positions have been clarified: a number of participants opt for reduced application of VAT exemption to the service of the “management” of the investment funds (in consequence 23% VAT rate should be applied, also to Shared Services Centres activity), while the remaining part is in favour for broad meaning of “management” of these funds (and therefore for the broadest possible application of the VAT exemption to those services).*

*Currently, the Ministry of Finance is developing a solution, which will clearly distinguish taxable services from exempt services, taking into account Polish and EU VAT regulations, as well as the relevant case law of the Court of Justice of the European Union. However, it should be noted that no decision has been made so far whether a general ruling (binding official interpretation) or tax explanations (official clarification of complex tax issue, published of government website) will be issued in this matter. This subject is still being analysed and depends, inter alia, on the result of ongoing consultations in this area.*

# QUESTIONS RAISED BY THE IGGC

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## during the meeting

1. Carrefour cooperates with different, small, and medium entrepreneurs. Those collaborations require a bank guarantee and financial guarantee which is difficult to obtain for small businesses. What could be done to improve the economic situation of those small and medium enterprises that already exist on the market? Is Ministry going to financially support businesses that just would like to enter the market?

*Regarding the financial support for a new entrepreneur, different actions are planned under-recovery and resilience plan for Poland sponsored by European Funds. Especially for those who would like to start a business and already existing on the market. European Funds are not the only sources. There are two other ways of support: RRF Recovery and Resilience plan and Cohesion Policy. Those actions will support the start of the businesses, diversify the currently run activity and take some actions for SIM in order to help to adapt skills and the needs of the market. The Ministry of Funds plans to do it with cooperation with entrepreneurs. Some of the funds will be done faster in the short term while others will be done slower in the long term. The activities and investments from the European social funds will be done from a long-term perspective.*

## 2. Questions concerned introducing the REIT regulation in Poland

*Ministry of Finance is working together with the Ministry of Development to launch this product in Poland. The debate goes between those who should be able to buy it and how? Should the Real Estate Investment Trust bonds be of the minimum value of half a million zloty to make it available only for professional and business investors to obtain?*

*Ministry addressed that they need to have some sort of an intermediary fund which will be buying up real estate investment trust bonds and then selling part participation units further to the retail market with an appropriate balance of risk to make sure that they don't sell everything in from one bond. In this situation the company that owns the real estate goes bankrupt for some reason, it doesn't hurt directly or the whole life savings of the consumer.*

*The Ministry of Development and the Ministry of Finance acknowledged the need for those solutions, and they want to process this legal act and create a safe environment for this product.*

*The Director of the Financial Market Development Department Ms. Przewalska confirmed that the process on this act should start in June 2021 and she suggested coming back to this dialog again after 6 months. She agreed with the conclusion that Poland need REITS funds in Poland and safety environment for that.*

## 3. Are there any changes planned regarding the Polish Investment Zone in terms of issuing investment support decisions and tax exemption for companies investing there?

*Some plans are in progress specially for smaller companies. The Estonian Tax has been already introduced so if companies can't get into investment zone they can still take the benefits from the Estonian Tax.*

4. I would like to ask about the plans of the Ministry of Finance regarding taxation of the digital economy, and whether the works on taxation of media advertisement, including Internet advertisement will be continued?

*After launching the draft of this project, the Ministry collected comments and suggestions on this regulation. They are also watching and relating on what is discussed on OECD Forum and the EU Forum on that topic. Ministry is in the process of analyzing comments and suggestion and does not plan to go forward now until those analyses are finished.*

5. When can we expect detailed information on the Central Invoice Register, who and when will be the first to introduce this system? Preparation for implementation takes us quite a lot of time and we will necessarily ask for instructions also in English, because despite the fact that they relate to the Polish market, we must commission such changes to our supporting entities in other countries. This could facilitate our work on adapting the system.

*From the legislative point of view the Ministry is almost ready. The provisions are under consultations with the Ministry of Finance, and it will be soon (probably within a few weeks) presented into public consultations. The technological issues (the invoice frame) will be also presented in English.*

6. "We need to have safety" - right now, Canadian, German, British pensioners' money is safely being invested in Polish commercial real estate safely via Canadian, German and British REITs! Polish capital is being excluded from the Polish real estate market by a lack of legislation!

*The Ministry started to work on this, so hopefully the lack of the regulation will be solved in the end of this year.*

7. Permanent Establishment. Why Tax administration lost completely the interest in controlling such taxpayers? PE is out of the control thanks to current structure of the tax administration.

*The Ministry is definitely looking at them and don't agree with that statement. They introduced a new reform in the beginning of the year – an office for large business, and along the way they centralized the service of those permanent establishments in the second Masovian tax office.*

8. Are there any legislation works regarding teleworking and especially its impact on Special Economic Zone activity permissions, especially now when during and after pandemic teleworking is and will be often situation among companies. If I remember correctly there was even an official letter/ask from SEZ management in that matter to the Ministry of Finance. If yes, what is the plan for implementation of any legislation changes?

Context: According to the current law, employees need to perform their work from within the special economic zone area, so it can impact the way, and the companies will not be able to consume the special economic zone. They will create the pool, they will hire the people but they will not be able to consume it. If there will be no changes in the special economic zone regarding teleworking until 3 months when the finish of the pandemic will be announced then companies will not be able to consume the special economic zone and use the benefits that they gathered by creating the new jobs

*There is a first draft of teleworking regulations and now some amendments are being discussed.*

*The Ministry of Finance together with the Ministry of the Development will make sure that issue of someone working from home but being hired by the company from the Special Economic Zone will be solved.*

**9. I am running a small business of electrical bikes in Poland. There is a lot of help, grants, and financial support available for companies as mine. Is it possible to simplify the procedure to have access to those grants? For startups is difficult to access them because of administrative work.**

*The Ministry of Finance will discuss it with the Ministry of Development as it is their side to support the small entrepreneurs.*

*The Ministry of Finance is also building a separate unit for international corporate and domestic corporate to support various sectors. They plan to have separate unit for the small medium enterprises and a separate unit to look after the retail market. Assuming, a normal structure which should have any sort of large cooperation to looking after its customer.*

*They want those units to have a one-stop shop for their relevant sectors to look after them, with no handover to an inappropriate place - that will bring benefit also for administration*

**10. I have question regarding Advance Pricing Agreements - there is currently a lot of them being filled and waiting for being considered by Transfer Pricing Department of Ministry of Finance. Can we count that some additional resources will be allocated to that task and we may expect that the process will speed up?**

*The process will speed up because the Ministry will change the methods and first result should be available in the end of June.*