

Poland defers certain provisions of new withholding tax reform to 1 January 2021

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The decree further deferring the application of the key amendment to the new withholding tax (WHT) regime was signed by the Polish Minister of Finance and now is awaiting publication, which should take place in the coming days, but not later than 25 June 2020. The decree will enter into force on the day following its publication.

Under the decree, the default obligation to collect WHT at the statutory rates of 19% or 20%, regardless of relief at source available under a tax treaty or domestic exemption based on the European Union (EU) directives (unless special procedures are followed), has been further deferred until the end of December 2020.

As background, the key changes under the WHT reform introduced as of 1 January 2019 include:

- ▶ The obligation to collect WHT at the statutory rates of 19% or 20%, regardless of relief available under a tax treaty or domestic exemption based on the EU directives (pay and refund system). This obligation was originally deferred until the end of June 2019,¹ and then deferred twice more: until the end of December 2019,² and until the end of June 2020.³ The June 2020 decree further defers this obligation to the end of December 2020.
- ▶ A new, more rigid definition of the beneficial owner (already effective).

- ▶ The Polish tax remitters' explicit obligation to exercise due diligence to determine if the payment recipient is eligible to benefit from relief at source (already effective).

It is important to note that other stringent elements of the reform were not subject to deferral and have already been effective as of 1 January 2019. That is, the Polish tax remitter is now obliged to exercise due diligence to determine if the payment recipient is eligible to benefit from relief at source. The new, more rigid definition of the beneficial owner is also already in force.

The additional time resulting from the postponement to collect WHT at the statutory rates of 19% and 20% is a positive development for taxpayers and tax remitters making cross-border payments. It will allow them the opportunity to analyze the impact of the new WHT regime and to secure their tax positions in view of the new rules which require a pro-active approach to benefit from relief at source.

Endnotes

1. See EY Global Tax Alert, [Poland's Ministry of Finance publishes decree deferring certain provisions of its new withholding tax reform](#), dated 11 December 2018.
2. See EY Global Tax Alert, [Poland defers key impact of withholding tax reform](#), dated 2 July 2019.
3. See EY Global Tax Alert, [Poland publishes decree deferring certain provisions of new withholding tax reform](#), dated 31 December 2019.

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