

Report on payment deadlines in commercial transactions. Changes for real estate companies

As a result of the December 2021 amendment to the law, real estate companies have been exempted from the obligation to prepare and submit a report on payment terms in commercial transactions. This obligation still applies to tax capital groups and so-called large taxpayers (revenues above EUR 50 million).

THE ESSENCE OF CHANGES

On December 15, 2021, the Act of December 2, 2021 on the amendment of the so-called anti-crisis shield (hereinafter the "Act") has been published.

In art. 3 of the Act, art. 13a of the act of March 8, 2013 on counteracting excessive delays in commercial transactions has been changed by narrowing down the catalogue of entities subject to the obligation to submit reports on payment deadlines in commercial transactions. These obligations will be borne only by the entities indicated in art. 27b paragraph 2 points 1 and 2 of the CIT Act (earlier this reference covered also real estate companies, indicated in Article 27b par. 2 point 3 of the CIT Act). As a result of this change, real estate companies are not obliged to submit the said reports.

The above mentioned amendment entered into force on the day following the publication of the Act, i.e. December 16, 2021.

ENTITIES COVERED BY THE REPORTING OBLIGATION

Before the amendment to the regulations, the obligation to prepare a report on payment deadlines in commercial transactions related to:

- tax capital groups, regardless of the amount of generated revenues
- taxpayers other than tax capital groups, whose revenue value in the tax year exceeded the equivalent of EUR 50 million
- real estate companies, including real estate companies that are part of a tax capital group.

As a result of the changes introduced by the Act, real estate companies were excluded from the catalogue of entities obliged to submit reports on payment deadlines in commercial transactions. **However, this obligation still applies to tax capital groups and the so-called large taxpayers (revenues over EUR 50 million).**

SCOPE OF THE REPORT ON PAYMENT DEADLINES IN COMMERCIAL TRANSACTIONS

According to the regulations, the report on payment deadlines in commercial transactions should state:

- value of the repaid receivables and liabilities paid in the previous calendar year within a period not exceeding 30 days, from 31 to 60 days, from 61 to 120 days, exceeding 120 days – counted from the date of issuing the invoice or bill confirming the delivery of the goods or the performance of the service
- the value of unreceived receivables in the previous calendar year by the date specified in the contract and the percentage share of these benefits in the total value of cash benefits due to the entity in that year

- the value of outstanding obligations in the previous calendar year by the date specified in the contract and the percentage share of these benefits in the total value of cash benefits that the entity is obliged to meet this year.

DEADLINE

Obligated entities are required to submit a report on the applicable payment deadlines for 2021 by January 31, 2022. This deadline applies to the calendar year, regardless of the financial year adopted by the taxpayer.

A fine will be imposed on the managers of an entity that fails to submit the report on time.

The imposition on entrepreneurs of the obligation to submit a report serves the purpose of detecting entities eligible for control in terms of excessive delays in fulfilling cash benefits from commercial transactions.

In the event that, on the basis of the data disclosed in the report, there is a justified assumption that there is excessive delay in the payment of cash benefits, a proceeding may be initiated by the President of the Office of Competition and Consumer Protection, under which an administrative fine will be imposed on the given entity.

As indicated above, as a result of the introduced changes to the regulations, reporting obligations will no longer apply to real estate companies.

This document has been prepared for information purposes only and covers general nature. Before taking any action based on the above information, we recommend that you obtain a valid opinion of TPA experts.

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