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The minimum CIT must either be radically simplified or abandoned – commentary of the Union of Entrepreneurs and Employers

The process of 'fixing' the Polish Deal has been underway for several weeks. In recent weeks, we have been discussing the proposals for PIT changes put forward by the Ministry of Finance but we already know that in the near future we can expect a draft of amendments to CIT. Out of those, the topic of the so-called minimum CIT is particularly controversial. In our view, the situation is very simple – this solution should either be radically simplified or abandoned altogether.

The Union of Entrepreneurs and Employers has been promoting the idea of abolishing CIT and replacing it with a simple revenue tax for years. We are unable to understand why we insist on keeping a system whereby the tax may simply not be paid, as exemplified by certain multinational corporations that successively pay CIT at an absolutely marginal rate. In the course of the discussion on the Polish Deal, in response to the plan for total financing of this reform by increasing the burden on Polish business and the middle class, we have proposed a solution consisting in the introduction of a uniform, universal minimum CIT of 1% of revenue. The Ministry of Finance has decided to take inspiration from our idea and include it in the forthcoming draft, yet in a completely altered version, completely incompatible with the original concept.

Our idea for a revenue tax – regardless of whether it would replace CIT (in the ideal scenario) or whether it would provide a systemic guarantee that the corporate tax will be paid to the budget at a fair rate –is extremely simple. We are in favour of a universal mechanism covering all taxpayers, with no exclusions or exemptions. Similarly, the very method of calculating the amount of tax should be maximally simplified – 1% of revenue, without reliefs or any separate, special accounting methods.

Meanwhile, the Ministry has proposed a very complex minimum tax design under which the tax base is the sum of a part (4%) of revenue other than revenue from capital gains and, inter alia, debt financing costs incurred on behalf of affiliates exceeding 30% of EBIDT. The subjective scope of the minimum CIT means that it is not a universal tax and, in addition, the legislator has included the possibility of applying reliefs and deductions that reduce the tax base, which has further increased the complexity of the provisions in question.

Moreover, the tax calculation mechanism thus constructed generates a number of initially unintended consequences – as is usually the case with such complex solutions. We drew attention to this during the legislative process – complicating the regulations on minimum CIT will reduce their effectiveness and, even worse, contribute to a deterioration in the competitive position of entities that will be effectively covered by the solution. The market signals that reach both us and the Ministry of Finance clearly indicate that these concerns are now materialising and there is a serious risk that the minimum CIT in the current form will hit Polish business, not being an effective tool against aggressive optimisation.

The idea behind the proposal to introduce a minimum CIT was to take effective action against international tax optimisation schemes which thus far allow some companies to pay marginal CIT in Poland. The solution adopted by the Ministry of Finance had no chance of achieving this objective. In view of the above, we see two possible ways out of the situation. The first is to radically simplify the design of the minimum CIT so that it becomes a universally binding mechanism whereby CIT paid in a given year cannot be lower than 1% of revenue achieved. The second is to abandon it altogether – introducing small adjustments and corrections is the easiest way to add to the chaos.

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