

Improved proposal of changes to property tax

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On September 3, 2024, the Ministry of Finance presented a new draft of changes to property tax, which are to apply from 2025. The previous draft was the subject of a consultation conference, which was also attended by representatives of local governments and entrepreneurs. The new wording of the regulations is to enter into force from 2025, unless there is a delay at the parliamentary stage. To achieve this, the act must be published in the Journal of Laws by the end of November this year.

Below are the most important changes compared to the first version:

1. Removal of the condition of **"technical and utility whole"** from the draft. This was one of the most controversial elements of the first draft. On this basis, tax authorities could also demand tax on technical components, e.g. electronics, similarly to the legal status before 2016.
2. Return to the general **priority of the qualification of a building** over a structure, which was missing in the first version. Reversing this order in the manner described in the original draft could lead to double taxation of the same objects. However, it should be borne in mind that in the context of other changes, objects that have so far been classified as buildings may not have grounds for such classification from 2025.
3. Defining that buildings and structures must be erected as **a result of construction works** under the Construction Law. This solution seems more beneficial for entrepreneurs than the condition included in the first version that construction be carried out using construction products. This is a surprising change, as it actually assumes a significant connection between the property tax regulation and the Construction Law, which originally forced the amendment.
4. Including in taxation construction parts not only in the case of wind and nuclear power plants (as is currently the case), but also **photovoltaic power plants** and **energy storage** facilities, which was missing in the original project. The change fully implements the postulates of the RES industry.
5. Changes in the method of recognizing objects such as a **tank** or **silo**, aimed at tightening the regulations even more and covering with **full taxation** (also from the technical part) not only objects performing storage functions, but also other technological functions.
6. Return to the definition of **"construction equipment"** as a type of structure, which in practice has been the cause of numerous disputes. On the one hand, this may be the authorities' key argument for expanding the scope of objects to taxation. On the other hand, the definition has been slightly narrowed compared to the current one.
7. Removing **"tent covers"** and **"pneumatic coatings"** from the examples of structures, which were included in the first version of the draft.

8. Clarification that the category of structures is to include **only building parts of technical devices and free-standing industrial installations**. These categories have always caused interpretation difficulties. The amended draft regulation determines that the technical component of such devices or installations will not be subject to taxation;
9. Exclusion from the scope of taxation of **small architectural objects**, i.e. maintaining the current state. Bicycle shelters are also to be classified in this category.
10. Removing from the definition of complex structures such as **sewage treatment plants, water treatment plants, fuel stations or sports facilities**. Instead, the tax will apply to buildings that are part of such complexes or individual parts that independently meet the definition of a structure, e.g. settling tanks, water intakes, tennis courts and playing fields. This should mean a rationalization of the tax base for such complex facilities.
11. The possibility of postponing the **deadline for filing a tax return until March 31, 2025** has been introduced (in order to preparing for new regulations and conducting property reviews). However, this does not exempt from the obligation to pay tax installments in the first quarter of 2025. They are to be calculated according to the average from the previous year. Any arrears to be settled will not be subject to interest.

Short public consultations are planned. MDDP takes an active part in them, representing the interests of entrepreneurs. We also provide support in formulating positions for industry organizations.

What can and should be done now? How can we help?

1. We invite you to a free webinar on the planned changes to the property tax, organized together with the Lewiatan Confederation, which will take place on Wednesday, September 18, 2024. Below is the link to register: [https://online.ikongres.pl/conference/podatek od nieruchomosci %E2%80%93 zmiany od 2025 r i najnowsze orzecznictwo](https://online.ikongres.pl/conference/podatek%20od%20nieruchomosci%20zmiany%20od%202025%20r%20i%20najnowsze%20orzecznictwo).
2. It is necessary to assess whether and how the new regulations may affect the scope of taxation, what risks and opportunities are associated with it, what change in the level of taxation should be expected and what new obligations will be - we help, among others, through full property reviews with results in the form of reports, as well as point verification of questionable property components;
3. At subsequent stages, we provide support in tax proceedings and when applying for individual interpretations;
4. In our opinion, great importance should be attached to the fixed asset register, which is verified by municipal tax authorities during inspections, first of all. We propose actions to verify and organize the register, including through the settlement of investments in fixed assets (cost segregation).

In the analysis of the fixed asset register for property tax purposes, we take into account the aspect resulting from the "JPK CIT" reporting obligations (the substantive scope of the JPK_ST_KR scheme) that is also to be implemented from 2025.

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