

## Support for rainfall and flood sufferers - VAT, CIT and PIT implications

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In mid-September, Poland, like some other countries in the region, experienced severe rainfall that led to widespread flooding.

In response, the Polish government declared a state of natural disaster. To support those affected, several tax measures were introduced.

Below, we describe the most important tax instruments related to VAT, CIT, and PIT designed to facilitate aid for flood victims.

### 0% VAT for donations to rainfall and flood victims

**As of September 12, 2024, a temporary 0% VAT rate applies to the free supply of goods and services aimed at supporting flood victims.**

#### What conditions must be met to apply the 0% VAT rate?

The 0% VAT rate applies to the free supply of goods or services to the following entities:

- (1) Public benefit organizations,
- (2) Local government units,
- (3) The Government Agency for Strategic Reserves, and
- (4) Healthcare providers,

**- for purposes related to assisting those affected by heavy rainfall or floods.**

These entities act as intermediaries in transferring aid from businesses to those in need.

#### What can be donated at a 0% VAT rate?

The 0% VAT rate will apply to donations of all types of goods or services that may be essential to support flood victims.

#### Duration of the 0% VAT

The 0% VAT rate can be applied **from September 12, 2024, when the first intense rainfall and floods occurred, until December 31, 2024. This preference may be extended if necessary.**

#### A written agreement is required

To ensure the VAT system's integrity, the 0% rate will only apply if a written agreement is made between the taxpayer and one of the "intermediary entities." This agreement must specify that the donated goods or services are intended to aid those affected by the disaster.

For similar cases, like the COVID-19 legislation, the 2020 tax guidance emphasized that **"the requirement for a written donation agreement will also be fulfilled when electronic message (e.g., via email) is used for documentation purposes."**

## 0% VAT for Donations of Building Materials for Flood Victims

### Scope of the 0% VAT rate

This preference applies to donations of building materials provided to those whose properties were damaged by floods. The solution is intended to support the rebuilding or repair of structures destroyed by the floods.

### Status of the recipient

**The 0% VAT rate applies to donations of building materials provided directly to:**

- Individuals,
- Entities involved in:
  - o educational activities,
  - o cultural activities,
  - o health care,
  - o social welfare,
  - o child, youth, or elderly care,
  - o collective accommodation for students and pupils,

whose properties are located in flood-affected municipalities and who hold formal rights to manage the properties.

### Formal requirements: Agreement and damage documentation

The 0% VAT rate will apply if:

- (i) A written donation agreement is made between the taxpayer (donor) and the property owner,
- (ii) The taxpayer (donor) holds a document confirming damage to the property caused by the flood..

### Duration of the 0% VAT for building material donations

The 0% VAT rate can be applied to donations of building materials made to the above entities **from 24 September 2024, until 31 March 2025.**

## CIT – Assistance for Flood Victims Under General Rules

No specific measures have been introduced in corporate income tax to support flood victims. Therefore, the tax settlement of the assistance should be made in accordance with the general principles of the CIT Act.

Importantly, under the Polish Corporate Income Tax (CIT) Act, donations and so-called representation costs are not considered tax-deductible costs—they are explicitly excluded by the law.

However, donations or expenses with a supporting nature may be deducted under the following conditions. **Deduction of donations from the tax base**

Donations to the following entities can be deducted from the CIT tax base:

- **A non-governmental organization that is not part of the public finance sector, does not operate for profit, and engages in public benefit activities,**  
**- for purposes related to assisting disaster victims, rescue operations, human protection, or animal welfare.**

Typically, this applies to foundations, associations, or religious legal entities.

An organization does not need to have public benefit status (in Polish: OPP) as long as it meets the above conditions and its activities fall within the scope of public benefit tasks.

**Donations made directly to an individual will not be deductible**, nor will donations to legal entities that do not meet the criteria above.

**How much support for flood victims can be deducted from the CIT tax base?**

The law allows a deduction of the value of the actual donation, **but not more than 10% of the taxable income in the fiscal year the donation was made.**

The deduction is claimed in the annual CIT-8 return, with details provided in the CIT-8/O attachment.

### **Documenting donations**

To claim a deduction, the donation must be properly documented. For cash donations, a bank payment confirmation will suffice.

Non-cash donations should be documented with proof identifying the donor, the value of the donated item, and a statement from the recipient acknowledging receipt. A practical way to confirm this is through a written agreement between the donor and the recipient.

### **Corporate Social Responsibility (CRS) as a Tax Deductible Expense**

Certain assistance efforts may be considered part of corporate social responsibility (CSR).

CSR-related activities supporting flood-damaged areas might include rebuilding destroyed infrastructure, donating necessary goods, or providing equipment or property

### **Conditions for recognizing expenses as deductible costs**

To be deductible, a CSR-related expense must primarily meet the general criteria for being a cost of earning income, including being definitive, documented, related to the taxpayer's business, and not excluded from tax-deductible costs. Specifically, it is important to note that donations, as unilateral transactions, are excluded from tax-deductible costs.

In CSR, however, it is considered that the transaction is not unilateral, as actions benefiting the local community are intended to improve the taxpayer's reputation and image. **Tax authorities now generally agree with this approach, though past practices varied.**

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## Assistance for Flood Victims Provided by Individuals – Deduction with Limits

As with CIT, no specific amendments have been made to the personal income tax (PIT) law regarding the flood situation.

### General rules apply

This means that existing rules remain in effect. Individuals can deduct donations made for disaster relief purposes.

**The donation deduction cannot exceed 6% of the annual taxable income**, and the donation must be made to entities specified by law, such as charitable foundations, religious organizations, or associations of local government units.

### Donations made directly to individuals

**Personal income tax law explicitly states that donations made to individuals are not tax-deductible.** Similarly, such donations cannot be considered as tax-deductible (except for the cost of producing or acquiring certain food products donated to public benefit organizations exclusively for their charitable activities).

As a result, individuals who choose to assist others directly, rather than through an aid organization, should be aware that such donations will not be accompanied by any tax benefits.

### Documenting donations

Anyone wishing to deduct a donation to flood victims should ensure it is properly documented for potential audits or verification procedures.

For cash donations, the donor should retain proof of payment to the recipient's bank account. For non-cash donations, the donor should hold documentation identifying the donor and the value of the donation, along with the recipient's statement of acceptance

In practice, it may be challenging to deduct a cash donation made through online fundraising platforms, especially when using online payment methods (by card, BLIK). In such cases, it is advisable to collect additional evidence confirming the right to the deduction, such as a donation confirmation generated on the fundraising site or a certificate issued by the fundraiser organizer

### Deduction in the annual return

Individuals can deduct the value of donations in their annual PIT return (using the PIT-37, PIT-36, or PIT-28 form, depending on the type of taxation). Details of the donations should also be provided in the PIT/O attachment filed with the tax return.

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