

Anti-Crisis Shield for Real Estate Sector

In accordance with the adopted and binding Act dated 31st of March 2020 amending the Act on Special Solutions Related to the Prevention, Counteracting and Combating of COVID-19, Other Infectious Diseases and Crisis Caused by Cases and Certain Other Acts, below are selected solutions which are particularly important for entities operating on the real estate market.

Feel free to contact us to get help in implementing the subsidies offered under the Act, as well as to counteract the negative consequences associated with the changed legal regulations.

Postponement of the deadline for payment of tax on revenues from commercial real estate

The deadline for payment of commercial real estate tax for the months March-May 2020 is extended to July 20, 2020 (Article 38h of the Act).

The taxpayer should meet all of the following conditions:

- 1) the taxpayer suffered negative economic consequences in a given month due to COVID-19,
- 2) the revenues generated by the taxpayer in a given month are at least 50% lower compared to the same month of the previous tax year, and in the case of a taxpayer who started business activity in 2019 – compared to the average revenues obtained this year.

The conditions referred to in point 2) above do not apply to a taxpayer who:

- 1) in 2019, chose the form of taxation for which no income was determined;
- 2) started operations in the last quarter of 2019 and did not generate revenue in this period,
- 3) started operating in 2020.

How can we help you? We represent in dealings with tax authorities, we prepare relevant documents leading to obtaining a postponement of tax payment.

Real Estate Tax exemptions

In the field of real estate tax, the legislator authorized municipalities to introduce for part of 2020, exemptions from tax: land, buildings and buildings related with running a business, indicated to groups of entrepreneurs whose financial liquidity has deteriorated due to negative economic consequences due to COVID-19 (Article 15p of the Act).

How can we help you? We conduct an analysis to meet the conditions for exemption from real estate tax. We represent in dealings with the local authority regarding effective tax exemption.

Communes may extend the deadlines for payment of real estate tax instalments

Municipalities / communes are to determine the timeline for reliefs in payments. The head of the commune (mayor, city president), by way of an ordinance, will have the opportunity to extend the dates of payment of real estate tax instalments. In addition, the commune council may extend, by resolution, the deadlines for payment of real estate tax instalments payable in April, May and June 2020, no longer than until 30 September 2020 (Article 15q of the Act).

In the case of natural persons, this solution will apply to the installment of the tax payable until May 15, while in the case of legal persons, installments of the tax payable until: April 15, May 15 and June 15, 2020.

How can we help you? We offer representation before local tax authorities in order to obtain concessions in the form of deferred payment, spreading in installments or cancellation of tax liabilities.

Changes in lease agreements in shopping malls

During the ban on conducting business in commercial facilities with a sales area of over 2,000 m² in accordance with the relevant provisions, the mutual obligations of the parties to the lease, tenancy or other similar contract, by which the commercial space (contract) is put to use, shall expire – art. 15ze of the Act.

In addition, the above (and below) arrangement does not violate the provisions of the Civil Code, which means that it will not be considered a violation of the freedom of economic activity.

The tenant – within three months from the date of lifting the ban – should submit to the landlord an unconditional and binding offer of will to extend the term of the contract under the conditions binding so far, by the period of the ban, extended by six months.

The bans introduced so far apply to:

- restaurants, canteens, cafes, fitness centers, cinemas, conference centers, clubs, art galleries
- entities operating in the retail trade (textiles, clothing, footwear, furniture, lighting, electronics, household appliances, bookstores) as well as in the gastronomy and entertainment industry.

What if other tenants limit their activity (not banned)? In the event of cessation of activities in the mall, despite not being banned, other tenants may seek to limit their activities or to reduce rents and other charges, or to demand fines for closing / business interruptions. In this case, we suggest analyzing lease contracts not covered by this prohibition (not only in terms of force majeure, but also the nature of the tenant's activity, clauses regarding the minimum level of commercialization / conducting business by certain other tenants or industries, achieving a certain level of responsibility, turnover, etc. and warranty). We will be happy to assist you in this respect.

Limited abolition of trade restrictions on Sundays

A temporary exemption has been introduced from the ban on performing trade-related activities consisting in unloading, receiving and displaying goods of the first necessity and entrusting an employee or an employee with such activities on Sundays (other than on which there is no holiday – Article 15i of the Act).

The exemption is also to apply for a period of 30 days following the cancellation of an epidemic emergency or epidemic status.

Cessation of collecting remuneration for collective management organizations of copyright or related rights and subscription fees

During the period of epidemic emergency or epidemic status, ZPAV, ZAiKS, STOART, SAWP, SFP and ZASP organizations will not receive remuneration from entrepreneurs that are not directly dependent on the actual income of this entity for the provision of services in a given period. RTV subscription fees will not be charged (Article 15l of the Act).

The conditions for cessation to collect the above remuneration and fees, to be met jointly, are:

- 1) providing services before the entry into force of the Act in a place that enables its clients to familiarize themselves with works or objects of related rights;
- 2) being a payer of the above remuneration and fees,
- 3) payment of remuneration and fees for accounting periods falling before March 8, 2020.

Deferment of the fee for perpetual usufruct

The deadline for payment of the annual fee for perpetual usufruct of real estate for the year 2020 is postponed to 30 June 2020. This deadline may be extended by a regulation of the Council of Ministers (Article 15j of the Act).

We invite you to visit our [blog](#) for information on other subsidies and facilities for entrepreneurs related to the state of epidemic threat and the state of the epidemic, including support related to the employment of employees. We will aim to support you in the best way, using our experience in respect of claiming tax and social security exemptions, deferrals and subsidies.

Please feel free to contact our specialists to receive more details on the above as well as to be advised on further possible actions in respect of the above mentioned regulation.

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Aneta Bugalska, abugalska@advicero.eu – accounting issues

Mirosław Siwiński, msiwinski@advicero.eu – commercial law, civil code, applications to tax authorities regarding tax reliefs (as well as reliefs re insurance premiums)

Katarzyna Klimkiewicz-Deplano, kklimkiewicz@advicero.eu – analysis of the company's financial standing, strategic consulting