ESG

ESG in taxation

ESG is a view of management in environmental, social and corporate aspects. It refers to corporate social responsibility, management that will at the same time implement the concept of sustainable development. It first appeared in the NFRD, which was an amendment to the Directive on annual financial statements, consolidated financial statements and related reports of certain types of undertakings. This was followed by the EU Directive implementing the ESG – Corporate Sustainability Reporting Directive (CSRD), which came into force on 5th January 2023. This is a particularly important piece of legislation, the main purpose of which is to further detail and ensure transparency in non-financial reporting requirements.

What should be reported?

Tax transparency is part of the ESG part called corporate governance. In Poland, an example of mandatory tax transparency is, for instance, the publication of information on the implemented tax strategy. Similarly, companies have the option to participate in the Co-operation Programme, which ensures an open and close dialogue with the Polish tax administration. This action also has an impact on potential tax audits or the lack of them.

Maintaining tax transparency often demonstrates the reliability of an entrepreneur and has a positive impact on its image. Customers are more trusting of companies that communicate openly and provide concrete data to prove their actions. In addition, the disclosure of tax and financial information, provided it is truthful, reduces the economic risk of entering into a business relationship and working with an untrustworthy entity. For these reasons, **entrepreneurs should strive to be as transparent as possible in their tax policies and to ensure that tax management is adapted to the requirements of today's business environment.**

What current responsibilities might ESG reporting overlap with?

Tax strategy is also intended to provide tax transparency. Although the concept of tax strategy does not exist, it should include elements such as:

- information on the processes and procedures for managing the performance of obligations under the legislation,
- information on the taxpayer's compliance with its tax obligations with information on the number of tax schemes provided,
- information on general tax interpretation requests made.

CBAM *„Carbon Border Adjustment Mechanism"* – on 1st October 2023, the first obligations for importers under the CBAM mechanism introduced by the European Union came into force. With the beginning of the transition period the first new obligations for importers emerged, which are related to the monitoring of import transactions, the determination of emissions 'embedded' in imported goods covered by the mechanism, as well as a number of reporting obligations.

Pillar II OECD of the BEPS 2.0 project introduced the concept of a global minimum tax to counter tax avoidance by shifting income to jurisdictions with lower tax rates. The global minimum tax is intended to be some sort of countervailing tax, whereby a country's effective group tax rate should be no lower than 15%. The introduction of Pillar 2 makes tax transparency and the importance of better data a priority for many companies, so these regulations are related to ESG.

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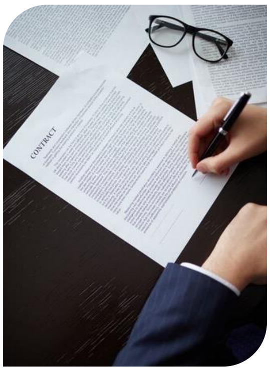

The Co-operation Programme i.e. cooperation between the taxpayer and the National Fiscal Administration, is to operate on the basis of mutual trust and understanding and is to be based on transparency that goes beyond the statutory framework. The signing of the co-operation agreement is expected to guarantee the taxpayer a number of benefits, among which are: certainty of the proper application of the law, the application of a reduced rate of interest on arrears, no initiation of proceedings for fiscal offences or fiscal offences for the period covered by the correction, a review of the rules of business management and an increase in the efficiency and credibility of the business. This means that ESG reporting will be impacted.

MDR *Mandatory Disclosure Rules* – one of the elements of tax due diligence and tax transparency is also the reporting of tax schemes. Therefore, this will also have an influence on ESG reporting

Which businesses are affected by reporting and when should ESG be implemented?

Entities	Deadline for implementation	Reporting deadline
Large public interest companies, covered by the NFRD directive and with more than 500 employees	From 1st January 2024	2025
Large companies not currently subject to the NFRD directive, with more than 250 employees and/or with €40 million turnover and/or €20 million in total assets	From 1st January 2025	2026
Small and medium enterprises and other listed companies	From 1st January 2026	2027

How can we help?

Although most entities will only become obliged to prepare an ESG report in the future, it is already worth introducing a system for collecting the required information within the company now.

The preparation of a company's ESG strategy is a multi-stage process that requires the involvement of both management and employees at different levels of the organisation.

We invite you to contact us and to a no-commitment meeting with us, during which we could introduce you to these and other interesting tax solutions for your business.

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