ACTA IURIS STETINENSIS 4 (28)

DOI:10.18276/ais.2019.28-08

Miłosz Kłosowiak*

AMENDMENTS TO TRANSFER PRICING REGULATIONS SINCE 2019 – SELECTED ISSUES

Abstract

The aim of this paper is to describe the changes in the law that have taken place in the area of transfer pricing regulations starting 1 January 2019. First, the essence of the legal structure of transfer prices is presented. Then, the changes in the reclassification and omission of transactions for the purpose of transfer pricing, the catalogue of transfer price estimation and verification methods, and simplified settlement rules and changes in transfer pricing documentation are specified. The research method used in this research consists in analysis of legal acts using the literature on the subject. Based on the analysis, it may be concluded that, on the one hand, changes in the law were aimed at removing administrative burdens from taxpayers which the legislature considered unnecessary and, on the other hand, the scope of powers of tax authorities was extended and the potential severity of tax sanctions was increased.

Keywords: transfer prices, safe harbour, transfer pricing documentation

* Miłosz Kłosowiak, MA, Faculty of Law and Administration, University of Warsaw, e-mail address: m.klosowiak@onet.eu. ORCID: 0000-0002-2037-3280.

Introduction

The Act of 23 October 2018 amending the Act on personal income tax, the Act on corporate income tax, the Tax Ordinance Act, and some other acts[1] introduced a number of changes in the tax law, which, for the most part, came into effect on 1 January 2019.[2] The significant changes introduced by the amending act include the provisions relating to transfer pricing. The legislature decided to introduce several new legal institutions. In individual cases, the changes were of an organisational or clarifying nature. Some particularly important solutions adopted in the amendment relate to modifying the procedure for reclassifying and omitting transactions, introducing the 'safe harbour' simplifications, extending the list of transfer price estimation and verification methods, modifying the sanction rate, and exempting domestic entities from the documentation obligation. In order to organise the regulations, Chapter 4b 'Transfer Pricing' was added to the Personal Income Tax Act of 26 July 1991[3] (PIT Act), while in the Corporate Income Tax Act of 15 February 1992[4] (CIT Act), this chapter was marked 1a.[5]

Transfer prices are important for tax audits. The total upward adjustment of the tax base in transfer prices in Poland in 2016 was 650 million PLN, and in 2017 it was 2.3 billion PLN.[6]

The essence of the legal construction of transfer pricing

The essence of transfer pricing regulations is that related parties (associated companies) should agree the terms and conditions of their mutual transactions in the same way as unrelated parties would have agreed them. This concept is

[1] Dz. U. (Journal of Laws) of 2018, item 2193.

[2] The amended act contains provisions relating, among others, to taxation of virtual currencies, reporting of tax schemes, innovation box, taxation of income from unrealised gains (so-called exit tax). Besides, the provisions on the general anti-tax avoidance clause and the provisions on the withholding tax have been modified, in particular by clarification of the "real owner" definition. Provisions establishing a new legal institution defined by the legislator as an "additional tax liability" have been also introduced.

[3] Consolidated text: Dz. U. (Journal of Laws) of 2018, item 1509, as amended.

[4] Consolidated text: Dz. U. (Journal of Laws) of 2018, item 1036, as amended.

[5] Transfer prices are not particularly specific in terms of taxpayer, and that is why the PIT Act and CIT Act regulations are almost identical.

[6] Georgijew, I., Każuch M., *Spór o ceny transferowe – perspektywa podatnika*, "Przegląd Podatkowy" 2018, No. 9, p. 22.

referred to as the arm's-length principle.[7] If the arm's-length principle is breached, the tax authority is entitled to determine the income/loss of a taxpayer without taking into account the conditions resulting from the relationship between the related parties. The definition of the related parties distinguishes three planes, within which the parties concerned are considered related: personal and capital links, as well as exerting an actual influence on the activities of these entities.

Transfer prices are intended to address the problem of creating networks of links between businesses who use existing mutual relationships to achieve the best possible tax result for all entities in a given group. The use of transfer pricing shows the inconsistency between civil law and the economic reality of international groups of entities. Entities that constitute separate legal entities under civil law operate within a group in economic terms, where the interest of the group as a whole is the priority. As a result, a given taxpayer may deliberately strive to obtain the highest possible tax loss if it contributes to a favourable tax treatment of all entities in the group. Being independent under civil law may be deemed contrary to the right of an entity to decide on any action taken by another entity based on the links that exist between them. If an entity within a capital structure deliberately acts to its disadvantage in order to contribute to the advantageous tax effect for the group as a whole, this action may be considered as detrimental to the entity according to Article 296 of the Penal Code of 6 June 1997 (hereinafter: the Penal Code).[8] According to Article 296(1) of the Penal Code, whoever – while under an obligation resulting from the provisions of law, a decision of a competent authority, or a contract to manage the property or business of a natural person, a legal person, or an organisational unit which is not a legal person, by exceeding powers granted to him/her or by failing to perform his/her duties– causes it to suffer considerable material damage shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.[9]

---

[7] This principle, introduced to Polish legislation, is based on Art. 9 of the Model OECD Convention on income and on capital. Accessed on: 25.07.2019, https://read.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-condensed-version-2017_mtc_cond-2017-en#page1. See: Georgijew, I., Każuch, M., op. cit., p. 21.

[8] Consolidated text: Dz. U. (Journal of Laws) of 2018, item 1600, as amended.

[9] Until 2011, a provision establishing liability for acting to the detriment of the company was also contained in the Act of 15 September 2000, the Commercial Companies Code. Pursuant to its Article 585(1), whoever, participating in the creation of a commercial company or partnership or being a member of the management board, supervisory board or audit commission, or a liquidator thereof, acts to its detriment shall be liable to penalty of a deprivation of liberty of up to five years and a fine.

The presented problem was referred to by the District Court in Białystok in its judgement of 20 March 2014.[10] One of the issues that were subject to the court's decision was to decide whether an action to the detriment of a subsidiary which is also advantageous from the point of view of the capital group as a whole may be considered lawful and, if so, under what conditions. The court did not provide an explicit answer to this question. The court observed that there are no regulations in Polish law relating to capital groups which would clearly resolve doubts connected with the relationship between the interest of the group and the interest of the company participating in the group. As the court concluded in this case, the finding that damage has been caused to a subsidiary may not automatically translate into criminal liability of the management board of that subsidiary. As stated in the judgement, in each case where the court finds the defendant acted to the disadvantage of a subsidiary, it must consider whether the action was based on the applicable law and whether and within what timeframe the entity in question was to obtain specific benefits. It should then be assessed whether these benefits would justify the initial adverse action and its consequences. It is important here that the issue of the admissibility of actions to the detriment of a subsidiary from the point of view of obtaining benefits by a capital group should in any case be examined in detail.[11]

International groups avoiding pursuing their claims in court is also a unique feature of transfer pricing. This is mainly due to the fact that transfer pricing disputes are mainly connected with the economic results of the transactions concerned. In this case, an assessment of a given event must be based on economic knowledge.[12]

Reclassification and omission of transactions

Article 11c(4) of the CIT Act was particularly controversial among the regulations adopted by the amendment in question. This provision relates to the reclassification, also referred to as recharacterisation, and omission of a transaction, which is also referred to as non-recognition. In accordance with Article

[10] Judgement of the District Court in Białystok of 20 March 2014, VIII Ka 491/13, LEX No. 1722360.

[11] Pobożniak, G., Sowa, T., *Jaka odpowiedzialność za wyrządzenie szkody majątkowej spółce*. Accessed on: 17.11.2019 https://www.rp.pl/Firma/311179980-Jaka-odpowiedzialnosc-za-wyrzadzenie-szkody-majatkowej-spolce.html.

[12] Georgijew, I., Każuch, M., op. cit., p. 23.

11c(4) of the CIT Act, in the event that the tax authority deems that in comparable circumstances, unrelated parties – guided by commercial rationality – would not have entered into a particular controlled transaction or would have entered into another transaction or would have carried out another action – referred to as the 'relevant transaction' – taking into account 1) the conditions that would have been agreed between the unrelated parties and 2) the fact that the terms and conditions agreed between the related parties preclude the determination of a transfer price at a level that would have been agreed by unrelated parties guided by commercial rationality, taking into account options that were realistically available at the time of the transaction, the tax authority shall determine the taxpayer's income/loss without taking into account the controlled transaction and, if justified, shall determine the taxpayer's income/loss from the relevant transaction in relation to the controlled transaction. Pursuant to Article 11c(5) of the CIT Act, the reclassification or omission of a transaction may not be based solely on the difficulty in verifying the transfer price by the tax authorities or the lack of comparability of transactions between unrelated parties in comparable circumstances. In addition, pursuant to Article 11d(5) of the CIT Act, the reclassification of a controlled transaction into another relevant transaction results in the tax authority applying a method of determining an appropriate transfer price for the newly identified relevant transaction. Such a legal construct is provided for in the OECD Guidelines.[13]

Doubts have been raised over the statement of the authors of the amendment that the regulation is of a clarifying nature. This means that the legal constructions of reclassification and non-recognition of transactions may be also applied to transactions concluded before 1 January 2019. It is noted in the literature that repealing Article 11(1) of the CIT Act and replacing it with the regulation of Article 11c of the CIT Act is of a legislative nature and that there are no convincing arguments for considering this change to purely clarifying. It is argued that Article 11c of the CIT Act includes content which was not explicitly included in the repealed Article 11 of the CIT Act.[14]

[13] OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017. Accessed on: 25.07.2019 https://read.oecd-ilibrary.org/taxation/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-2017_tpg-2017-en#page1. Hereinafter: "the Guidelines", chapter I paragraphs 1.119 – 1.128.

[14] Litwińczuk, H., *Przekwalifikowanie (nieuznanie) transakcji dokonanej pomiędzy podmiotami powiązanymi w świetle regulacji o cenach transferowych przed i po 1.01. 2019 r.*, "Przegląd Podatkowy" 2019, No. 3, p. 17.

Legal instruments indicated in Article 11c(4) of the CIT Act provide the tax authorities with broad competences. Without the right to reclassify or omit a transaction, a tax authority who wishes to challenge the terms of a transaction is only entitled to modify them. For example, the tax authority could change the interest rate on a loan agreement, but it would not have the right to treat the agreement not as a loan agreement but, for example, a donation agreement. The adopted solution is similar to the legal possibilities available to the tax authorities under the general anti-tax avoidance clause.

The tax authorities should use transaction reclassification and omission instruments after a detailed analysis of the substance of the transaction. These instruments interfere with the taxpayer's transactions to a far greater extent than a simple change in the terms of the transaction by the tax authority.[15] In the opinion of Iwona Georgiyew, the new regulations do not specify what kind of analysis should be carried out by the tax authorities in order to establish that the taxpayer's transaction does not reflect commercial rationality and, as a consequence, that it should be reclassified or omitted.[16] According to the OECD Guidelines, a transaction may be reclassified or omitted after the real substance of the transaction has been determined (referred to as the delineation). Tax authorities have been provided with their powers as part of the legal construct of the discretion. The only premise for applying the reclassification or omission of the transaction is an indication that in comparable circumstances unrelated parties, guided by commercial rationality, would not have entered into a particular controlled transaction, would have entered into another transaction, or would have carried out another action.[17]

When regulating the issues of reclassification and omission of transactions, the legislature has insufficiently demonstrated the acceptability of using these constructions for transactions before 1 January 2019. In addition, due to the very intrusive nature of these instruments, these provisions should be clarified by more detailed rules for their applicability. Attention is especially drawn to the fact that a similar construct exists under the general anti-tax avoidance clause, which

---

[15] Georgijew, I., *Recharakteryzacja i pominięcie transakcji dla celów cen transferowych – nowe instrumenty ostatniej szansy*, "Przegląd Podatkowy" 2019, No. 2, p. 43.

[16] Ibidem, p. 41.

[17] Laskowska, M., *Zmiany w polskich regulacjach dotyczących cen transferowych*, "Przegląd Podatkowy" 2019, No. 1, p. 32; Koronkiewicz, J., *Podatkowa kostka Rubika*, "Przegląd Podatkowy" 2019, No. 4, p. 22.

defines in a much more precise manner the conditions for replacing a transaction with a relevant one (Article 119a(1) of the Act of 28 August 1997 – Tax Ordinance[18] [Tax Ordinance Act]) or recognition of such tax consequences as if the transaction had not been carried out (Article 119(4) of the Tax Ordinance Act).

Modification of the catalogue of transfer price estimation and verification methods

Starting 1 January 2019, the range of methods used to verify a transfer price has been extended. The basic methods to be used to verify and determine a transfer price are as follows: the comparable uncontrolled price method, the resale price method, the cost plus method, the transactional net margin method, and the transactional profit split method.[19] In addition to this catalogue, other methods have been allowed, including valuation techniques, if none of the above five methods can be used.[20] Additionally, hierarchy has been abandoned for the above five methods, which means that the taxpayer may choose the most appropriate method.[21] Application of the valuation techniques method may be particularly useful for intangible assets.[22] These could be valuation techniques based on an analysis of the discounted value of cash flows from the use of intangible assets.[23] A new concept has been introduced: intangible assets that are difficult to evaluate.[24] Research and development works are mentioned as an example.[25] A characteristic feature of intangible assets difficult to evaluate is that tax authorities have the right to investigate whether the financial information or data used in the calculation differ from the actual financial data and information; if the discrepancy

[18] Consolidated text: Dz. U. (Journal of Laws) of 2019, item 900.

[19] Art. 11d (1) of the CIT Act.

[20] Art. 11d (2) of the CIT Act.

[21] Mika, J. F., *Ceny transferowe. Komentarz do rozporządzeń. Metody szacowania i analizy cen transferowych. Obowiązki sprawozdawcze. Schematy podatkowe MDR*, Warszawa 2019, p. 40.

[22] Pachnik, J., *Wycena wartości niematerialnych i prawnych w transakcjach realizowanych pomiędzy podmiotami powiązanymi – analiza podatkowa*, "Przegląd Podatkowy" 2019, No. 6, p. 44.

[23] Ibidem, p. 44.

[24] Art. 1(3) of the Regulation of the Minister of Finance of 21 December 2018 on transfer prices in the field of corporate income tax, Dz. U. (Journal of Laws) of 2018, item 2491, hereinafter: "the Regulations."

[25] Pachnik, J., op. cit., p. 45.

between the forecast data and the actual data is at least 20% of the market price calculated using the forecast data, the authority may determine the transaction price based on the actual data, even though at the time of such transaction they were unknown to the parties.[26] This is an exception to the rule that in determining a taxpayer's income/loss in respect of the controlled transaction by estimation, the tax authority does not take into account circumstances – including comparative data which could not have been known to the parties at the date of the transaction and which, if known, could cause the parties to specify a higher or lower value of the object of such a transaction.[27]

To conclude, this amendment was intended to make things easier for taxpayers. The hierarchy of transfer pricing verification methods used by a taxpayer to show that a transaction was in line with market conditions was abandoned. Previously, the choice among the five methods was not arbitrary and it was necessary to justify the unsuitability of one method in order to be able to choose another. Additionally, the list of methods is now open: if none of the five methods under Article 11d of the CIT Act can be applied, the taxpayer may establish his/her own rules for verifying the market price, with justification.

Simplified settlement rules ('safe harbour')

As a result of the amendment to the Polish legal system, the simplified rules for transfer pricing settlements have been introduced, referred to as 'safe harbour,' following the OECD Guidelines.[28] The term safe harbour is not used only in the area of transfer pricing; these are generally conceived simplifications.[29] As indicated in the explanatory memorandum to the draft bill, the introduction of simplified solutions, (i.e. safe harbours), once applied by the taxpayer, results in the price or price element being considered the market price. The use of such a solution provides taxpayers protection against the transfer price being challenged by the tax authority and exempts the taxpayer from most of the documentation obligations. Such solutions are foreseen for two types of transactions: low-value-adding services and loans. These simplifications were introduced by Articles 11f and 11g of the CIT

[26] Cf. Art. 8 of the Regulation.

[27] Art. 7(1) of the Regulation, cf. Mika, J. F., op. cit., p. 35.

[28] Paragraph 7.61 of the Guidelines.

[29] For example Case C-362/14 *Schrems* of 6 October 2015, CURIA. The judgement concerns safe harbours for data transmission between countries.

Act. The essence of the simplifications is that a mark-up set by a taxpayer on prices of the low-value-adding services or an amount of the interest rate on a loan falling within the limit specified in those provisions will not be considered by the tax authority as non-market. Also, the documentation obligations have been facilitated.

Article 11f of the CIT Act provides for using safe harbours for low-value-adding services. This provision defines the concept of the low-value-adding services. In addition, Appendix 6 to the Act contains an exemplary catalogue of such services (e.g. bookkeeping, HR and payroll services, or general tax advice). Due to the fact that the value of the transfer price for the described services is determined on the basis of a cost mark-up, the taxpayer must have calculations specifying the type and amount of costs included in the cost base.

The safe harbours provided for loans assume that the taxpayer does not have to prepare a comparative analysis[30] of the loan transaction if the loan interest rate on the day of signing the contract is calculated from the base interest rate and profit margin specified in the announcement of the minister in charge of public finance, valid on the day of signing the loan agreement.[31]

If the services in question are deemed to meet the definition of low-value-adding services, or if the loan is deemed to meet the conditions of Article 11g of the CIT Act, the taxpayer may prepare transfer pricing documentation which does not contain a comparative analysis or compliance analysis (Article 11q(3) of the CIT Act). This means that there is no obligation to justify that the cost mark-up or interest rate does not differ from the amount that would have been agreed between unrelated parties.

Due to the fact that the tax authority does not verify the cost mark-up for low-value-adding services and interest rates on loans, when the safe harbour conditions are met, the tax authority may undertake verification of other aspects of these transactions. It will then verify whether the transaction in question has actually taken place and will verify the cost base. The tax authority will check whether the costs to which the mark-up has been applied have been correctly determined.

[30] Comparative analysis is a key tool for examining whether the terms of the transaction comply with the arm's length principle. This is an analysis of unrelated parties or transactions concluded with unrelated parties or between unrelated parties, considered as comparable to the conditions established in controlled transactions (Article 11g(1)(3)(a) of the CIT Act, cf. Rawa, B. in: Mika, J. F. (ed.), *Leksykon cen transferowych*, Warszawa 2019, p. 38.

[31] Announcement of the Minister of Finance of 21 December 2018 on the publication of the type of base interest rate and margin for transfer pricing in the area of personal income tax and corporate income tax (Official Gazette of 2018, item 1868).

Changes in transfer pricing documentation

Two areas can be distinguished when analysing changes in transfer pricing documentation. The first one is an amendment to the rules governing the documentation obligations, and the second one relates to the consequences of not having the documentation required by law. The scope of documentation required after the new changes applies only to transactions carried out after 1 January 2019.[32]

Article 11n(1) of the CIT Act exempts transactions between related parties whose place of residence, registered office, or central management is in the territory of the Republic of Poland from the obligation to prepare documentation. The provision of Article 11n(1) of the CIT Act includes the detailed conditions for this exemption.

The amendment has repealed Paragraph 4 of Article 19 of the CIT Act, which provided for a 50% sanction to be imposed on the amount of upward adjustment made by the tax authority on a transaction with a related entity in the absence of tax documentation. One drawback of this solution was that the 50% rate could not be applied if the difference between income declared by the taxpayer and that determined by the authority was negative. New rules for imposing tax sanctions have been introduced. The regulation was included in the Tax Ordinance Act. Section III of the Tax Ordinance Act was supplemented with Chapter 6a, 'Additional tax liability.' The burden of liability for missing tax documentation was shifted to incorrect transfer pricing. As the authors of the amendment stated, there is currently no legal basis for imposing sanctions on a taxpayer who, despite having complete transfer pricing documentation, does not apply the arm's length principle and underestimates the tax base. Under the existing regulations, a taxpayer pays the basic rate of income tax on the amount of income adjusted upwards. This means that the currently applicable regulations on sanctions in cases concerning transfer pricing do not meet the assumption of having a preventive effect. A lack of transfer pricing documentation, due to the resulting difficulties for the authorities in auditing settlements and the increased costs of audits, will be a circumstance that allows the sanction rate to be increased in the case of an upward adjustment.

To sum up the changes in this respect, the legislature has exempted related parties in domestic transactions from the obligation to prepare tax documentation.

[32] Mika, J. F., op. cit., p. 20.

This obligation was considered superfluous, because domestic transactions cause much less erosion of the underlying base than transactions with an international element. The exemption from the documentation obligation does not mean that related parties in domestic transactions are not obliged to apply the arm's length principle, however. With the changes to the sanctions for missing tax documentation, the sanctions have become much more rational. The new sanction provides a greater incentive for related parties to verify whether transactions between them comply with the arm's length principle. The previous construction provided that a taxpayer who had tax documentation but did not comply with the arm's length principle was only obliged to pay taxes in the appropriate amount with default interest.

Conclusion

Transfer pricing regulations are subject to frequent changes. The changes that came into effect in 2019 are based on two priorities. Firstly, they aim to reduce the administrative burden on taxpayers; secondly, they are intended to make transfer pricing regulations more effective in achieving the objectives set before them. The task transfer pricing is faced with, i.e. to protect the state against the transfer of incomes to countries with more favourable tax rules, is difficult to achieve. It is common practice to develop a policy of mutual transactions between related parties so as to show the lowest possible income in countries with a high tax burden. Due to the fact that transfer pricing is based on the arm's length principle, in many cases it is highly disputable what the market price should be, and the tax authority may be unable to show taxpayers that the terms and conditions of their transactions differ from those that unrelated parties would agree upon.

The regulation on the reclassification and omission of transactions should be considered positive. It would be advisable to clarify this legal regulation in order to ensure that the tax authority does not have too much freedom in applying these instruments and in determining which transactions should be deemed relevant. My proposal is justified by the fact that both the reclassification and the omission of transactions are legal instruments of an extremely intrusive nature.

The changes in methods can be assessed as clearly positive. These changes provide taxpayers with greater flexibility. Introduction of safe harbours will allow the authorities to focus on elements of the transaction other than profit margins

and interest. It will be easier for the tax authority to analyse whether a given transaction has taken place at all and whether the costs on which a mark-up has been imposed have been correctly determined. I welcome the changes in sanctions for non-compliance with the arm's length principle. In the previous state of law, the sanction was inadequate and did not sufficiently dissuade taxpayers from breaching the regulations.

Literature

Georgijew, I., *Recharakteryzacja i pominięcie transakcji dla celów cen transferowych – nowe instrumenty ostatniej szansy*, "Przegląd Podatkowy" 2019, No. 2.

Georgijew, I., Każuch, M., *Spór o ceny transferowe – perspektywa podatnika*, "Przegląd Podatkowy" 2018, No. 9.

Koronkiewicz, J., *Podatkowa kostka Rubika*, "Przegląd Podatkowy" 2019, No. 4.

Laskowska, M., *Zmiany w polskich regulacjach dotyczących cen transferowych*, "Przegląd Podatkowy" 2019, No. 1.

Litwińczuk, H., *Przekwalifikowanie (nieuznanie) transakcji dokonanej pomiędzy podmiotami powiązanymi w świetle regulacji o cenach transferowych przed i po 1.01. 2019*, "Przegląd Podatkowy" 2019, No. 3.

Mika, J.F., *Ceny transferowe. Komentarz do rozporządzeń. Metody szacowania i analizy cen transferowych. Obowiązki sprawozdawcze. Schematy podatkowe MDR*, Warszawa 2019.

Mika, J.F. (ed.), *Leksykon cen transferowych*, Warszawa 2019.

Pachnik, J., *Wycena wartości niematerialnych i prawnych w transakcjach realizowanych pomiędzy podmiotami powiązanymi – analiza podatkowa*, "Przegląd Podatkowy" 2019, No. 6.

Legislation

Act of 23 October 2018 amending the Act on Personal Income Tax, the Act on Corporate Income Tax, the Tax Ordinance Act, and some other acts, Dz. U. (Journal of Laws) of 2018, item 2193.

Act of 26 July 1991 on Personal Income Tax, Dz. U. (Journal of Laws) of 2018, item 1509, as amended.

Act of 15 February 1992 on Corporate Income Tax, Dz. U. (Journal of Laws) of 2018, item 1036, as amended.

Act of 6 June 1997 – Penal Code, Dz. U. (Journal of Laws) of 2018, item 1600, as amended.

Act of 28 August 1997 – Tax Ordinance Act , Dz. U. (Journal of Laws) of 2019, item 900, as amended.

Regulation of the Minister of Finance of 21 December 2018 on Transfer Prices in the field of Corporate Income Tax, Dz. U. (Journal of Laws) of 2018, item 2491.