

TAX ON OFFICE BUILDINGS AND SHOPPING CENTRES

The draft amendment to the Act on Corporate Income Tax and other legislation is to introduce income tax on revenue derived from ownership of a fixed asset situated in the Republic of Poland the initial value of which exceeds PLN 10,000,000. This may come into effect on 1 January 2018.

The tax will apply to owners of:

- retail buildings such as shopping centres, department stores, independent stores and boutiques; and
- office buildings.

The tax will not apply to: (i) buildings on which depreciation write-offs are no longer made because of the cessation or suspension of business activity, or (ii) office buildings used solely or mainly for the taxpayer's own needs.

This means that, generally, the tax will apply to taxpayers that are owners of two categories of real estate, i.e. retail buildings and office buildings. The tax will not therefore be payable on industrial or warehouse buildings. The matter of taxation of buildings with a mixed designation, e.g. office and warehouse buildings, is unclear. It seems that in such a case the main designation of the building should be decisive. This is indicated in the rulings of tax authorities issued in similar situations with regard to the rules of tax depreciation write-offs for buildings. Hence, buildings that are used mainly as warehouses should not be subject to the tax.

The tax will be 0.035% of the tax base per month. The tax base will be the initial value of the fixed asset determined as at the first day of each month and arising from the fixed assets register kept, less the free amount of PLN 10,000,000 of the tax base.

In the case of a taxpayer that is a partner of a partnership that is not a legal person, the initial value of the fixed assets falling to the partner will be determined in proportion to its right to a share in the profit (share).

The tax is to be settled monthly on the basis of self-calculation and will be payable by the 20th day of the month following the month for which it is payable.

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