



# Frontiers in tax

**Polish edition**

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# Introduction



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In the following issue of Frontiers in tax we would like to present some of the changes in the tax law applicable to the financial sector, including the evolving practice of the tax authorities relating to the functioning of the tax on certain financial institutions, as well as the new regulations on the exchange of tax information with other countries and taxation on investment funds in light of the amendment to the CIT Act. In the issue, you will also find information on the limitation of the VAT deductions for local government units.

The world financial crisis of 2008 still has a huge impact on the global economy. This primarily affects the activity of financial institutions. Following the experiences encountered in 2008, many countries have taken actions to counteract the negative aspects of the aforementioned crisis in order to stabilize the financial market.

Last year, a number of amendments were introduced into the Polish tax law, including:

1. tax on certain financial institutions,
2. regulations on the exchange of tax information between countries,
3. limitation of the scope of the VAT exemption for services auxiliary to the financial services, and
4. limitation of the scope of the exemption from corporate income tax for investment funds;

Additionally, many changes have been introduced regarding the taxation of entities operating in the public sector. The new regulations refer to local government units and concern the limitation of deductible VAT by introducing provisions concerning the (pre-) pro rata of the sales structure. Due to these amendments, local government units are entitled to deduct VAT only to a very limited extent.

In light of the above, the global economy is constantly changing and the changes are affecting both financial and public sector.

I wish you a pleasant read.

# VAT deduction with the use of the (pre-) pro rata in local government units

**The regulations related to the (pre-) pro rata introduced on 1 January 2016 have limited the possibility of deducting VAT for some taxpayers.**







Until the end of 2015, local government units were entitled to use a pro rata deduction of VAT in relation to general expenses (i.e. those related to the general functioning of local government units). The deduction of VAT was based on the pro rata indicated in article 90 section 2 of the Act on Goods and Services tax (hereinafter: "the VAT Act"). The aforementioned pro rata, according to the Supreme Administrative Court judgement dated 24 October 2011 (ref. I FPS 9/10), The pro rata is referred to as a share of the annual turnover resulting from the activities in respect of which the taxpayer enjoys the right to reduce the amount of output tax in the whole turnover both in activities in respect of which he enjoys the right to reduce the output tax amount and the activities in respect of which he enjoys no such a right. Simultaneously, activities not covered by the scope of the VAT Act were omitted, i.e. those which constitute a significant part of the revenue of local government units. Consequently, the value of the pro rata in local government units fluctuated up to 90%.

### Amendment to the regulations

Article 86 sections 2b-2h were introduced into the VAT Act on 1 January 2016. The (pre-) pro rata regulations significantly limited the possibility of reducing VAT from the so called general expenses in local government units. Due to the introduced amendment, VAT taxpayers who purchase goods and services with the intention of:

1. conducting business activities within the meaning of the VAT Act (i.e. sales within the scope of the VAT Act, both taxable and exempt from VAT),
2. conducting non-business activities, except for personal purposes (i.e. activities outside the scope of the VAT Act, e.g. own tasks of local government units),

when it is not possible to relate these benefits entirely only to the taxpayer's economic activity, the amount of deductible input VAT is calculated in line with the determination of the use of acquired goods and services for business purposes, with the use of the (pre-) pro rata .

The VAT Act indicates some methods of the calculation of the amount of the (pre-) pro rata, including: surface key, personal key, income key or time key.

In general, the taxpayers indicate themselves the method of the calculation of the amount of the (pre-) pro rata based on selected data. The method should allow the objective determination of the proportion of expenditures attributable to business and purposes other than business activities. First and foremost, the way in which the taxpayers calculate this amount should be defined by the specificity of the taxpayer's activities and acquisitions.

### Regulation in reference to the (pre-) pro rata

However, for certain groups of taxpayers the recommended method of the calculation of the amount of

the (pre-) pro rata is indicated in the Regulation of the Minister of Finance of 17 December 2015 regarding the determination of the scope of the use of purchased goods and services for business purposes for certain taxpayers (Journal of Laws of 2015, Item 2193, hereinafter „ The Regulation”).

The Regulation indicates the turnover key, which is defined as the ratio of the annual turnover from business activities multiplied by 100, in relation to income which is made (including public revenue, EU budget funds, funds from foreign sources). Moreover, the Regulation encloses a detailed list of streams excluded in the (pre-) pro rata calculations.

However, it should be remembered that the VAT Act - a legal act of a higher level, enables VAT taxpayers to apply other (pre-) pro rata calculation keys. The issue has been the subject of dispute with tax authorities, currently being resolved by administrative courts.

According to the judgment of the Voivodship Administrative Court in Gliwice dated 17 March 2017, ref. III SA/GI 1376/16: *„The Regulation (...) is a lex specialis to the provisions of the VAT Act covering a distinct method of tax settlements for local government units. This means that a local government unit has no alternative of using the surface key as defined in article 86 section 2c point 4 of the VAT Act.”*

However, this is an isolated statement and has no basis in the regulations.





# The VAT Act indicates some methods of the calculation of the amount of the (pre-) pro rata, including: surface key, personal key, income key or time key.

There are no regulations which would indicate that a local government unit has an obligation to calculate the amount of the (pre-) pro rata solely on the basis of the turnover key indicated in the Regulation. The intention of the legislator was not to exclude the possibility of using other (pre-) pro rata keys specified in the VAT Act, such as the surface key or the time key. This statement was emphasized in the justification to the Regulation, which points out that the proposed calculation method *"will not limit the alternative methods of the calculation of the amount of the (pre-) pro rata if the taxpayers consider them more representative. In line with article 86 section 2h of the VAT Act, in the case when the taxpayer, for whom the method of the calculation of the amount of the (pre-) pro rata is indicated by provisions pursuant to article 86 section 22 (that is provisions of the designed Regulation), considers that the method of determining the proportion indicated based on provisions pursuant to article 86 section 22, does not correspond to the profile of his activity and acquisitions, he can apply a more representative method of the calculation of the amount of the (pre-) pro rata"*.

## The alternative method of the calculation of the amount of the (pre-) pro rata

The majority of administrative courts in Poland (e.g. judgment of the Voivodship Administrative Court in Poznan of 19 April 2017, ref. I SA/Po 1318/16, judgment of the Voivodship Administrative Court in Opole of 10

March 2017 ref. I SA/Op 1/17, judgment of the Voivodship Administrative Court in Wrocław of 15 February 2017, ref. I SA/Wr 1264/16), in view of the aforementioned statement, have expressed that there exists the possibility of applying an alternative method of the calculation of the amount of the (pre-) pro rata, when:

- the method proposed by the local government unit is more suitable (representative) than the method indicated in the Regulation,
- the local government unit will justify why this method best suits the specific profile of its activity.

Considering the judgment of the Voivodship Administrative Court in Rzeszów of 15 December 2016 (ref. I SA/Rz 881/16), in case the local government unit operates a local market and conducts on its territory:

- business activity, e.g. related to the collection of civil law charges for making the commercial place available to merchants,
- non-business activity, e.g. unpaid provision of parking

the local government unit may be able to take advantage of the VAT deduction with the (pre-) pro rata using the surface key.

In its judgment, the Voivodship Administrative Court (ref I SA/Rz 881/16) argued that the basic method of calculating the amount of the (pre-) pro rata is as follows in the Regulation, however if this particular method does not correspond to the specific nature of the activity and

acquisitions, it is permissible to use an alternative method. In this case, the local government unit indicates the surface method (with reference to the local market and parking) by determining an average yearly surface used for business purposes in the general average yearly surface used for business purposes and outside of them.

## Summary

In conclusion, it is indisputable that a local government unit is entitled to choose a different method of calculating the amount of the (pre-) pro rata than the one indicated in the Regulation. However, it is important for the adopted method to be more adequate and objective than the one indicated in the Regulation and to reflect the total expenditures incurred. This does not change the fact that the introduction of the (pre-) pro rata has effectively limited the possibility of deducting VAT in local government units, and the numerous doubts regarding the calculation of the (pre-) pro rata generate the risk of an incorrect VAT settlement with the tax authorities.




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# Evolving practice of tax authorities in relation to the functioning of the tax on certain financial institutions

**The termination of credit agreements does not alter the status of the lender and neither of the lending institution within the meaning of the Act on consumer credit. This causes that such an entity should still be classified as a taxpayer of the tax on certain financial institutions.**





The global financial crisis of 2008 has had a huge impact on the financial sector worldwide. Many countries, in order to counteract its negative consequences have imposed rigorous legal regulations on the financial institutions.

Since February 2016 Poland has also imposed tax on certain financial institutions whose main purpose is to secure the financial market in case of another financial crisis.

After more than a year of its functioning, it is worth taking a closer look at the practice of the tax authorities in this regard, particularly in relation to the understanding of the definition of the „taxpayer of the tax on certain financial institutions“.

#### **How to understand the definition of the taxpayer of the tax on certain financial institutions?**

In the judgement of the Administrative Court in Gliwice of 14 March 2017 (ref. I SA/GI 1549/16; non-binding yet), it was stated that in order to determine whether a given company will be a taxpayer of the tax on certain financial institutions, it is necessary to consider the profile of its activity from a broader perspective. In such a case the

following aspects should be primarily verified:

1. The kind of activity conducted by the company in the past (whether such activity is typical for taxpayers of this tax and whether it has any impact on the present activity),
2. The kind of activity of companies which belong to the same group of companies,
3. The kind of activity set out for the company based on the Polish Classification of Economic Activities.

#### **Current activity**

In the past, a company provided loans (and therefore could be classified as a taxpayer of the tax on certain financial institutions). However, the company ceased this activity before the introduction of the tax on certain financial institutions and, as it claims, has no intention to continue it.

Therefore, the company is no longer party to any loan agreement. Nonetheless, it still owns receivables under the loan agreements terminated beforehand and is vindicating them (i.e. the company currently is involved

only in the purchases and sales of receivables).

#### **Activity of the companies from the same group as the company**

The profile of the activity of a sister company from the same group also consists in providing loans. It is worth mentioning that the company itself does not own a total of assets above the taxable amount in accordance with the regulation of the tax on certain financial institutions (resulting from trial balance, a surplus of a total value of the taxpayer's assets over PLN 200 mln). However, in the case of a combination of the company's assets with the assets of the sister company, this limit would be exceeded (as according to the regulation of the tax on certain financial institutions the value of taxable assets should be calculated jointly for all dependent or indirectly dependent companies).

#### **Polish Classification of Economic Activities**

Additionally, within the scope of its economic activity, the company still has the following entry to the National Court Register: 64,92,Z. – other forms of granting loans.



# Market practice also clearly indicates that in order to be excluded from the scope of taxpayers of the tax on certain financial institutions, it is necessary to dispose of the loan portfolio and receivables related to such a loan portfolio.

According to the court, the aforementioned factors are crucial for the classification of the company as a taxpayer of the tax on certain financial institutions.

The court indicated that despite the termination of loan agreements, there still exists a legal relationship between the lender and the borrower, which results from the loan agreement concluded before. As a result, the fact that the company still vindicates receivables from such contracts classifies the company as a lending institution within the meaning of the Consumer Credit Act (Art. 5.2a of the Consumer Credit Act).

Subsequently, it also determines the classification of the company as a taxpayer of the tax on certain financial institutions according to the Tax on Certain Financial Institutions Act (Art. 4.9 of the Tax on Certain Financial Institutions Act).

Moreover, the fact that the company currently is not granting loans does not mean that it cannot restart this activity at any time, all the more so because such activity is defined for the company according to the Polish Classification of Economic Activities and such activity is also characteristic of other companies from the same group to which the given company belongs.

In my opinion, the argumentation presented by the court in the

aforementioned judgement is justified due to the fact that the company did not clearly indicate a cessation of lending activity.

Market practice also clearly indicates that in order to be excluded from the scope of taxpayers of the tax on certain financial institutions, it is necessary to dispose of the loan portfolio and receivables related to such a loan portfolio.

## **The first year of functioning of the tax on certain financial institutions in Poland**

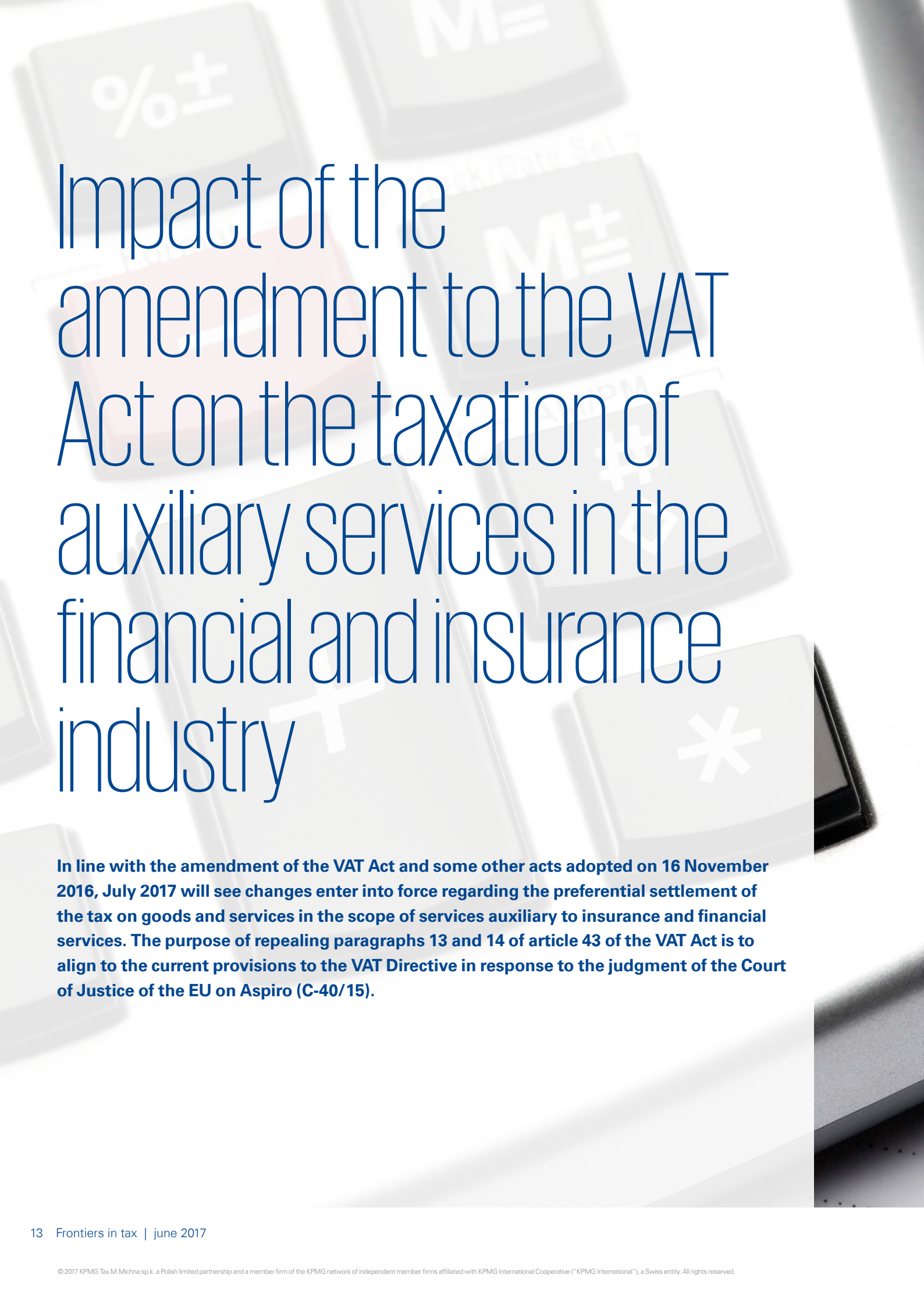
According to the recent analysis presented by the Deputy Minister of Finance the inflows from the tax on certain financial institutions in 2016 was higher than had been expected and amounted to PLN 3.5 billion. It is estimated that in 2017 the inflows will amount to approx. PLN 3.9 billion. Furthermore it was indicated that it is paid on a regular basis and the provisions of the Tax on Certain Financial Institutions Act are precise to the extent that no significant interpretative issues arise. It was also indicated that the introduction of the tax on certain financial institutions does not negatively affect the terms of services provided by the financial institutions (including the prices). However, in fact, customers have noticed an increase in the prices of the services provided by financial institutions.



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# Impact of the amendment to the VAT Act on the taxation of auxiliary services in the financial and insurance industry

**In line with the amendment of the VAT Act and some other acts adopted on 16 November 2016, July 2017 will see changes enter into force regarding the preferential settlement of the tax on goods and services in the scope of services auxiliary to insurance and financial services. The purpose of repealing paragraphs 13 and 14 of article 43 of the VAT Act is to align to the current provisions to the VAT Directive in response to the judgment of the Court of Justice of the EU on Aspiro (C-40/15).**





The scope of tax exemptions of widely understood financial and insurance services in the VAT Act results, in principle, from the implementation of the EU VAT Directive into the Polish legal system. This does not apply, however, to article 43 section 13 of the VAT Act. The scope of the abovementioned provision results from Court of Justice of the EU case law (for example, the judgments of 5 June 1997, C-2/95 SDC, and 28 July 2011 in ref. Nordea Pankki Suomi Oyj, C-350/10), which began to cause some doubts in practice.

### The Aspiro judgment

Aspiro, a VAT taxpayer, provided services which included a comprehensive liquidation of claims that arose out of insured events for and on behalf of another entity – an insurance institution. What's important, Aspiro, in providing the services was not an insurer, agent or insurance intermediary for the services in question, but was merely responsible for the service of insurance claim settlement on behalf of and for the benefit of the insurer on the basis of an established contract.

In this case, the Court of Justice has held that Aspiro's insurance claim settlement activities, on behalf of and for the benefit of the insurer, fall within the scope of the concept of insurance-related services. However, for these services to be exempt from VAT, they should be part of activities conducted by a broker or an insurance agent. Furthermore, on the basis of its earlier rulings, the Court pointed to two conditions which have to be fulfilled in such a case. First, the service provider has to be bound by a legal relationship

(even indirect) both with the insurer and the insured (case C-8/01 and C-124/07). Additionally, the activity of the service provider, acting as auxiliary to insurance or financial services, has to cover important aspects of insurance intermediation, such as searching for insurance clients and contacting them with the insurer for the purpose of concluding an insurance contract (Case C-472/03). The subcontractors of these services should also be involved in the conclusion of such contracts (Case C-124/07).

### Proper and necessary action

In the Court's view, Aspiro fulfilled only the first of the abovementioned conditions, remaining in direct relation with the insurance company and in indirect relation with the insured entities in dealing with and handling claims. Nevertheless, Aspiro's insurance claims handling activities were not an insurance intermediation as understood in the description above. In view of the above, as the Court stated, there was no basis for recognizing Aspiro as a broker or an insurance agent. According to the Court's view, in the present case there were no grounds for applying the VAT exemption under article 135 paragraph 1 letter a of the Directive 112.

In line with the Court's current case law, this implies that auxiliary services supporting financial and insurance services, may not benefit from their exemption even if they are necessary, yet strictly technical in their character, as in the example of administrative services, call center services, and "swift" services (which relay electronic

Determining the boundary between a redundant and a taxable benefit can be difficult and therefore constitute a tax risk.





messages on behalf of financial institutions).

### **Consequences for taxpayers providing auxiliary services**

It is necessary to indicate the effect of the Court's judgment on Polish taxpayers.

As of 1 July 2017 the amendment to the VAT Act based on the Aspiro judgment will directly cause the lack of the right to apply for VAT exemptions in the scope of subcontracting or outsourcing services provided by third parties to insurance and financial entities. After the introduction of the amendment based on repealing paragraphs 13 and 14 of article 43 of the VAT Act, the exemption will exclude such services, which were previously considered to be part of an insurance service provided by third parties to insurance companies. Such services will include, among others, claim settlement services which on their own do not constitute either insurance services or insurance brokerage services as referred to in article 43 section 1 point 37 of the VAT Act.

The legislator in the explanatory memorandum emphasized that the amendment to the VAT Act would not directly affect the scope of the exemptions in case of financial services

and services forming part of those services governed by the repealed provision. It is to cover only such elements of insurance services which are performed by a third party. However, as the repealed provision also applies to auxiliary, financial and insurance services, it may affect all the financial and insurance services provided by taxpayers. Thus it cannot be ruled out that taxpayers who have so far benefited from the exemption under article 43 section 13 of the VAT Act, pursuant to the removal of this provision, will lose such a possibility. Determining the boundary between a redundant and a taxable benefit can be difficult and therefore constitute a tax risk.

What is also crucial, repealing article 43 section 13 of the VAT Act will result in the expiration of individual tax rulings issued under these regulations, thus depriving taxpayers of tax protection in respect of these services. In such a situation, new claims will be required to confirm the correctness of the application of the VAT exemption, which will result in the risk of obtaining a negative tax interpretation.



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# Taxation of investment funds in light of the amendments to the CIT Act

**Beginning from 1 January 2017, the amendments to the CIT Act have caused the taxation of investment funds to change significantly. Until the new regulations enter into force, investment funds established under the Investment Fund Act benefited from a subjective income tax exemption.**





The subjective exemption subject to the introduced amendments applies only to open-end investment funds and specialist open-end funds. Closed-end investment funds and specialist open-end investment funds (which apply the rules for closed-end funds) can benefit from the exemption in specific cases (objective exemption).

### The purpose of introducing the changes

The ratio legis of the introduced changes was to constitute a restriction of the use of closed-end investment funds for tax optimization. In the explanatory memorandum to the bill, it was indicated that closed-end investment funds are one of the basic elements which contribute to the creation of tax planning structures, and their design makes it possible to be applied only by large taxpayers, negatively affecting the competitiveness of smaller entities.

It's worthwhile to recall that the original version of the project dismissed the subjective exemption for all investment funds, with the objective exemption being intended only for open-end funds. This project received a negative evaluation both from the National Bank of Poland and the Polish Financial Supervision Authority, which

determined that taxation on all closed-end investment funds does not fulfill the purpose of introducing the changes (as not all funds were used for tax optimization) and would negatively affect the financial market.

### Objective exemption

The new regulation determines the objective exemption negatively, by enumerating the instances in which income (revenue) of investment funds is subject to income tax. According to Article 17.1.57 of the CIT Act, income (revenue) of closed-end investment funds or specialist open-end investment funds (which apply the rules of closed-end investment funds) is free from income tax. Not subject to the exemption is income (revenue) earned from investment in tax-transparent entities – Polish companies and organizational units without legal personality, as well as companies and organizational units established or administered in another country and accordance with the law of that country, not treated as legal entities and not subject to unlimited tax liability.

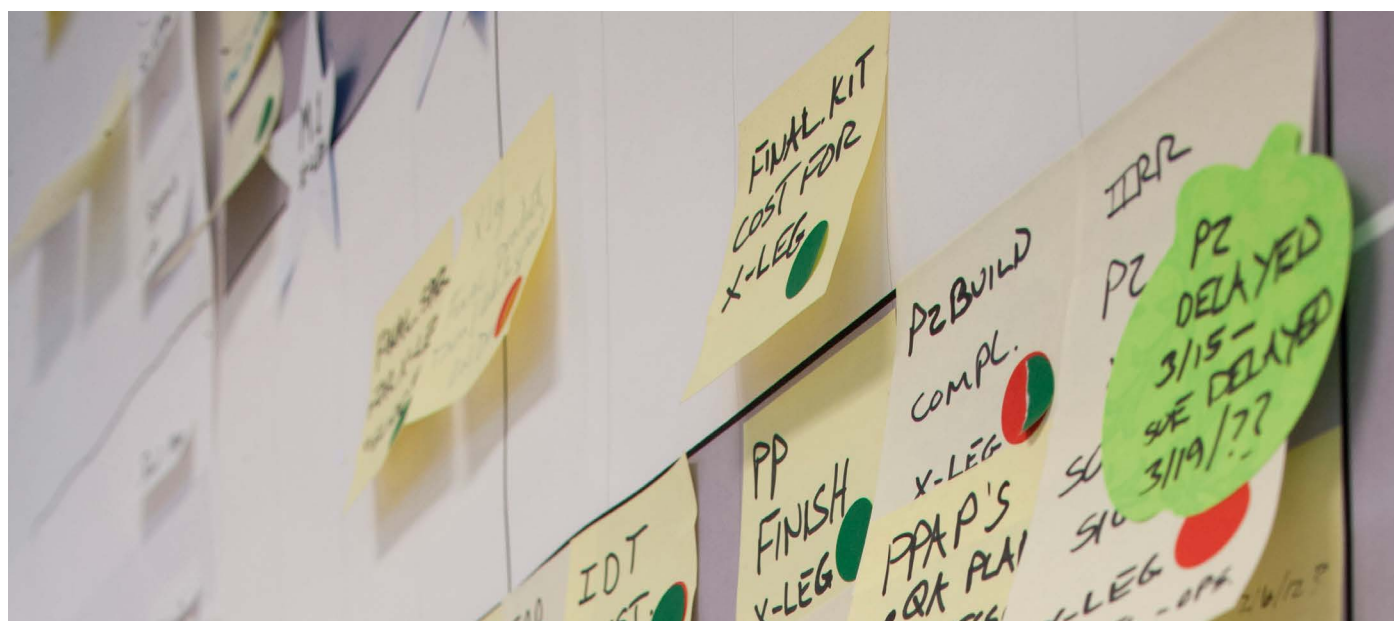
Among income (revenue) earned from the indicated taxable entities, the legislator has included income from shares, interest on loans, interest on

equity, donations (free or partially paid benefits), discount on securities and disposal of securities.

Regarding the definition of a company not considered a legal person, as expressed in Article 4a.14 in connection with Article 4a.21 of the CIT Act, it should be stated that income derived (from one of the aforementioned sources) in relation to the activities of general partnerships, professional partnerships, and limited partnerships will be taxable. A limited joint-stock partnership does not have legal personality, yet is subject to CIT and, therefore is not fiscally transparent.

### Tax authorities' standpoint

Considering that the new regulations so far have been in force for a short period of time, it is impossible to determine the specific approach of the tax authorities in the matter. However, it is worth mentioning that the Director of National Tax Information in the tax ruling of 12 April 2017 (no. 0114-KDIP2-2.4010.5.2017.1.AM) has indicated that the objective exemption of the investment funds cannot be applied to income generated by a foreign controlled company (if the conditions provided for in Article 24a of the CIT Act are complied with, the income of the





# The ratio legis of the introduced changes was to constitute a restriction of the use of closed-end investment funds for tax optimization.

foreign controlled company constitutes taxpayer's income).

The authority, arguing its position, stated that the general principle of calculating income was recognized in Article 7.2 of the CIT Act. Regarding:

1. the determination of income from the shares of legal persons (Article 10 of the CIT Act)
2. the determination of estimated income of related parties by a tax authority (Article 11 of the CIT Act)
3. the determination of income when it is obtained from a foreign controlled company (Article 24a of the CIT Act),

the determination of income should be conducted under different, specific conditions.

The tax authority has expressed that an objective exemption expressed in Article 17.1.57 of the CIT Act refers only to income determined on the basis of Article 7.2 of the CIT Act and therefore cannot be used in case of income obtained by a foreign controlled company.

The argumentation of the tax authority does not seem to be correct. By applying the reasoning adopted by the Director of the National Tax Information, it would be recognized that income obtained by a closed-end investment fund from the share in profits of legal persons (Article 10 of the CIT Act) should also be determined in a particular way and, as a consequence, objective exemption from Article 17.1.57 of the CIT Act would not be applicable. Adopting the abovementioned interpretation would render the objective exemption virtually illusory.

## **Tax neutrality of settlements with participants**

According to Article 12.4.26 of the CIT Act, obtained payments for participation units or investment certificates do not constitute income, whereas according to Article 16.1.72 of the CIT Act, the amounts paid by the fund for the repurchase of shares or the purchase of investment certificates as well as

payments of the income/revenue of the fund to the participants of the fund are not cost-deductible. Because of these provisions, settlements with the participants will be tax neutral for the fund.



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# *Common Reporting Standard – new regulations on the exchange of tax information with other countries*

**Provisions of the Act on the exchange of tax information with other countries regulating the rules of the automatic exchange of tax information on accounts maintained by financial institutions for residents of other tax jurisdictions entered into force on 1 May 2017.**







## Origins of the regulations

Globalization has resulted in both an increase in the mobility of taxpayers and the internationalization of financial services. As a consequence, the issue of international tax evasion is gaining in importance.

As follows from the contents of the explanatory memorandum to the bill, this is a particularly important issue to tax administrations which are faced with difficulties in respect of determining the exact amount of the tax due. Accordingly, it was considered necessary to improve the cooperation between tax administrations in terms of the exchange of information on tax matters.

Particularly intense actions aimed at improving the effectiveness of combating tax frauds and tax evasion are undertaken by international organizations, including the European Union (EU) and the Organization for Economic Cooperation and Development (OECD). The implementation of the new regulations is the result of Poland's membership in their structures.

The main purpose of the Act is to implement into the Polish legal order the EU Directives which regulate the question of the automatic exchange of tax information, including the Council Directive 2014/107/EU and the Common Reporting Standard procedure (CRS), developed by the OECD, in the view of the fact that on 29 October 2014 Poland joined the *Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information*.

### What is CRS?

CRS is a uniform standard for the automatic exchange of tax information, intended to prevent taxpayers from hiding foreign income which should be taxed in the country of residence.

An ever increasing number of taxpayers keep their savings and invest using services of foreign financial institutions, which facilitates tax evasion in the state of residence.

The purpose of CRS is to obtain information from financial institutions regarding the accounts maintained for natural persons or entities which are

non-residents. This information will be forwarded to the tax authorities of the country where the financial institution operates and subsequently sent to the tax authorities of the concerned countries.

The CRS procedure has a common multilateral legal basis and includes a uniform standard for identification and reporting as well as a common technical tool for the exchange of data.

### Obligations of financial institutions

The Act imposes a number of new obligations on Polish financial institutions. The new regulations cover entities which conduct economic activity of specified nature, i.e.:

- **deposit institutions**, e.g. domestic banks, credit institutions;
- **custodial institutions**, e.g. custodian banks,
- **investment institutions**, e.g. investment funds societies,
- **certain insurance companies**, e.g. insurance companies offering cash value insurance contracts.





# Polish financial institutions will be required to determine the tax residence of natural persons and entities for which they maintain financial accounts.

This will allow to identify customers who are residents of different tax jurisdictions.

To this end, financial institutions will have to verify the currently possessed data regarding the given customer or collect relevant statements where the customer will indicate his or her tax residence, which ought to be reflected in appropriate documentation.

If a financial institution has any doubt regarding the information provided, an in-depth analysis and a possible request for additional documents or explanations will be required.

Adapting to the new regulations will require financial institutions to implement new procedures or change the existing ones, including those related to communication with clients, collection of statements, client identification or distribution procedures.

## Account reporting

Information about the accounts kept for non-residents, both individual and institutional clients, will be subject to reporting. Moreover, the data on the controlling persons (beneficial owners) of entities classified as passive non-financial entities, i.e. those with a majority of passive income, may also be subject to reporting.

Only specific categories of entities will be exempt from reporting, e.g. companies listed on certain securities markets, government entities or international organizations.

The scope of the reported data will include, inter alia, client data, account balances, as well as certain revenues received on an account.

The data on reportable accounts will be submitted to the Head of the National Fiscal Administration, on an annual basis by 30 June each year.

## Financial sanctions

The failure to abide by the regulations or their improper implementation may involve sanctions under the Act on the exchange of tax information with other countries, i.e. a fine of up to PLN 1 million imposed on the financial institution.

On the other hand, natural persons acting on behalf of or in the interest of the reporting financial institution, may be liable under the Penal Fiscal Code.

## Implications for taxpayers

As a result of the implementation of the new regulation this year Polish tax authorities will receive information on foreign accounts controlled by Polish tax residents.

The new regulation may be of significance to Polish residents who work abroad or who were seconded by their employers to temporarily work in another country. Similarly, this may be of consequence to entrepreneurs who carry out economic activities and for this reason have opened bank accounts abroad.

Consequently, taxpayers who keep funds in foreign accounts should verify

the accuracy of their settlements with the tax office in respect of their foreign income to ensure compliance with national and international tax regulations. The exchange of tax information will simplify the verification by tax authorities of the accuracy of the information declared in tax returns.



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# KPMG Publications

The KPMG analyses and reports are an output of our expertise and experience.  
The publications take up issues important to enterprises operating in Poland and globally.



## Polish Tax System

The report presents the results of a survey on the tax system in Poland conducted on 16 January 2017 among the participants of the 7th KPMG Tax and Accounting Congress, i.e. managers, financial directors, chief accountants and heads of financial reporting and controlling. The aim of the study was to evaluate the assessment of the Polish tax system from the point of view of top-level executives from various industries across Poland. Questions were answered by 169 people.



## The Automotive Industry. Q1/2017 Edition

The report is part of a series of quarterly reports presenting current trends in the Polish automotive industry, which covers the automotive market, the motor vehicle manufacturing industry and the automotive financial services. The analysis is based on the newest available registration, statistical and market data. The publication is a joint enterprise between the Polish Association of Automotive Industry and KPMG in Poland.



## Promotions in the eyes of the customer – do they really work?

The report was prepared based on a survey conducted on a representative sample of 303 respondents using the CAWI method in December 2016. Respondents to the survey included digital consumers, i.e. people with virtually uninterrupted internet access via fixed and mobile devices. Research topics included consumer behavior related to purchases made during sales promotions, factors that governed the choice of the seller and purchase, how the purchase was made, pre-purchase activities, delivery preferences, and returns of purchased products.



## Global Automotive Executive Survey 2017

The report was based on interviews with 953 executives, chief executives, directors, board members and managers. The study was conducted between September and October 2016, with the use of an online questionnaire. Among the surveyed respondents about one third came from companies from Europe, 13% from North and South America, 15% were based in India as well as Australia and Oceania. In addition, 9 in 100 respondents come from China and 10 from other Asian countries, Japan and South Korea. Almost two thirds of respondents work in companies with revenues of more than \$ 1 billion a year.



## Challenges in the area of youth activation

The report was produced on the basis of a survey among the young unemployed (the number of responses was 303) and employees of local employment offices (the number of responses was 108). The purpose of the study was to identify the needs of young people and employers and the barriers they face in terms of taking up and keeping young people working, as well as identifying the expected direction of change. The survey was conducted using the on-line questionnaire and in-depth interviews. The report included 17 framework recommendations for change, grouped in four areas - from national and local level activities, through activities and tools in the field of youth activation, selected issues related to education, and cooperation with employers.



## Procurement Innovation Challenge

The report was prepared based on a survey of 54 executives and managers in the procurement area in companies operating on the Polish market, as well as supplier representatives. The purpose of the study was to produce an overview of trends concerning the functioning of procurement teams in companies in Poland and their development direction in terms of acquiring innovations. The study was conducted in November and December 2016 using an on-line questionnaire and in-depth interviews. The sample consisted of the largest Polish organizations from all sectors of the economy, 40% of whom declared spending of over PLN 500 m in the last year.



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