

LITIGATION COSTS MAY BE RECOGNISED FOR TAX PURPOSES

We wish to alert you to a taxpayer-friendly private tax ruling by Director of Katowice Tax Chamber dated 1 February 2016 (ref. IBPB-1-3/4510-634/15/APO) which dealt with tax deductibility of litigation expenses.

The case involved a hospital which was in dispute with a provider of integrated cleaning, transportation and patient assistance services. The hospital did not pay the provider as, in hospital's opinion, the provider's invoices were not raised in accordance with their contract. The matter reached the court where the hospital lost and was ordered by the court to pay litigation costs. In such a situation, the hospital asked the tax authority whether the litigation costs it paid could be deducted for tax purposes.

The tax authority confirmed that the litigation costs the hospital had to pay after it lost the case may be treated as deductible for tax purposes. According to the authority, the hospital incurred those costs with a view to protecting a source of income. Moreover, litigation costs are not mentioned on the list of non-tax costs under Article 16.1 of the Corporate Income Tax Act.

Tax authorities used to disallow losing parties to deduct litigation costs but there has recently appeared an increasingly large body of rulings to the contrary. The discussed private ruling confirms that the prevailing line of authority now is that taxpayers can recognise their litigation costs for tax purposes.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

Doradztwo Podatkowe WTS&SAJA Sp. z o.o.

Delta Building, 4th floor

ul. Towarowa 35

61-896 Poznań

tel. (+48) 61 643 45 50

fax. (+48) 61 643 45 51

Warsaw Office

ORCO Tower, 22nd floor

Al. Jerozolimskie 81

02-001 Warszawa

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