

VAT DOES NOT APPLY TO CHARGES INCURRED ON BEHALF OF YOUR CLIENT

We wish to alert you to a private tax ruling issued by Director of Łódź Tax Chamber on 11 February 2016 (ref. IPTPP3/4512-533/15-3/JM), which deals with whether VAT applies to expenses incurred on behalf of your client in connection with your services for him.

The case involved a contract for services under which the provider was required to pay certain expenses, including administrative charges, on behalf of its client. The provider assumed that since it received advances from the client on account of those charges and the charges were directly related to its services, they should be included in the total taxable amount subject to VAT in respect of its services.

The tax authority did not agree with the provider and held that charges incurred by the provider on behalf of its client were not subject to VAT applicable to provider's services (Article 29a.7(3) VAT Act). The reason was that such expenses were administrative (technical) in nature and although they were relevant for the services, they were incurred solely on behalf of another entity. The provider has no legal interest in incurring those expenses, so it is not appropriate to add them to the taxable amount for the purposes of VAT applicable to provider's services.

This ruling is yet another of a series of similar official interpretations. Still, it indicates that, despite such line of authority and the existence of express statutory regulation applicable to expenses incurred on behalf of others (see the VAT Act), at times taxable persons continue to be at a loss when it comes to choosing the right VAT treatment for them. When you are in major doubt about whether or not such expenses should be taxable, you might wish to consider applying for a private tax ruling to make sure your VAT treatment is correct.

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

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