

## **CJEU JUDGEMENT ON VAT TREATMENT OF CLAIMS SETTLEMENT SERVICES**

We would like to alert you to a ground-breaking case before the Court of Justice of the European Union ("CJEU") (C-40/15) in which CJEU ruled on 17 March 2016 on a reference for a preliminary ruling from the Polish Supreme Administrative Court. The referring court wanted to know if Article 135(1)(a) of the VAT Directive must be interpreted as meaning that VAT exemption applies also to claims settlement services provided by third parties on behalf of insurance undertakings. Article 135(1)(a) has been implemented into Polish law by means of Article 43.1(37) and Article 43.13 of the VAT Act.

The case involved a Polish company which supplied claims settlement services to an insurer. The services involved various activities, including ones of technical and administrative nature, such as receiving claims, keeping a register of claims, determining causes and amounts of damage, etc. The company applied for a private tax ruling and the Finance Minister held that these services are not auxiliary to insurance services and as such are not exempt from VAT. The company appealed from the ruling and the matter ultimately reached CJEU, which held that Article 135(1)(a) of the VAT Directive must be interpreted as meaning that claims settlement services provided by a third party in the name and on behalf of an insurance company do not fall within the exemption laid down by that provision. In consequence, claims settlement services contracted by insurance companies with third parties are subject to standard VAT rate. The effect for Polish taxable persons is that the VAT Act provisions implementing Article 135(1)(a) of the VAT Directive must be interpreted in the same way so that such services should be taxed at the rate of 23%.

Interestingly, claims settlement services provided to insurance undertakings may be exempt from VAT according to current case law of Polish administrative courts.

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**

CENTRAL Tower, 22nd floor  
Al. Jerozolimskie 81  
02-001 Warszawa

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