

LOANS TO EMPLOYEES ARE NOT SUBJECT TO BANKING TAX

It has been nearly half a year since the effective date of the Tax (Certain Financial Institutions) Act, which introduced the so-called "banking tax". In this context, we think it worthwhile to let you know of a series of tax rulings on the matter of banking tax treatment of loans from employers to employees.

The tax rulings confirm that businesses extending loans to their own employees are not liable to pay banking tax.

Note for example the private tax ruling dated 12 May 2016, ref. IBPB-1-3/4510-253/16/JKT, from Director of Katowice Tax Chamber. The authority confirmed that the fact that a company extended Company Social Fund loans to eligible former employees does not in itself mean that the company should be considered a "financial institution" for banking tax purposes.

A similar view was taken by Director of Warsaw Tax Chamber in the private tax ruling dated 14 April 2016, ref. IPPB3/4510-245/16-3/MS, which dealt with housing loans extended solely by Company Social Fund, and by Director of Katowice Tax Chamber in the private tax ruling dated 27 April 2016, ref. IBPB-1-2/4510-381/16/AP, which involved loans by Inter-Company Lending and Assistance Fund for Employees.

This line of authority is clearly favourable for taxpayers, as has been indirectly confirmed also by Finance Minister's public tax ruling dated 3 March 2016, ref. PK1.8201.1.2016.

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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