

## REMISSION OF DEBT NOT CAUGHT BY TRANSFER PRICING REGULATIONS

Cancelling a debt owed by an affiliate is not caught by transfer pricing regulations, says Director of Poznań Tax Chamber in his private tax ruling of 29 November 2016 (ref. 3063-ILPB2.4510.187.2016.1.AO).

The case involved a Polish company ("Company") that considered remitting certain debts of its distressed affiliates. These would be the amounts already accounted for by the Company as taxable income due to it (Article 12.3 CIT Act). At the time of remission, the debts would not be subject to statutes of limitations (time-barred) nor would they be treated by the Company as its tax-deductible costs.

The Company was of a view that a remission of debt cannot be a transaction for transfer pricing purposes because it is impossible to determine a price or attribute a profit to it. As such, it is not subject to the reporting requirement under Article 9a CIT Act.

The Company also claimed that none of the profit calculation methods under Article 11 CIT Act can be applied to a remission of debt.

The tax authority fully agreed with the Company and so waived providing a statement of grounds for its ruling. This is another of a series of taxpayer-friendly tax rulings to confirm that a remission of debt owed by an affiliate does not fall within transfer pricing regulations.

Please note however that, according to some tax rulings, a remission of an affiliate's debt should be reported in the transfer pricing documentation of the transaction which originally gave rise to the cancelled debt.

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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