

GIFTS INVOLVING TRADEMARKS ARE IN FOCUS OF POLISH TAX AUTHORITIES

On 30 August 2017, the Head of National Revenue Authority (NRA) issued a communiqué to the effect that the tax administration will be taking a closer look at tax ruling applications involving trademarks or other intellectual property (intangibles).

NRA has been particularly interested in the following scheme:

- (1) family members set up a partnership with them as partners;
- (2) one of the partners donates (by way of gift) to the partnership a trademark or other IP which has been developed in course of his business;
- (3) the partnership licenses the trademark (other IP) to the partners, including the donor himself.

According to NRA, this scheme indicates artificiality and generates a tax advantage involving double deduction:

- the partnership deducts tax amortisation on the intangible, and
- the donor partner deducts the royalties (license fees) he pays to the partnership.

NRA's communiqué says that anybody requesting a tax ruling on this scheme should be prepared to be denied due to a "*reasonable presumption that the anti-tax avoidance rule may be applicable*".

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.

Bałtyk Building, 13th floor
ul. Roosevelta 22
60-829 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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