

PAYMENT BY FACTOR EQUALS SETTLEMENT OF LIABILITY

We wish to draw your attention to a change of taxpayer-unfriendly ruling of tax authorities relating to reverse factoring. The change was made ex officio by Warsaw Tax Chamber ("WTC") on 29 December 2014 and applied to its earlier ruling which addressed the question whether payment made by the factor to taxpayer's supplier under the reverse factoring mechanism may be treated as settlement of the liability for the purposes of the law against payment gridlocks (ruling ref. **IPPB5/4240-89/14-4/MW**).

In its initial ruling of July 2014 (ref. IPPB5/423-390/14-3/MW), WTC said that payment made by a factor (bank) to a supplier of a taxpayer (customer) does not mean that the customer's liability to pay for the goods is effectively settled before the due date on the invoice. The liability under the invoice would not be treated as settled until the customer provides cash to the factor (bank).

Now that WTC has changed its earlier ruling, it agrees with the taxpayer that liability is settled also where the payment is made by a third party, which in the case of reverse factoring is the factor. Therefore, the taxpayer (customer) will not be required to adjust his tax costs as per Article 15b.1 and 15b.2 CIT Act.

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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