

**ECONOMIC PURPOSE OF TRANSACTION CONCLUSIVE
FOR VAT TREATMENT OF REAL ESTATE**

We wish to draw your attention to a case adjudicated by the Supreme Administrative Court ("SAC") in relation to VAT treatment of sale of bare land (case no. **I FSK 102/14**, judgement dated 8 January 2014).

The SAC held that the decision on how to treat a transaction for VAT purposes should be based on the economic purpose of the transaction.

The case involved a company which sold another firm the perpetual usufruct of fenced land containing a paved area intended to serve as a parking lot. When selling this property, the company wished to use the VAT exemption which, on certain conditions, applies to supplies of whole or parts of buildings or structures. The company argued that the fencing and the pavement are structures which are permanently affixed to the ground.

The SAC was of a contrary opinion and held that a fenced plot of land designated for building purposes and containing a parking lot continues to be bare land. Moreover, the buyer's intention was to purchase bare land, so the sale was not exempt from VAT as supplies of structures are.

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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