

## NOT EVERY GENERAL COMMERCIAL AGENT OF A COMPANY WILL HAVE THEIR INCOME TAX WITHHELD BY THE COMPANY

We wish to alert you to a private tax ruling issued by Director of Katowice Tax Chamber on 16 May 2016 (ref. IBPB-2-2/4511-302/16/JG) in relation to personal income tax (PIT) on remuneration due to a company's general commercial agent (*prokurent*) who has been appointed and is remunerated under a resolution of the management board.

The tax authority explained that, in such a situation, the agent's remuneration should for PIT purposes be classified as "income from other sources". In effect:

- the company is not required to withhold monthly income tax from the agent's remuneration and only has a duty to report (form PIT-8C);
- the agent should take account of his or her remuneration from the company in his or her annual PIT return.

The current approach by the Finance Minister is that the same treatment applies where a general commercial agent works for the company under a contract of employment or a contract of mandate but his or her remuneration and responsibilities are regulated under a separate cover. The company will have to act as PIT remitting (withholding) agent only if so provided in that contract.

Accordingly, when paying remuneration to its general commercial agent, the company will not always be obliged to withhold advance PIT on the remuneration. To resolve whether it will in a particular case, the agent's contract needs to be analysed to classify his or her remuneration and establish the parties' duties under tax regulations.

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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