

REITs MAY BE EXEMPT FROM CORPORATE INCOME TAX ALSO IN POLAND

This is to let you know that, on 14 October 2016, the Polish Cabinet published draft legislation on Real Estate Investment Trusts (REITs). This legislative proposal is designed mainly to boost business on the commercial real estate lease market and to promote the engagement of domestic private capital in the Polish real estate sector.

A company with the REIT status will be exempted from corporate income tax, including in relation to income from lease or sale of real estate. The purpose is to avoid double taxation of real estate lease or sale proceeds, with the current system imposing the tax twice: first on the company as owner and then on its shareholders.

The Cabinet proposes that a company engaged in the business of leasing or selling real estate (whether in whole or in parts) or managing investments in other companies will be entitled to seek the REIT status if all of the following is true:

- the company has its registered office or place of management in Poland,
- the duration of the company is indeterminate (unspecified),
- the shares of the company are admitted to trading on a regulated market in Poland,
- the company's share capital is at least PLN 60M,
- at least 70% of the carrying amount of the company's assets is represented by real estate or shares in subsidiaries or in other REITs,
- at least 70% of the company's net revenues are represented by proceeds of sale or lease of real estate,
- its lease proceeds come from at least three real properties (or their parts),
- the carrying amount of its liabilities does not exceed 70% of the carrying amount of its assets,
- at least 90% of its profit (as reported in the annual financial statements) is appropriated for designated purposes (being payment of dividend to owners, purchase of real estate, purchase of shares in designated entities).

The draft, which is currently in the intra-Cabinet pipeline, is expected to enter into force on 1 January 2017. We will keep you up-to-date on the development of this legislation.

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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