wts saja
TAX LEGAL CONSULTING

TAXES MANAGEMENT ACT – ADDITIONAL ASSURANCES FOR TAXPAYERS

We wish to alert you to proposed new legislation designed to amend certain existing laws to improve the business environment. Some of these proposals involve having new measures under the Taxes Management Act, i.e. the "tax guidance notices" and the "legal certainty clause".

The idea is to extend that provision of the Taxes Management Act which ensures uniform application of tax law by tax authorities. So far, this purpose could be achieved by the Finance Minister through issuing private tax rulings (on application) and public tax rulings (ex officio). After the proposed changes, the Finance Minister will be additionally empowered to issue ex-officio general explanatory guidance on tax law, so-called tax guidance notices. As in the case of tax rulings, guidance notices are designed to provide assurance to those who comply with them.

The new law would also offer other assurance against adverse effects of changes in statutory construal without changes in the law itself. This would be the "legal certainty clause", protecting those who do not have a tax ruling but have nevertheless adhered to an established construal practice. The protection would be the same as that provided by private and public tax rulings or tax guidance notices.

Established construal practice would mean such guidance on the scope and manner of the application of tax law which prevails in private tax rulings issued on the basis of the same facts or proposed arrangements and of the same law during the period of account in which the practice was complied with and during 12 months before that period.

If a public tax ruling or tax guidance notice was issued during that period, established construal practice will be based on such ruling or notice and refer to the period starting on the date of its issuance.

These changes are expected to become effective on 1 January 2017. The draft bill is currently after its third reading in the Sejm and has been transmitted to the President and to the Speaker of the Senate.

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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This Newsletter provides general information and is designed to keep you up-to-date with changes in tax law, tax rulings and interpretations, case law development and interesting commentaries.

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