

## INTEREST-FREE LOAN DOES NOT NECESSARILY LEAD TO INCOME IMPUTATION

We wish to draw your attention to heterogeneous approach of the Finance Minister to how to treat the receipt of an interest-free loan under PIT Act.

According to the current approach, where a natural person receives an interest-free loan, the person:

- **will not be treated as earning income from a free-of-charge benefit**, if the loan contract is between natural persons who are not in business (are not sole traders) or is not associated with any business carried on by them (see, e.g., private tax ruling dated 15 July 2015 by Director of Łódź Tax Chamber, ref. IPTPB1/4511-221/15-4/KO),
- **will be treated as earning income from a free-of-charge benefit**, if the loan contract is made in course of the person's business, in which case the person (borrower) should report imputed income equal to interest which would have been payable had the loan been extended on arm's length terms, and such income will be taxable under PIT Act.

It follows that where a natural person who is a sole trader is entering into an interest-free loan contract, the person should pay attention to his or her status in the contract (private individual vs. sole trader in course of business) and to how he or she will use the proceeds of the loan. All these circumstances will be relevant for the PIT treatment of such a loan.

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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