

TAX ALERT

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PIT/CIT: Taxation of the profit of shareholder (both individuals and legal entities) of the partnership limited by shares (S.K.A.) upon its generation

In line with the newly issued general interpretation of the Minister of Finance (dated 25 November 2013) ref. no. DD5/033/1/13/KSM/RD-122180/13, „(...) the amount of dividend allocated by the General Meeting of a partnership limited by shares and paid to a shareholder not being a general partner (individual, legal entity) constitutes an income of such shareholder arising from business activity. (...) the date of income generation is the date of receiving payment (in this case - dividend). The received dividend will increase the amount of income tax advance payable on the shareholder's income for the month in which such dividend was received by the shareholder.”

The above interpretation presents a different position than the one expressed for example in the general interpretation of the Minister of Finance of 11 May 2012 (ref. no. DD5/033/1/12/KSM/DD-125), according to which the date of income generation for the shareholder of partnership limited by shares is the date when the resolution on dividend payment was adopted and not its actual payment.

The newly adopted position to a large extent makes reference to the resolution adopted on 20 May 2013 by the Supreme Administrative Court (ref. no. II FPS 6/12), which harmonized divergent positions concerning the date of generating income for individuals and legal entities by concluding that the date of receiving income is the date of actual payment of dividend.

If you are interested in discussing this topic in further detail, please do not hesitate to contact Mazars Tax Advisory Department.

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