

TAX ALERT

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Real property tax: Tax on temporary structures

Based on the resolution of the Supreme Administrative Court (NSA) dated 3 February 2014 (ref. no. II FPS 11/13, companies are obliged to pay real property tax on each temporary structure which constitutes a non-building structure and meets specific criteria.

In verbal justification of the Supreme Administrative Court temporary structures considered to be non-building structures within the meaning of the Construction Act and Appendix thereof are subject to taxation. Moreover, the Supreme Administrative Court stipulated that for the temporary structures to be subject to real property tax the following criteria had to be met, i.e. from the functional and technical point of view they should constitute entirely separate entities with installations and equipment and they should be connected with the business activity of the company.

However, it should be remembered that the above will not apply if the temporary structure is developed and ceases to exist before the tax liability arises – then there is no obligation to pay real property tax.

The Supreme Administrative Court resolution was adopted in order to harmonise divergent approaches to this problem taken until present.

The resolution is final and binding.

No written justification of the resolution has been published to date.

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