On 10 April 2018, the Polish Ministry of Finance announced proposed changes to the mechanism of individual tax rulings to address potential gaps in the tax system.

The proposed amendments will impact both tax rulings issued after entry into force of the new provisions and (selected) historic tax rulings.

The objective behind the proposed changes is that a transaction (or a chain of transactions) between related entities should be subject to a new mechanism of tax rulings - referred to as a “group tax ruling.” Individual tax rulings will no longer be issued if a transaction (chain of transactions) qualifies for a group tax ruling.

Application for a group tax ruling will require more extensive description of the facts and circumstances surrounding the transaction(s), for example: (i) a description of all the transactions/steps; (ii) details of the parties involved; (iii) details of the benefits (including tax benefits) to be obtained; and (iv) indication of the value of the enterprise/organized part of an enterprise/property rights involved in the transaction(s) if their fair market value or nominal value exceeds PLN10m (approx. US$3m).

The waiting period for the group ruling will be six months.

The group tax ruling will not be required if a given taxpayer engages in similar transactions mainly with non-related entities.
The proposed changes, if enacted, would have retroactive effect, meaning that rulings, which have been previously issued, but that meet the criteria for group tax rulings under the planned amendments, should be updated to include the description of facts and circumstances presented in rulings in a manner consistent with the new regulations. Such updates to existing rulings will be permissible for the first six months from the entry into force of new rules. If an entity holding a ruling fails to submit the amendments, the ruling will expire (the protection will no longer be valid).

Given the impact of the proposed changes, entities with rulings for related-party transaction(s) should review such rulings and determine if they may fall within the new provisions on group tax rulings. If affirmative, entities should consider filing the required updates once the provisions enter into force.

The draft bill is currently at the public consultations stage. The Ministry of Finance expects that the Council of Ministers will adopt it in the second quarter of this year.

Future Alerts will report on developments in this area.
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