

Tax Alert

August 2024 | www.skslegal.pl

Changes in Real Estate Tax

On June 17, 2024, the Ministry of Finance published a draft law amending the Law on Agricultural Tax, the Law on Local Taxes and Fees, the Law on Forestry Tax and the Law on Stamp Duty. The amendments may have significant implications for businesses, particularly those in the telecommunications and energy sectors.

Key Changes:

1. New definitions of "building" and „buiding structure."

The bill introduces the legal definitions of "building" and "structure" directly in the Law on Taxes and local fees, eliminating references to the construction law. The new definitions expand the catalog of building structures, which could lead to an increase in the number of buildings taxed as structures.

2. Expanded Catalog of Building structures:

The bill lists 28 categories of facilities that will be considered structures, including sports facilities, water treatment plants, wastewater treatment plants, ports, power lines, bridges, overpasses and landfills (the list may change).

3. Installations and equipment that enable the structure to be used for its intended purpose

The original draft stipulates that installations and equipment that form a so-called technical and functional integrity with the structure are also part of the structure. However, the Ministry of Finance took into account critical comments made on this premise during the public consultations and withdrew from this proposal. As a result, in the new version of the draft, the value of a structure will also include installations and equipment that make it possible to use this structure in accordance with its intended purpose.

4. Raising of a building as a result of construction works

According to the new draft and the latest MF's position after the draft's public consultation, structures will be

objects **raised as a result of construction work**, replacing the previous premise of raising with use of a building materials.

This change may introduce interpretation difficulties, since the definition of construction works is not clearly defined in the tax regulations, and so the regulations still contain a reference to non-tax regulations.

5. Placement of the structure in the building:

Placing a structure or part thereof in a building does not mean that only the building is subject to taxation. If a structure or a part of a structure that is not an integral part of the building is located in the building, it can be a taxable object separate from the building. In the new draft, however, the MF is to clarify when an object can be a building and when it can be a structure, eliminating the risk of double taxation as a structure and as a building at the same time.

Other changes:

- Garages in residential buildings will be taxed at the rate applicable to residential buildings.
- In the case of wind power plants, only the construction parts of these facilities will be taxed.
- Railroad infrastructure will not benefit from the tax exemption for freight terminals.
- Buildings and structures at public-use airports will be exempt only to a limited extent.

Potential Risks:

- The changes will lead to an increased tax burden for businesses.
- The current wording of the proposed regulations may cause significant problems of interpretation, which could result in an increased number of disputes with tax authorities.

What's Next?

The proposed changes follow the Constitutional Court's ruling of July 4, 2023 (SK 14/21) and are expected to take effect on January 1, 2025.

The bill is currently after public consultations at the government's stage of the legislative process, before the bill is sent to the Parliament.

Our team will keep you updated on their further development and provide assistance in interpreting and implementation of the new regulations. Please feel free to contact us if you have any questions or need consultation.

Feel free to contact us!



Jaroslaw Bieronski

Senior Partner, attorney-at-law,
tax advisor

☎ +48 602 105 255

✉ jaroslaw.bieronski@skslegal.pl



Dr Tomasz Grabka

Senior Associate, tax advisor

☎ +48 532 349 712

✉ tomasz.grabka@skslegal.pl



Michal Majcher

Associate

☎ +48 538 503 204

✉ michal.majcher@skslegal.pl



Monika Napierała

Associate

☎ +48 734 741 275

✉ monika.napierala@skslegal.pl



Warsaw

Jasna 26, 00-054 Warsaw

T +48 22 608 70 00

F +48 22 608 70 70

E office@skslegal.pl

Katowice

Korfantego 138a, 40-156 Katowice

T +48 32 731 59 86

F +48 32 731 59 90

E office.katowice@skslegal.pl

Poznan

Mickiewicza 35, 60-837 Poznań

T +48 61 856 04 20

F +48 61 856 05 67

E office.poznan@skslegal.pl