



TAX
ADVISORY

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AMENDMENTS TO INCOTERMS IMPACT ON TAXES

Dear Sirs,

We are pleased to provide you with this Tax Alert which has been specially prepared for our Clients. This Alert covers potential impact of amendments to the International Commercial Terms, that have been introduced on 1 January 2011, on tax accounts of our Clients.

Amendments to Incoterms

Since 1 January 2011 the commercial terms – Incoterms – periodically announced by the International Chamber of Commerce have been amended. The Incoterms constitute fundamental guidelines concerning division of obligations and risks in international trade transactions. Existing terms – Incoterms 2000 – have been replaced by their new version - Incoterms 2010.

The crucial amendment which was implemented is the removal of three terms – DAF (*delivered at frontier*), DES (*delivered ex ship*), DEQ (*delivered ex quay*) – and replacing DDU (*delivered duty unpaid*) by two new terms – DAP (*delivered at place*) and DAT (*delivered at terminal*). This modification is particularly significant for businesses which make use of combined transportation.

In addition, under Incoterms 2010 it is allowed to replace commercial documentation in paper with electronic one, if the parties of the transaction agree to it, or if electronic format is commonly adopted in a trade with certain goods.

Practical implications for Polish enterprises

Polish taxpayer who will apply Incoterms 2010 to the transactions with goods, should verify whether the application of new rules impact his VAT and customs accounts in Poland and abroad. Implementation of new commercial rules may, however, cause shifting the tax and customs duties from the acquirer to the supplier.

It should be also underlined that applying the new commercial rules may potentially impact on the tax protection in case when the taxpayer received a tax ruling with respect to transactions based on Incoterms 2000. The tax authorities could come to conclusion that such ruling is not binding anymore due to the change of background as a result of modification of the trading conditions.

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Therefore, when considering modifying business aspects of commercial transactions, it is worth to verify various tax aspects connected with such modifications.

If you are interested in obtaining further information, or would like to discuss the impact of the above changes please contact:

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