

MORE CHANGES IN VAT REGULATIONS

A new amendment to the Polish VAT Act dated 11 March 2004 went into effect on 1 July 2011. The amendment is chiefly designed to make technical changes and clarifications. The amendment adapts the VAT Act to Council Regulation 282/2011 of 15 March 2011, clarifies the catalogue of processable wastes subject to the reverse charge mechanism, simplifies settlements made in foreign currency by service providers selling access to public events (e.g. the Euro 2012 football championship), and simplifies the rules for VAT registration and settlement by foreign entities conducting occasional carriage of passengers in Poland by road in vehicles registered abroad.

The amendment also eliminates the prohibition on deduction of VAT from invoices issued by a taxpayer that failed to register for VAT purposes (amending Art. 88(3a)(1)(a) of the VAT Act). Thus another legal barrier to deducting input VAT from output VAT has disappeared. This change implements the decision of the European Court of Justice in *Dankowski v Director of Łódź Tax Chamber* (Case C-438/09, judgment dated 22 December 2010). The ECJ held in *Dankowski* that a taxpayer has the right to deduct VAT paid in respect of services supplied by another taxable person who is not registered for VAT, where the relevant invoices contain all the information required by law,

in particular the information needed to identify the person who issued the invoices and the nature of the services provided.

Should you wish to receive further information on the topic, please contact Aleksandra Faderewska-Waszkiewicz (aleksandra.faderewska@laszczuk.pl).

LOWER FEES FOR ENTRIES IN THE NATIONAL COURT REGISTER

Amendments to the Act on Court Fees in Civil Cases regarding the court fees in proceedings seeking an entry in the National Court Register entered into force on 1 July 2011. They are aimed at making it easier to commence and operate business activity.

Under the amendments, the fixed fee for a motion to enter an entity in the commercial register of the National Court Register is now PLN 500 (previously PLN 1,000). The fee for a motion to amend an entry concerning an entity already entered in the commercial register (such as a change in board members) is now PLN 250 (previously PLN 400). The fees for publication of entries or amendments in the official journal *Monitor Sądowy i Gospodarczy* remain unchanged at PLN 250, on top of the court fees discussed above.

Should you wish to receive further information on the topic, please contact Konrad Raszkiewicz (konrad.raszkiewicz@laszczuk.pl).

OBLIGATION TO RESELL GOODS AT MANUFACTURER'S PRICES INFRINGES COMPETITION

In a decision dated 8 July 2011 (No. RLU 9/2011), the president of the Office of Competition and Consumer Protection, the Polish competition authority, found that a contractual provision between a manufacturer and distributors of goods imposing on the distributors the obligation to resell the goods in accordance with the manufacturer's current retail pricelist (fixed prices) is an agreement in restraint of competition and violates Art. 6(1) of the Act on Competition and Consumer Protection.

The decision holds that such agreements enable the manufacturer to influ-

ence downstream market strategies and enable retailers to predict with considerable accuracy the prices charged by competitors distributing the same products.

This practice constitutes an impermissible interference with decisions of participants in trade. Decisions concerning the resale price of the goods ought to be made by distributors freely. Such agreement has an anti-competitive purpose, which provides sufficient grounds for finding an infringement of the prohibition on agreements restricting competition. It is irrelevant whether the agreement has anti-competitive consequences.

Should you wish to receive further information on the topic, please contact Konrad Raszkievicz (konrad.raszkievicz@laszczuk.pl).