Tax&Legal Highlights

Poland

City – port dualism or the untapped potential for city development

The "Port Services 2017" report published by Deloitte singles out certain global tendencies in the ports and logistics sector. The majority of them are associated with using innovative technologies and tools to optimize processes, management and ensure data security. Nonetheless, a certain trend referred to in the report, namely unlocking the potential associated with city - port interrelations, seems rather unexpected.

In economic terms, the mutual interconnection between cites and sea ports should be seen as a synergy driver. Cities provide ports with human resources, transportation networks, and demand for goods, whereas ports stimulate urban development by creating jobs and needs for various services (banking, insurance, etc.) Economic factors confirm the favourable interrelation between the two, but cities and ports interact on many more levels as well.

From the viewpoint of spatial arrangements, it is hard to talk about a synergy of cities and ports. As a result of urbanization brought about by rapid spatial development of cities, port-surrounding areas are evolving into focal points and integral parts of cities. Unused land around ports falls into decline

quickly, which has an adverse effect on the image of the nearby city and renders its inward development (along the lines of the compact city concept) much more difficult. Central location of the port-owned land that is not intensely used makes it attractive to investors, and its comprehensive and well-thought out spatial development may contribute to social and economic growth of the city by providing it with top-quality public, residential and commercial space. Intensive redesign-related activities in Poland (taking place in the wake of the first Polish law on city remodelling - the Redevelopment Act of October 2015) warrant a conclusion that development of former port-surrounding areas will be among the key challenges to be faced by both cities and the owners of such land.
The Redevelopment Act provides that regeneration activities may be taken exclusively in the areas that are in economic decline, as marked by resolutions adopted by the local Commune Council. Regeneration of port surrounding land is legally viable only if the activities to be carried out in that location contribute to counteracting negative social phenomena (such as insufficient safety standards, unemployment, poverty, low standards of education and decreased participation in public life).

Examples of successful former port land redevelopment are close at hand. Hamburg city authorities redeveloped HafenCity in central Hamburg which had previously functioned as a port. Now HafenCity district is counted among the most modern urban districts in the world and represents an excellent example of sustainability in urban development. The former port fills many roles today - residential, public and office-related, which all are in harmony with one another. HafenCity is the calling card of Hamburg, even though 30 years ago this location was seen as a blemish on the city map.
Redevelopment of former port-surrounding areas will test the strategic and operational maturity of the city, as it requires a comprehensive and integrated approach as well as involvement of many stakeholders. A redevelopment project will succeed if it helps improve the quality of life of city inhabitants. The key is not to divide the former port-surrounding land amongst land development companies that are sure to build housing there for the select few, but rather to create friendly and inclusive space that will fit perfectly into the fabric of the city, match its atmosphere and character. One should also keep in mind that well-developed space will not only be attractive for city dwellers - it is bound to appeal to tourists and investors too. Striking the right balance between financial gains and social benefits is among the hardest aspects of managing that process.

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Employee Capital Plans (Pracownicze Programy Kapitałowe, PPK) and what you should know about them. Assumptions of the Draft Act amending Employee Pension Schemes

The Ministry of Development and the Ministry of Labour are working on a Draft Act to reform the Polish pension system. According to the latest information from the Ministry of Development, the intended Open Pension Fund (OFE) reforms will take effect beginning from July 2018 rather than from January 2018 as was originally scheduled.

Reasons for delay
Even though the planned reform, which will inter alia introduce the Employee Capital Plans concept, was announced well in advance of its scheduled effective date, the Draft Act has not been published yet.

As explained to PAP last week by deputy prime minister Mateusz Morawiecki, the reforms still require some interministerial discussions. Mateusz Morawiecki points out that the current system is not working properly, but haste to make improvements is ill advised.

Below we provide an overview of the program assumptions. However, one needs to keep in mind that discussions on the Draft Act are still in progress and the solutions described below may be subject to further modifications.

Establishment of Employee Capital Plans (PPKs). PPKs will be compulsory for all companies employing more than 19 employees. The obligation will be introduced gradually and at first, it will cover only companies with more than 250 employees.

Operating PPK. PPKs will be run based on agreements for payment of predefined employees' contributions to an investment fund.

Management of PPK. In the first two years from the scheme inception Polski Fundusz Rozwoju (via PFR TFI S.A.) is by default the financial institution acting as manager of the Employee Capital Plans. Some sources also indicate that PPK will be managed by pension fund companies (PTE – managing OFE), but it is unclear how to select the pension fund company to manage the given PPK.

PPK participants. Automatic enrolment of employees between 19 and 55 years of age, potentially, also individuals providing work based on selected civil law contracts. People over 55 years of age – voluntary participation.

PPK contributions. Financing PPK contributions will be shared by the employees and employer:
(i) the employee's contribution will amount to 2% remuneration with an option of 2.0pp of additional voluntary contribution.
(ii) the employer's share - at 1.5% remuneration with an option of up to 1.0pp of additional voluntary contribution.
According to media reports, the employer's social security contributions (ZUS) could be waived on contributions paid by the employer. In addition, the employer's contribution could also be tax deductible.

Annual subsidy to PPK. The Draft Act provides for a specific amount of annual subsidy. According to current information, the subsidy will equal PLN 120 or 200 per annum, but the terms of subsidy award may be subject to change.

PPK opt-out. Voluntary scheme opt-out by individual employees to be declared within 3 months from PPK inception (according to some unofficial sources it may even be within 1 month). Certain sources also indicate that PPK enrolments will be automatically repeated every 2 years or every year, which implies that the opt-out decision will need to be periodically confirmed. As a rule, the employer cannot decide not to establish a PPK.

Release from the duty to establish PPK. Possibly, the duty to establish PPK is not applicable to companies that had an employee pension scheme (PPE) in place before the effective date of the PPK regime. Based on initial assumptions, in order to enjoy this exemption, the company needs to establish its PPE system at least 6 months in advance.

PPE versus PPK. At present there is not enough data to reliably compare the costs of operating PPEs and PPKs, but according to initial assumptions, threshold contributions to PPK seem lower than PPE contributions.
If instituted, PPK will revolutionize the pension system. Deloitte will monitor the progress of work on the Act to help you prepare for the introduction of the new regime in advance and work out optimum solutions.

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