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Minimum tax on buildings does not apply to hotels

On 4 July 2023, the Supreme Administrative Court (NSA) ruled (reference No. II FSK 71/21) that a hotel service is not a service similar in nature to a lease or rental agreement, and therefore hotel owners should not be subject to the minimum tax on buildings.

In line with the CIT Act, the so-called minimum tax on buildings is imposed on buildings that have been leased for use in whole or in part under a lease, rental or a contract of a similar nature. In practice the minimum tax is chargeable on office buildings, shopping centres, warehouse etc. The tax base is the sum of the initial value of the properties decreased by PLN 10,000,000, and the tax is payable at a rate of 0.035%.

The Supreme Administrative Court disagreed with the practice of tax authorities and courts to date by pointing out that **hotel services are not equivalent to rent or lease**, and they do not constitute “contracts of a similar

nature” either, because a hotel contract is a named contract. NSA argues that the applicability of the minimum tax cannot be extended to include such contracts, since the provisions of the CIT Act do not explicitly refer to them.

Unfortunately, despite the judgment, **it seems that the tax authorities still hold a different opinion and consistently aim to impose the minimum tax on buildings on hotel owners.** We hope that the judgment will initiate a more favourable approach to this issue and that its conclusions will be applied more widely, e.g. to student housing and PRS buildings.

If you need more information, you are welcome to contact the author of the article:

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