

Tax & Legal Alert

CLAT on a loan granted by shareholder

Poland, June 2011

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*Tax & Legal Alert is a
publication of PwC Poland Tax
& Legal Department.*



On 16 June 2011 the Court of Justice of the European Union ('CJEU') issued a verdict stating that the reintroduction of Poland's tax on civil law transactions imposed on loans granted to companies by their shareholders for the years 2007 and 2008 was contrary to Community law.

Taxpayers may claim a refund

In its verdict the CJEU ruled that Community law precludes a Member State from reintroducing a capital duty on certain activities if that Member State has previously waived the levying of that tax. Consequently, since Poland after its accession to the European Union abolished the tax on loans taken up by a capital company from its shareholder, reintroducing of such tax was contrary to Community law.

This judgment is very important for Polish entrepreneurs. Arguments presented by the CJEU grant the companies which have paid the undue tax a possibility to apply for a refund with interest due and Polish tax authorities should not question this right. However, taxpayers who have paid undue tax should initiate an appropriate procedure for tax return by themselves.

If this information is interesting for you, we will be pleased to answer any additional questions or concerns.

Should you be interested in obtaining further information on the outlined issues and their implications please contact Hubert Jądrzyk, tel. + 48 22 523 4837, hubert.jadrzyk@pl.pwc.com or your contact person at PwC.

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