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- (11) fines, charges and damages, and interest due on the same, payable for:
 - (a) failure to observe environmental protection regulations;
 - (b) failure to obey instructions from the relevant agencies of inspection and supervision concerning deficiencies in the field of health and safety procedures;
- (12) receivables written off as overdue;
- (13) interest payable on arrears in discharging liabilities to the Treasury and other liabilities governed by the provisions of the Tax Liability Act;
- (14) contractual penalties and compensation payable for defects in products supplied or works and services performed, or for delay in the supply of non-defective products or in remedying defects in products supplied or works and services performed;
- (15) expenditure on the redemption of bonds, as discounted;
- (16) expenditure connected with real estate in the cases referred to in Article 13, Paragraph 2 (2);
- (17) the sums by which the basic operating charge for the mining of minerals is increased pursuant to the Mining Act;
- (18) additional amounts payable to the Treasury under pricing legislation;
- (19) additional annual charges for failure to develop or service land within the time frame specified in separate regulations on land resource management.

CHAPTER 4: EXEMPTIONS

Article 17

1. The following shall be exempt from tax:

(1) income from the sale, in whole or in part, of real estate included within a farm, with the exception of income from the sale of land which loses its status as agricultural or forest land as a result of such sale;

(2) income from the sale of real estate or of right of perpetual usufruct performed under environmental protection regulations;

(3) income earned outside the Republic of Poland by the taxpayers specified in Article 3, Paragraph 1, where an international agreement to which the Republic of Poland is a party so provides;

(4) income of taxpayers - other than state enterprises, cooperatives and business corporations - whose statutory objective constitutes activity in the fields of science, technology and education (including higher education), culture, physical education and sports, environmental protection, the support of civic initiatives involving the construction of rural roads and telecommunications and

water supply networks, charitable works, health care and social welfare, occupational and social rehabilitation of the disabled, and religious worship - this corresponding to the income expended in pursuit of these objectives in the tax year in question or the following year;

(5) income of corporations whose sole shareholders are organisations operating under the Voluntary Associations Act and whose statutory objective constitutes the activity referred to in Subparagraph 4 herein - this corresponding to the income expended in pursuit of these objectives in the tax year in question or the following year and to donations received by the said organisations;

(6) income of trade unions, employers' organisations and political parties operating under separate statute - this corresponding to the income expended in pursuit of their statutory objectives in the tax year in question or the following year;

(7) income from the operation of schools as understood under the regulations on the school system - this corresponding to the income expended on school activities in the tax year in question or the following year;

(8) income of water regulation syndicates and federations thereof expended in the tax year in question or the following year on the maintenance, operation or construction of water regulation facilities;

(9) income earned from a share in a corporation domiciled within the Republic of Poland expended in the tax year in question or the following year on the purchase of shares from the Treasury or on the purchase of bonds issued by authorised Polish entities, subject to these shares and bonds not being resold before the end of 1993;

(10) income of entities employing disabled persons to the extent and according to the procedures specified in the Disabled Persons Employment and Occupational Rehabilitation Act;

(11) income from compensation paid under compulsory purchase regulations or from the sale of real estate for purposes warranting its compulsory purchase, and income from the sale of real estate where the buyer exercises his right to preemptive purchase under the regulations on land resource management;

(12) indemnity received under administrative law, civil law or other statute;

(13) income from dues paid by members of political, civic and professional organisations;

(14) income from individual subsidies received from:

(a) central or local government budgetary allocations,

(b) central and local government special-purpose funds;

(15) income from non-farming operations and from specialised branches of agriculture earmarked as remuneration for the labour of members of agricultural cooperatives (RSP) and other cooperatives involved in agricultural production and of members of their households, where this remuneration is connected with the said operations.

2. The Minister of Finance, acting in cooperation with the Minister of National Education, shall specify, by Ordinance, the categories of expenditure which may be regarded as assigned to school activities as understood under Paragraph 1 (7) herein.

CHAPTER 5: THE TAX BASE AND AMOUNT OF TAX PAYABLE

Article 18

1. Subject to the provisions of Articles 21 and 22, the tax base shall constitute the income determined in accordance with Article 7, following deduction of:

(1) donations towards science, technology, education, culture, religious worship, physical education and sports, environmental protection, support for civic initiatives involving the construction of rural roads and telecommunications and water supply networks, charitable works, health care and social welfare, occupational and social rehabilitation of the disabled, local government housing construction, and the construction, equipping and maintenance of watch-towers as understood under the State Fire Brigades Act - up to a limit of 10% of the income referred to in Article 7, Paragraph 3, or without limit, where such provision is made under separate statute; the following, however, shall not be deductible: donations to natural and legal persons and organisations lacking personality at law who pursue the said objectives as part of their business operations, and gifts to natural persons for whom such a gift would constitute personal earnings;

(2) the sums by which the basic operating charge for the mining of minerals is decreased pursuant to the Mining Act;

(3) dues paid to organisations in which membership of the taxpayer is mandatory;

(4) expenditure on the construction of the taxpayer's own multi-unit residential building, constructed with the intent of renting the housing units contained therein, and expenditure on the purchase of land for such construction.

2. The sum total of deductions of expenditure actually incurred for the purposes referred to in Paragraph 1 (4) during the period this Act remains in effect shall not exceed the product of: 70 m² of usable floor area, the conversion coefficient for 1 m² of usable floor area in a residential building established for the purpose of calculating guarantee premiums on housing savings deposits for the third quarter of the year preceding the tax year in question, and the number of housing units assigned for rental.

3. The expenditure referred to in Paragraph 1 (4) which is not covered by the annual income of the taxpayer shall be deductible from income earned in subsequent years, up to the full amount involved, subject to the limits specified in Paragraph 2.

4. Where the taxpayer has received bank credit or a loan for the purposes referred to in Paragraph 1 (4), the credit or loan in question shall be subtracted from the sums expended on the said purposes; however, repayment of the said credit or loan, inclusive of interest, shall be deductible in the years in which such repayment is effected.

5. Where the taxpayer has benefitted, under Paragraph 1 (4) herein, from a deduction against income of expenditure incurred in the construction of a residential building, the intention being to rent the housing units contained therein, and where such a building, a part thereof or

As with foundations, an association may, by virtue of art. 34 of the Associations Act, conduct economic activity to the extent it serves the achievement of its statutory purposes. Associations conduct economic activity on the basis of „the Act of 23 December 1988 on economic activity” (Journal of Laws No. 41 of 1988 item 293 with subsequent amendments).

There also exists a simplified form of association - called an "ordinary association;" it is not a legal person (a non-registered association). An ordinary association may be formed by 3 persons, the only duty of which is the adoption of the rules of operation and transmitting the notification thereof to the supervising organ. The scope of activity of an ordinary association is limited by art. 42 of the Associations Act which stipulates, among others, in sub-paragraph 5, that an ordinary association may not receive donations, successions, legacies nor funds from public collections. This eliminates the category of "ordinary association" as an option for those organizations planning to fund self-help activities by making grants or receiving subventions.

TAX OBLIGATIONS OF ENTITIES GRANTING AND RECEIVING SUBVENTIONS FOR SPECIFIC PURPOSES (GRANTS)

Two of the most important legal regulations directly affecting the tax obligations of foundations and associations which provide grants or receive subventions for public good purposes are:

1. Corporate Income Tax Act
2. The Act - Customs law

Additionally, other legal provisions are binding in cases when the entity granting or receiving the subvention is an individual person. Those provisions contained in:

3. Personal Income Tax Act
4. Inheritance and Donations Tax Act

Corporate Income Tax

Corporate income tax is regulated by the „Act of 15 February 1992 on corporate income tax „ (Journal of Laws of 1993 No. 106, item 482 with subsequent amendments).

Foundations and associations - as other legal persons - must observe general rules governing taxation. They are subject to corporate income tax, as are the agencies of foundations, as organizational entities with no legal status (art. 1 sub-paragraph 2 of the said law).

Entities subject to corporate income tax are obliged to submit monthly tax declarations to geographically appropriate fiscal offices. This is required even when a foundation or an association is exempt from corporate income tax, discussed hereinafter. It must be pointed out that since 1995 it is possible to obtain an exemption from the obligation to submit monthly tax declarations. However, there is no exemption to submitting the required annual tax declarations.

The corporate income tax covers any income regardless of its geographic origin. The income equals the surplus of proceeds over the cost of their acquisition obtained during the given financial year. It should be stated that both proceeds and costs of their acquisition must be classified in accordance with the provisions contained in chapters 2 and 3 of the Act.

Proceeds of the founding fund of a foundation as listed in its deed are not considered corporate income according to the provisions of the Corporate Income Tax Act. Accordingly, the proceeds of associations acquired from contributions paid by their members are also exempt from the corporate income tax.

Exemption to the corporate income tax of foundations and associations are specified in art. 17 sub-paragraph 1 item 4 of the Act which (after latest amendments) stipulates:

„Exempt from taxation is the income of payers whose statutory purposes include: scientific, technical, educational, including higher education, and cultural (including physical and sport education) activities, protection of environment, support of social initiatives in favor of construction of routes and telecommunication networks and supply of water in rural areas, charitable acts, protection of public health and social assistance, professional and social rehabilitation of disabled persons and religious purposes - in the part provided for the execution of these objectives.”

The scope of the above-mentioned exemptions is limited by the provision of art. 17 sub-paragraph 21 1a of the Act which stipulates, that the said exemptions shall not be applicable to income acquired from activity consisting of the manufacture of electronic, combustible and tobacco products, alcoholic beverages (vodka, wine and beer) as well as other beverages with contents of alcohol exceeding 1,5% and products made from precious metals or with contents of such metals or income acquired from the sale of the said products.

In spite of the fact that art. 17 sub-paragraph 21 1a limits the extent of exemptions from taxation, two conclusions may be formulated:

1. almost all income from any sources of foundations and associations (except those mentioned above) are exempt from taxation (under the condition that it will be used for the statutory purposes compatible with those mentioned in art. 17 sub-paragraph 1 item 4);
2. the formula relating to the sale of the aforementioned products may lead to the conclusion that income acquired from the sale of other products can be exempt from corporate income tax.

In this place, we must pay attention to another important amendment introduced by the legislation recently essential to the interpretation of tax exemptions specified in art. 17 sub-paragraph 1 item 4. Until 1994, tax exemption depended on spending the entire amount of income acquired by foundations or associations for its statutory activities during the financial year or following year of the funds' acquisition. As of 1995, this restriction has been lifted (this relates also to income acquired in 1994). The foundation or association must declare that this income will be used for statutory purposes, and that these purposes are in compliance with those specified in the Corporate Income Tax Act. Should such income be used for other purposes than those declared, the appropriate tax must be paid by the 20th day of the month following the month during which the income was spent. The tax basis is calculated on the amount of total expenditures.

Another important exemption from taxation enjoyed by associations is the exemption of that portion of income generated from companies whose only shareholders are organizations operating on the basis of the Associations Act with statutory purposes compatible with those specified in art. 17 sub-paragraph 1 item 4 of the Corporate Income Tax

Act - used for the execution of these purposes and transferred to organizations (Art.17 sub-paragraph 1 item 5 of the Corporate Income Tax Act). On the other hand, foundations the statutory purposes of which involve a socially useful activity, mentioned in art.17 sub-paragraph 1 item 4, being shareholders of companies, are exempt from corporate income tax in relation to income acquired from benefits obtained by legal persons. To enjoy such an exemption, the foundation must declare to the payer, that the income acquired from such an exemption will be used for the execution of statutory purposes, specified in the Corporate Income Tax Act.

There exists an important interpretation problem closely connected with the matter of exemptions from corporate income tax: can an exemption be granted only in the case when the income is used for the execution of statutory purposes by entities acquiring that income or, also, in case when the acquired income is transferred to another entity also executing such purposes? Giving an answer to this question is of major importance in the situation when a foreign entity granting subventions for specific purposes operates in the Republic of Poland through the formation of a new foundation, the basic purpose of which is the support of already existing entities by granting them further subventions for specific purposes.

The analysis of provisions of the Corporate Income Tax Act does not provide a clear answer to the above question. In consequence, an interpretation must be adopted that even if the provisions of the Act do not expressly indicate that statutory purposes must be executed directly by the entity acquiring the income, the transfer of such an income to another entity also executing such purposes does not justify, in itself, an automatic exemption from corporate income tax for the transferring entity. In order to enjoy such an exemption, the transferring entity must ensure appropriate clauses be contained in its statute, permitting the indirect execution of its statutory purposes by entities executing the same purposes or submit appropriate documents stating that the transferred funds were used by the entity to which they had been transferred for the execution of purposes mentioned in the Act. Such documents may involve e.g. a well-prepared contract on the transfer of financial funds in which the transferring entity requires that the transferred funds must be used for the execution of specified purposes and the entity to which the transfer is made obligates itself that funds will be used only for the execution of those purposes.

At present, any questions of interpretation regarding this issue are decided by the fiscal offices upon individual requests made to determine whether the concerned legal entity is obliged to pay or is exempt from corporate income tax.

According to art. 18 sub-paragraph 1 item 1 of the Corporate Income Tax Act, donations made by foundations and associations may be deducted from income before taxation if they are used for:

1. the purposes of scientific, technical, educational and cultural activity, physical education and sport, protection of public health and social assistance, professional and social rehabilitation of disabled persons, support of social initiatives in favor of construction of routes and telecommunication networks and supply of water in rural areas - to the amount of 15% of the income taxable under Corporate Income Tax Act.
2. religious and charity or public care purposes, public security, national defense, protection of environment, philanthropy as well as for purposes connected with construction of living quarters for local self-government and construction of

quarters for guards or fire units, their equipment and support - to the amount of 10 % of the income taxable under Corporate Income Tax Act.

The total amount of donations exempt from Corporate income taxes cannot exceed 15% of the total taxable income under the Corporate Income Tax Act in any given financial year. It must be noted that donations may be made to entities of any kind. The only limitation is that donations made for the aforesaid purposes may not be deducted from income before taxation, if the entity making them runs an activity specified in art.17 sub-paragraph 1 item 21 1a of the Corporate Income Tax Act.

The provision of art.18 sub-paragraph 1 item 1 of the Corporate Income Tax Act is of a general nature and is applicable also to other entities being legal persons (e.g. commercial companies). In such a case, a donation made in favor of a foundation/association will constitute the basis for a deduction in the corporate income tax. The amount of such a deduction cannot exceed, in the given financial year, 15% of the income taxable under Corporate Income Tax Act.

To summarize, it must be stated, that the provisions governing the corporate income tax discussed above are applicable and are of fundamental nature both in cases when an entity receives a subvention (of course the transfer of financial funds by a foreign foundation to its agency in Poland does not constitute a subvention) and uses it directly for the execution of its purposes (what means that it is a receiving entity) and in cases when it transfers the received or own funds to other entities (what means that it is a transmitting entity).

Personal Income Tax

An individual person making a donation in favor of a foundation or association with statutory purposes involving scientific, technical, educational and cultural activity, physical education and sport, protection of public health and social assistance, professional and social rehabilitation of disabled persons, support of social initiatives in favor of construction of routes and telecommunication networks and supply of water in rural areas - may deduct the transferred funds from personal taxable income up to 15% of taxable income and the one making a donation for religious and charity or public care purposes, public security, national defense, protection of environment, philanthropy as well as for purposes connected with construction of living quarters for local self-government and construction of quarters for guards or fire units, their equipment and support - to the amount of 10% of the taxable income. The total amount of deductions cannot exceed 15% of the taxable income (art. 26 sub-paragraph 1 items 1 and 1a of the „Act of 26 July 1991 on personal income tax” - final text - Journal of Laws of 1993 No. 90 item 416).

Customs Law

The binding provisions of the „Act of 28 December 1989 - Customs law „ (final text - Journal of Laws of 1994 No. 71 item 312) are of certain interest for us from the point of view of transfer - receipt of subventions for specific purposes (even if not financial) by Non-governmental organizations in Poland.

Art. 14 sub-paragraph 1 items 13-15 of the said Act stipulate that the following imported goods are exempt from customs duty and permits required under the customs law:

1. goods imported in the framework of aid granted by governments of foreign countries and international intergovernmental organizations,