TAXATION OF INDIVIDUAL INVESTORS ON INCOME FROM RENTAL OF POLISH REAL PROPERTY

The rental of real estate may be an interesting investment option for individual investors. For tax purposes, such income will be subject to taxation in Poland either under the source of income "non-agricultural commercial activity" or as "lease, sublease, tenancy".

Below we present information on the taxation of income generated by individuals from the rental of Polish real property.

I. FORMS OF TAXATION OF RENTAL

The tax regime applicable to rental depends largely on the investor's choice, but remains linked to the status of the taxpayer and to the status of the property.

The legislation provides currently for the following options:

1. for real property used for the purposes of business activity (schedule: income from non-agricultural commercial activities) the following rates could apply:

- rate set according to the tax scale (17% / 32%) charged on income
- linear rate (19%) charged on income
- flat rate (8.5% / 12.5%) charged on revenue

2. for private property (schedule: "lease, sublease, tenancy"), the following rates could apply:

- rate set according to the tax scale (17% / 32%) charged on income
- flat rate (8.5% / 12.5%) charged on revenue

Generally, the information on the choice of applicable tax regime should be filed with the tax authorities within the deadline for the first tax prepayment due in the given tax year (i.e. in most cases by 20 February 2021).

II. TAX SCALE

Rental of property, both private and used within business activity, may be subject to tax under the general rules.

The taxable base is the income (the positive difference between the revenue generated from rent and the tax deductible costs incurred, e.g. depreciation costs, financing costs, expenses for renovations, purchase of equipment, etc.). The income is taxed at the rate of 17% and/or 32% (higher rate applies for the annual income exceeding PLN 85,528).

The choice of this tax regime may be profitable if the investor can document significant costs related to the acquisition, equipment and operation of the real estate. It should be taken into account that the acquisition costs of land are not deductible. Moreover, the acquisition costs of buildings or infrastructure, etc. are deductible through depreciation only (the annual depreciation rate ranges from 1.5% for residential properties, through 2.5% for non-residential buildings to 10% and more, depending on the type and condition of the property).

III. LINEAR RATE OF TAX

Linear taxation is reserved exclusively to entrepreneurs performing business activity.

The taxable base in this case is income (the positive difference between the revenue generated and the tax deductible costs incurred) and the applicable rate is 19%.

The choice of this tax regime may be profitable if the investor generally generates significant income subject to tax scale, in particular if the investor plans that his annual rental income could exceed PLN 85,528.

IV. FLAT RATE TAXATION

The flat rate taxation could apply to both private rental and rental conducted within business activity.

In contrast to other forms of taxation, the tax base is the revenue (the value of rental inflows without the option to include tax deductible costs).

The advantage of the flat rate is the reduced bureaucracy and the possibility of application of a flat rate: 8.5% (up to PLN 100,000 of revenue) or 12.5% (for the excess of revenue over PLN 100,000).

No deductible costs could be included in the tax calculation. In practice, it is permissible to exclude certain costs of utilities which the tenant has undertaken to pay from the scope of taxable revenue.

The choice of this tax regime may be profitable if the investor has not incurred significant expenses related to the acquisition, equipment or operation of the property or does not have the resources to keep up-to-date records and formalised accounts.

V. FOREIGN INVESTORS

Prior to making choice as regards the envisaged tax regime of the lease, foreign investors should familiarise themselves with the contents of double tax treaties (DTTs) concluded by Poland.

In principle, Poland reserves the right to tax any income from real property located in Poland. The Polish tax will generally be calculated according to the rules described hereto.

Foreign investors should also verify in the DTT which rules of taxation are applied by their state or residence for the same income. For example, tax treaties concluded by Poland with Germany and Austria provide for a full or conditional exemption of Polish income from income tax in the investor's state of residence. Therefore, for residents of these countries, income from the lease of Polish real estate will effectively be subject to taxation only in Poland.

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