Poland: new tax on banks and other financial institutions

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By: Bartosz Matusik

Poland's Banking Tax Act, introducing a tax on banks and insurance companies in Poland, is in force.

The Banking Tax Act applies to selected financial institutions − domestic banks, consumer lending institutions and insurance companies, as well as the branches of foreign banks and insurance companies operating in Poland. The new banking tax is aimed specifically at the banking and insurance sectors and does not cover investment and pension funds.

The conservative Law and Justice party (PiS) proposed the new tax, together with a new retail tax, during its successful campaign in Poland's parliamentary elections in October 2015. These two new taxes are meant to be the key income generators for the state budget over the next four years. The new taxes are generally designed to finance generous spending promises, in particular a new child benefit programme. It is expected that the bank tax alone will raise PLN6.5 billion a year from the financial sector.

Scope of the tax

The Banking Tax Act imposes a tax on the assets of financial institutions. In particular, the taxable amount will be the excess of total assets over:

- PLN4 billion for domestic banks, branches of foreign banks, branches of credit institutions and cooperative savings-and-credit funds
- PLN2 billion for domestic insurers, domestic reinsurers, branches of foreign insurers and foreign reinsurers and principal branches of foreign insurers and foreign reinsurers; the tax base should be calculated jointly for all related taxpayers
- PLN200 million for consumer lending institutions; the tax base should be calculated jointly for all related taxpayers.

For some taxpayers the tax base may be decreased by:

a) Certain own funds of the banks based on EU provisions

b) The value of the assets acquired from the National Bank of Poland (NBP), which constitute security of the refinancing facility granted by the NBP under the Act on National Bank of Poland (e.g., securities)

c) Treasury securities.

Moreover, the value of assets is based directly on the underlying trial balance of the reporting entity.

The rate of tax applied to the taxable base is 0.0366 percent per month (0.44 percent annually), which is declared and paid by the 25th day of the following month. The first period for which taxpayers were required to calculate and pay the bank tax was February 2016.

Impact on foreign taxpayers

As mentioned above, branches of foreign banks and credit institutions are subject to the new banking tax. Generally, conducting cross-border activity within Polish territory should not trigger any tax obligations for foreign companies as long as the activity cannot be attributed to the activities (and balance sheet) of a Polish branch of a bank or credit institution.
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Influence of the new tax on the Polish banking system

The Polish government insists that, due to competition in the banking sector, the tax should not be passed on to the banks' customers. However, opponents of the tax say that customers will be affected. In addition, some sources in the banking sector are predicting layoffs as a result of the increased costs.

International criticism

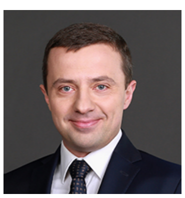
In January 2016, the European Central Bank criticized the plans for the introduction of the new tax in Poland. It warned the Polish government that the tax could have negative effects on the provision of credits and on financial stability.

Furthermore, in recent days, the European Commission has reportedly questioned the Polish government on some aspects of the new tax to check whether it violates EU rules on competition and public aid because it is not being universally levied on all financial institutions in the country.

The effects of the new tax on the Polish banking system will become more apparent in the coming months.

Please contact the authors if you would like any further details or have any questions or comments.

AUTHORS



Bartosz Matusik
Partner
Warsaw | T: +48 22 540 74 00
