



Tax Focus 2020 |

Financing for Polish subsidiaries as an ancillary transaction



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Date 18 Nov 2020 / **Category** Accounting Alerts Poland

On 7th October 2020, the Supreme Administrative Court issued a judgment on the company's activities related to assistance in obtaining loans or credits for subsidiaries. This applies to companies operating within a capital group in which the company is a parent entity (file reference I FSK 2010/17).

It follows from this judgment that in the light of the judgment of the CJEU of 29th April 2004 in Case C-77/01 (*Empresa de Desenvolvimento Mineiro*), there are grounds for considering the above-mentioned activity as **ancillary financial services** listed in Article 43 section 1 point 38 of the VAT Act.

This ruling is supported by the following facts:

- The company's activities consisted in helping to obtain the best possible external financing conditions for specific investments,
- these services were not profit-oriented,
- the frequency of service provision and the degree of involvement of the company's financial and human resources in their implementation were low.

According to the judgment of the Supreme Administrative Court, these premises can be considered in favour of **subsidiaries as a transaction of an ancillary nature**, referred to in Article 90 Section 6 of the VAT Act.

If you have any further tax questions or require additional information, please contact our expert tax team on either email – Aneta.Majchrowicz-Baczyk@getsix.pl or by telephone +48 61 668 34-43, you can of course use our [enquiry form](#) on the [getsix®](#) website.

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