

Current report no. 13/2020

Complaint of Stalexport Autostrada Małopolska S.A. against the decision on refusal to issue an individual interpretation at the request submitted by Stalexport Autostrada Małopolska S.A.

In reference to current report no. 35/2019 of 23 December 2019 and report no. 11/2020 of 11 March 2020, the Management Board of Stalexport Autostrady S.A. (“**Company**” or “**Issuer**”) informs that on 19 March 2020 it was informed by the Issuer’s subsidiary – Stalexport Autostrada Małopolska S.A. (“**SAM**”) of submission **on 18 March 2020** of a complaint (“**Complaint**”) by SAM’s attorney against the decision of the Director of the National Revenue Administration (“**NRA**”) of 6 March 2020 (“**Decision**”) concerning SAM’s application of 23 December 2019 for issuance of an individual interpretation, the essential element of which was to decide whether payments to the National Road Fund, constituting the State Treasury’s share in the profits from the project on the concession section of the A4 motorway, may be classified by SAM as tax deductible expenses for the purpose of applying the Act of 15 February 1992 on corporate income tax (consolidated text: Dz. U. [Polish Journal of Laws] of 2019, item 865, as amended).

In the Decision, the Director of NRA refused to issue such an interpretation, stating that – in the Director’s opinion – issuance of an interpretation in the scope requested by SAM would not lead to interpretation of the provisions of tax law but rather to interpretation of the actual state, which – in the Director’s opinion – goes beyond the material scope of individual interpretation.

After analysing the Decision, the Management Board of SAM deemed the Decision to be inconsistent with the Tax Ordinance Provisions and by submitting the complaint it requested that the Decision be revoked and an individual interpretation be issued in accordance with SAM’s application.

Legal basis:

Article 17(1) of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.