

Legal Alert

Substantial changes regarding payment of stamp duty

January 2007

On 1 January 2007, the Act on Stamp Duty of 16 November 2006 (Journal of Laws No. 225 item 1635, hereinafter the "Act") entered into force, introducing substantial changes as regards the payment of duty.

What is subject to stamp duty?

One fundamental change as regards the stamp duty is its abolition on submissions, i.e. demands, applications, appeals and attachments to submissions.

Under the new Act, **the following are subject to stamp duty:**

- performance of an official activity on the basis of a declaration or application;
- a list of the activities that are subject to stamp duty is contained in a schedule to the Act
- the issuance of a certificate (on the basis of an application); the level of the stamp duty for issuing various types of certificates is set out in the schedule to the Act. Please note that the stamp duty for certifying the authenticity of a duplicate, excerpt, extract or copy made by relevant bodies has been increased to PLN 5
- the issuance of a licence (permit or concession) – in individual public administration matters;
- the level of the stamp duty is specified in a schedule to the Act
- submission of a document affirming the granting of a power of attorney (including for an authorised signatory) or extract, excerpt or copy thereof, in a public administration matter or in court proceedings

performance of an official activity, issuance of a certificate or a licence (permit or concession) by a body other than a government or local government administration body in connection with the performance of public administration tasks and the submission of a document in this regard affirming the granting of a power of attorney (including for an authorised signatory) or an extract, excerpt or copy thereof.

Stamp duty for a power of attorney *ad litem*

Stamp duty is payable for **the submission of a document affirming the issuance of a power of attorney (including for an authorised signatory)** or any excerpt, extract or copy thereof, and not as hitherto for the granting of a power of attorney. The granting of a power of attorney is not in itself subject to stamp duty.

The submission of a document affirming the granting of a substitutive power of attorney is subject to stamp duty charged on each proxy (authorised signatory) relationship. Hence, if you submit a power of attorney and substitutive power of attorney in a case, a fee must be paid for both the power of attorney and the substitutive power of attorney.

The stamp duty for submitting a document affirming the granting of a (substitutive) power of attorney and an excerpt, extract or copy thereof is **PLN 17**. Evidence of payment of the fee must be attached to the document submitted (power of attorney, substitutive power of attorney).



What is not subject to stamp duty?

Article 2 of the Act specifies the official activities that are not subject to stamp duty.

Furthermore, Article 3 of the Act provides that the following are not subject to stamp duty: the performance of an official activity or issuance of a certificate or licence (permit or concession), if under separate provisions of law they are subject to other public law fees or are exempt from such fees, is not subject to stamp duty.

How the stamp duty is paid

Stamps have been replaced with cash payment at the administrative body's cash desk, a bank transfer to the relevant tax body's account or by means of encashment (*inkaso*). The Act imposes an obligation upon public administration bodies to make a reference regarding the payment of or exemption or exclusion from the obligation to pay this fee on official activities performed, certificates issued or licences (permits, concessions) granted by that body.

If the stamp duty is not paid

Administration bodies, entities appearing on behalf of administration bodies and courts are required to send monthly information to revenue bodies (i.e. mayors) regarding cases of non-payment of stamp duties for the activities they perform and documents submitted to them. This information is to be sent monthly by the seventh day of the month following the month in which the stamp duty was not paid, in breach of an obligation to do so.

Transitional provision

If a submission or attachment to a submission was lodged or an application for an official activity or for a certificate or licence (permit, concession) was made prior to the date the Act entered into effect, i.e. prior to 1 January 2007, the existing provisions apply, i.e. the Stamp Duty Act of 9 September 2000 (Journal of Laws No. 253, item 2532 as amended) and executive provisions to that Act.

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