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**UNTIL 30TH OF SEPTEMBER, 2017 LARGE COMPANIES HAVE
TIME TO CONDUCT ENERGETIC AUDITS**

On the 1st of October 2016, an act on energy efficiency, published on 20th of May 2016, has come into force (hereinafter : “Energy Efficiency Act”), which implements to polish legal system Union Directive 2012/27/UE on energy efficiency². Energy Efficiency Act in article 36 and following obligates entrepreneurs, in the meaning of the act as of 2nd of July 2004, on freedom of economic activity (except for micro-entrepreneur, small or medium entrepreneur in terms of this act), to carry out energetic audit of a company or to order one, every 4 years. It means that every entrepreneur, who has fulfilled following conditions in one of two last financial years is obligated to perform an energetic audit :

1) he has been employing on a yearly average, at least 250 employees (where yearly average employment is based on list of full-time employments and it doesn't include employees on maternity leaves, leaves of absence on terms of maternity leaves, paternity leaves, parental leaves, un-paid post maternity leaves, and also those hired to prepare professionally)

or

2) the company's annual net turnover from sales of goods, wares, services and financial operations has been higher than 50 million euro, or the sum of total assets of their balance sheet prepared as for the end of one of those last two years was higher than equivalent of 43 milion złoty.

In accordance with article 51 of Energy Efficiency Act, first efficiency audit of the company must take place within 12 months after the entry into force of the act, meaning until 30th of September 2017. However, an energetic audit of the company which has been performed, before the day of the act coming into force, but not earlier than before 5th of December of 2012, and which also complies to requirements prescribed in art. 37 sec. 1 and 2 of the Energy Efficiency Act is recognised as an energetic audit within the meaning of art. 36 sec. 1 of the

¹ This Newsletter is not legal of tax advice.

² Directive 2012/27/EU of the European Parliament and of the Council of 25th October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (O. J.. UE L of 2012, no. 315, s. 1, with further changes).

above act. The company must have notified the President of the Energy Regulatory Office, until 31st of October, 2016 about performing that kind of audit.

In the light of art. 37 of Energy Efficiency Act, energetic audit of the company is a procedure aimed at conducting detailed and confirmed calculations on suggested projects in order to achieve energetic efficiency and provide information on potential savings on energy consumption. Energetic audit of the company:

- 1) must be performed, based on the current, representative, measured and identifiable data on energy consumption and, in the case of electricity, power demand;
- 2) contains detailed overview of energy consumption in buildings, complexes of buildings, industrial installations and transport, constituting in whole at least 90% of the total consumption of electricity of this company;
- 3) it needs to be based, to the best of possibility, on analysis of the cost of life cycle of building or complex of buildings and industrial installations, rather than on the period of returning of the investments, so the long-term energy savings, residual values of long-term investments and discount rates, have been taken into account.

What is significant, is that the entrepreneur must hold the data on energetic audit, for 5 years, for inspections purposes.

Energetic audit of the company is performed by :

- 1) an entity independent of the audited entrepreneur, which has the knowledge and professional experience in carrying out such audit;
- 2) the expert of the audited entrepreneur if he is not directly involved in the audited activity of this entrepreneur.

The entrepreneur is obliged to notify the President of the Energy Regulatory Office about the energy audit conducted by the company within 30 days of the date of its carrying out. The notification should include information on the energy savings that may result from the company's energetic audit.

Failure to carry out an energetic audit may result in a fine.

If you have further questions, we are at your disposal.