

Rödl & Partner

Rödl & Partner won a precedent-setting case, important for foreign enterprises with a permanent establishment in Poland.

Owing to Rödl & Partner's efforts, the Supreme Administrative Court (SAC) in Warsaw ruled in favour of the client in an unprecedented case concerning the obligation to keep books of account according to the Polish Accounting Act by foreign enterprises which have a permanent establishment in Poland.

Rödl & Partner's client carried out work in Poland which triggered a permanent establishment here. The Head of the Tax Inspection Office concluded that the company was obliged to keep books of account in line with the Accounting Act; as the company failed to do that, the Head of the Tax Inspection Office assessed income although the company provided German books of account, tax records, transfer pricing documentation and explained in detail how it calculated the permanent establishment's profit. The company appealed against that decision.

The issue in dispute was whether permanent establishments must keep books of account and therefore – if they do not – whether tax authorities may assess the taxable base.

The litigation was successful for the company represented by Rödl & Partner – the Provincial Administrative Court in Warsaw upheld our appeals. In two rulings the court adjudicated that a permanent establishment of a foreign enterprise was not one of the entities obliged to comply with the Accounting Act. The court ruled that a company which had a permanent establishment might settle the accounts between the head office and the permanent establishment on the basis of books of account kept in compliance with the regulations in force in the country where the foreign enterprise had its registered office.

Tax authorities lodged cassation appeals but the SAC dismissed them. In this way, the SAC confirmed that foreign enterprises having permanent establishments in Poland were not obliged to keep books of account.

Rödl & Partner is an international firm providing integrated professional services in the area of audit, Business Process Outsourcing, tax, law, and business consulting. It has 106 offices in 48 countries, where it employs 5130 people. In Poland, the firm hires over 500 employees in six locations: Cracow, Gdansk, Gliwice, Poznan, Warsaw and Wroclaw.