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ARE THE NEW POLISH TAX RULES REGARDING PARTNERSHIPS LIMITED BY SHARES IN BREACH OF EU LAW? ANALYSIS OF AMENDMENTS TO THE POLISH INCOME TAX ACT 2014 IN THE LIGHT OF ECJ CASE LAW

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With effect from 1 January 2014, the Polish Parliament introduced amendments to the Polish Corporate and Personal Income Tax Acts, which primarily affect the taxation of a partnership limited by shares (SKA) by including it into the category of corporate income tax subjects. Under the new regulations the general partners of an SKA should be treated in the same way as partners of any other Polish partnership and thus their income should be effectively taxed only once. In order to ensure the single-level taxation of general partner's income a tax credit mechanism has been introduced. Though, the new Polish provisions permit the application of the tax credit mechanism only in relation to national cases. In the authors' view this may constitute a restriction on freedom of establishment. This article analyses whether the new tax credit method is compatible with EU Law.

<https://www.pol-int.org/de/node/4837?j5Q6rewycZ5HtUDXTWpx7UZE=1>