

# Property tax – a revolution after the Constitutional Tribunal's judgment

Due to the famous judgment of the Constitutional Tribunal of July 2023 which found that the definitions of building structures and buildings specified in the Act on Local Taxes and Fees are inconsistent with the Constitution, the Government adopted a draft amendment to the regulations and submitted it to the Sejm. The latest version of the bill, known as the so-called bill 3.0., has just been published. The new regulations are to enter into force on 1 January 2025. Here are the most important changes awaiting taxpayers.

## New definitions of “building” and “building structure”

The bill is primarily intended to implement the Constitutional Tribunal's judgment. This means that one of the main changes is the introduction of the definition of a building and building structure into the Act so that there is no need to refer to other acts, such as the Building Law, in this respect (as has been the case so far).

Therefore, “building” should be understood as:

- a) an object erected as a result of construction works,
- b) together with installations ensuring the possibility of using it in accordance with its intended purpose,
- c) permanently attached to the ground,
- d) separated from the space by building partitions and which has foundations and a roof,
- e) with the exception of an object in which bulk materials, materials in pieces, or materials in liquid or gaseous form are or may be collected, and whose basic technical parameter determining its purpose is capacity.

In turn, a “building structure” has been defined as:

- a) an object that is not a building, listed in Annex 4 to the Act, along with installations ensuring its use in accordance with its intended purpose - the annex lists, for example, such objects as truck scales, supporting structures or kiosks,
- b) construction device - connection and installation device, including one used for purifying or collecting sewage, and other technical device, directly related to the building or object, necessary for their use in accordance with their intended purpose,
- c) other technical devices only in terms of their construction parts,
- d) foundations for machinery and technical devices, as technically separate parts of objects forming a functional whole

– erected as a result of construction works, also if they are part of an object not listed in the Act. Importantly, this condition applies to all the categories mentioned above, so each time it will be necessary to exaggerate what construction works actually are.

Another noteworthy novelty is the introduction of a closed catalogue of objects defined as “building structures” - the added Annex 4 to the Act is quite extensive.





## Other changes

Other changes that introduced in addition to those that are a direct consequence of the Constitutional Tribunal's judgment include:

- clarification of the scope of the property tax exemption for port infrastructure building structures, because according to the new regulations, the property tax exemption also applies to port infrastructure building structures in seaports or marinas and the land occupied for them as well as to the building structures of infrastructure providing access to seaports or marinas and the land occupied for them,
- deadline for submitting property tax declarations by entrepreneurs extended until 31 March 2025,
- recognising as a residential part of a residential building also the rooms intended for storing vehicles in this building, which in practice means a lower tax rate (due to the applicable tax rate for a residential building) for garages.

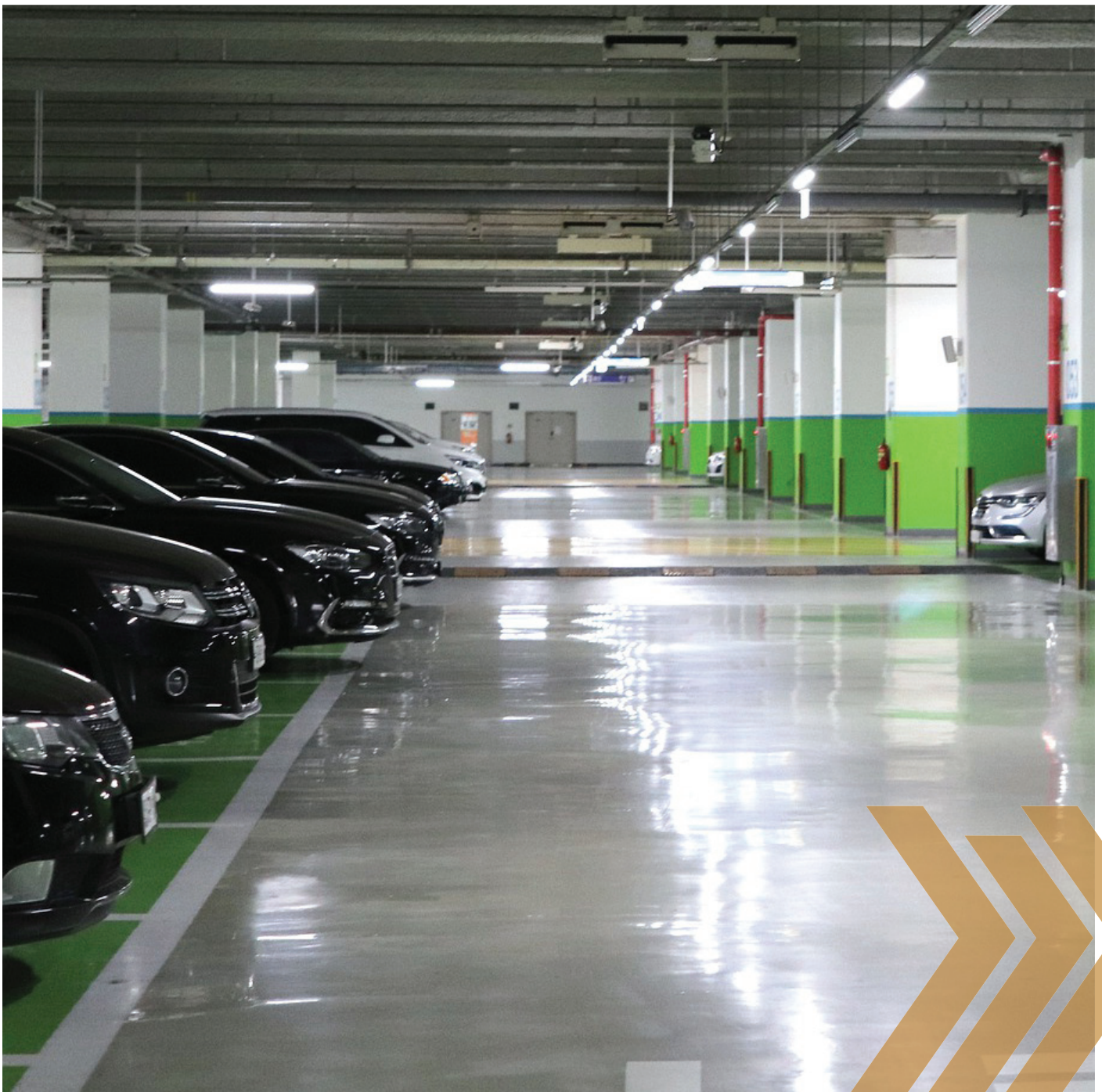
## What else has been redefined?

The above definitions are not the only new ones.

The bill also introduces the definition of “permanently attached to the ground” in order to further specify the definition of the building described above. It has been assumed that it is:

such attachment of the building object to the ground that provides the object with stability and the ability to counteract external factors independent of human action that may destroy, cause the object to be displaced or moved to another place.

The concept of the “building object” has also been clarified.





# How we can help

The changes introduced to the property tax seem to be the biggest and most significant that have taken place in the last few years. Even though the deadline for settling the tax and submitting the declaration for 2025 has been slightly extended, it is worth preparing to fulfil the obligation today.

In this regard, experienced BDO experts remain at your disposal. Our services related to the entry into force of the amended Act include, without limitation:

- ✓ Identification of facilities whose classification for property tax purposes would change in relation to 2024.
- ✓ Development of recommendations regarding the taxation of individual facilities for 2025.
- ✓ Identification of other potential risk areas in connection with the new wording of the provisions of the Act as of 2025.
- ✓ Support in calculating the amount of the liability and completing the property tax declaration for 2025.
- ✓ A site visit and measurements for the purposes of tax calculation for 2025.



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