

## LOSSES NON-DEDUCTIBLE IN PRIVATE EQUITY STRUCTURES

The Supreme Administrative Court has recently rendered a decision, according to which a pure holding company set up mainly by private equity investors will not itself be deemed as a company engaged in private equity activities. Therefore, any possible capital or liquidation losses suffered by such holding company from its underlying investments will generally not be deductible for tax purposes.

In this particular case, the holding company (which had no employees and carried no active business activities) had acquired an industrial company. The intention was subsequently to liquidate the industrial company. Contrary to the Central Tax Board, the Supreme Administrative Court took the view that the holding company will in such circumstances not benefit from a private equity status, which accordingly will make the goodwill included in the purchase price of the industrial company non-deductible for tax purposes. In a current declining market, the ruling of the Supreme Administrative Court could have a negative impact on many private equity structures.

*The contents of this update do not constitute legal advice and should not be relied upon.*

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