

CONSEQUENTIAL (INDIRECT) DAMAGES ARE SUBJECT TO PIT

We wish to draw your attention to Supreme Administrative Court's judgement in case no. II FSK 3448/13 (dated 25 February 2015) dealing with payments to dismissed employees.

Under the Labour Code, an employee who has been dismissed unlawfully can claim either reinstatement on previous terms or damages equal to the pay he would have received over the period of notice.

This particular case was settled in court so that the employee received damages equal to his 12 months' pay.

The Supreme Administrative Court' held that:

- to the extent the damages exceed the amount equal to the pay the employee would have received over the period of notice, they actually represent consequential (indirect) damages compensating him for *lucrum cessans* (benefits he would have received had he not been dismissed);
- therefore, that portion of the damages should be subject to personal income tax.

The written statement of reasons for the judgement has not been published yet.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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