

STATUTORY DEDUCTION NOT FOR ALL SECONDED EMPLOYEES

We wish to alert you to a case dealt with the Supreme Administrative Court ("SAC") (case no. II FSK 30/14; judgement dated 3 March 2016) in relation to requirements governing the application of the higher statutory deduction (allowance) for personal income tax purposes.

As a rule, an employee is entitled to the higher statutory deduction (PLN 139.06 monthly) if he lives away from the location of his place of work.

SAC held that this requirement is not met, and the lower statutory deduction (PLN 111.25 monthly) should be applied, with respect to an employee who:

- has "residence" in Poland for the purposes of Article 3.1 PIT Act (is resident in Poland for tax purposes), and
- is on a temporary secondment abroad, and
- is living and working at the same location abroad.

SAC has not issued a written statement of reasons for its judgement yet.

The case is important both for employees (as they must declare whether or not they are entitled to the higher statutory deduction) and for employers (as they are required to account for and report their employees' employment income and submit form PIT-11).

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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