

**REMITTER'S PAYMENT OF OVERDUE SOCIAL INSURANCE CONTRIBUTIONS
IS NOT A SOURCE OF INCOME**

We wish to alert you to a ground-breaking judgement of the Supreme Administrative Court ("SAC") dated 27 October 2015 (case no. II FSK 1891/13). SAC held that a remitter's payment of overdue social insurance contributions in respect of a person does not represent taxable income for that person.

According to SAC:

- such payment of overdue contributions is nothing more than the remitter's action to ensure its own compliance with remitter duties,
- the person for whom the contribution is paid does not gain any pecuniary benefit that would be taxable under the Personal Income Tax Act.

On the practical side, this judgement creates opportunities for tax savings on behalf of persons whose contribution remitters have detected social security compliance issues for past periods and have paid the overdue contributions on their own. However, the judgement so far stands as the single determination with such a taxpayer-friendly approach. On the other hand, there is a line of Finance Minister's rulings according to which overdue social insurance contributions paid by a remitter for other persons (e.g. remitter's employees) represent taxable income for those persons.

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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