

CONTINUED CONTROVERSY ABOUT PERSONAL INCOME TAX TREATMENT OF MOBILE EMPLOYEES

The personal income tax treatment of a situation where an employer incurs the accommodation expenses of his mobile employee (being an employee whose contract specifies the place of work as an area, e.g. a province) continues to be a bone of contention between taxpayers and tax authorities.

We already wrote (see our Newsletter no. 44/2014) about the ruling of the Supreme Administrative Court ("SAC") dated 2 October 2014 (case no. II FSK 2387/12), where SAC held that reimbursement of a mobile employee's accommodation expenses while on company duties does not represent the employee's taxable income even if this is not strictly a business trip for the purposes of the Labour Code.

However, that case did not change the taxpayer-unfriendly line of authority issued by the Minister of Finance.

The recent rulings of tax authorities (ref. ILPB2/415-802/14-3/TR, 15 Oct 2014, by Director of Poznań Tax Chamber, and ref. IPPB4/415-610/14-2/MS, 17 Oct 2014, by Director of Warsaw Tax Chamber) maintain their previous position, according to which:

- Employer is not under a duty to reimburse the accommodation expenses of his mobile employees.
- If the employer does provide such reimbursement, the employee will earn employment income that is subject to personal income tax.

In the current situation, a favourable ruling on this issue would not be possible until at the stage of judicial review (proceedings before an administrative court).

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

Doradztwo Podatkowe WTS&SAJA Sp. z o.o.

Delta Building, 4th floor
ul. Towarowa 35
61-896 Poznań
tel. (+48) 61 643 45 50
fax. (+48) 61 643 45 51

Warsaw Office

CENTRAL Tower, 22nd floor
Al. Jerozolimskie 81
02-001 Warszawa

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