

EMPLOYEE DISCOUNTS NOT ALWAYS SUBJECT TO PIT

We wish to draw your attention to a taxpayer-friendly judgement of the Supreme Administrative Court ("SAC") dated 30 October 2014 in case no. II FSK 2451/12, where the SAC held that a discount granted by an employer to its employees to purchase goods from the employer does not represent employment income for personal income tax purposes.

The case before the SAC involved a company that offers discount programs designed to increase sales and expand the customer base. One of such programs was addressed to company's employees and allowed them to purchase certain goods in company outlets at discounted prices as part of a promotional scheme.

The SAC has not published written reasons for its judgement yet. When justifying its judgement verbally, the court said, among other things, that:

- where an employee purchases goods from his or her employer at a discount, this does not automatically mean the employee must recognise employment income on that account;
- the test to be applied in each such case is whether the terms of the employee promotion scheme are comparable to those applicable to other customers.

The SAC made it clear that employees may not be put at a disadvantage comparing to other customers. Consequently, price discounts offered to employees do not represent partially free-of-charge benefits that would constitute their employment income provided that the terms of the promotion are not significantly different from those applicable to the other customers.

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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