

WORKING TIME RECORDS ARE NOT ENOUGH TO APPLY 50% COPYRIGHT ALLOWANCE

We wish to alert you to case no. II FSK 459/13, which the Supreme Administrative Court ("SAC") disposed of on 11 March 2015. The court ruled on what is required to apply the 50% copyright allowance (a special 50% tax relief for authors) to employees doing creative work.

SAC held as follows:

- To apply the 50% copyright allowance, the employer should make sure the employee's overall pay is divided into copyright fee and employment income.
- The amount of the copyright fee may be defined in the contract of employment or in employer's internal policies, such as pay rules.
- However, merely establishing a percentage of working time the employee spent doing creative work, whether this is done in the contract of employment or calculated from working time records, is insufficient to trigger the 50% copyright allowance. An employee's involvement in creative work does not of itself mean that a copyrightable work has been produced and the employee has received their copyright fee.

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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