SUPREME ADMINISTRATIVE COURT ALLOWS ATHLETES TO BE TREATED AS SOLE TRADERS, OTHER PROFESSIONS WANT THE TREATMENT, TOO

We wish to alert you to a groundbreaking resolution by the Polish Supreme Administrative Court ("SAC"). Adopted on 22 June 2015 by a panel of seven judges in case no. II FPS 1/15, the resolution holds that **income earned by sportspeople may be taxed as income from non-farm sole trader business**.

The resolution provides a closure to a long-standing dispute between taxpayers and tax authorities about the proper treatment of income from sporting activity.

Until now, the tax authorities' position has been consistently against the taxpayer, the argument being that income from sporting activities cannot be treated as anything other than income from personal services (personal exertion income) because income from sporting activities is expressly listed as income from personal services in the Personal Income Tax Act ("PIT Act").

In their resolution, however, SAC held that a sportsperson may account for their taxes as a business if they actually render their services when carrying on a business activity that meets relevant PIT requirements.

In such cases, whoever pays remuneration to the sportsperson will not be required to act as a remitting agent for PIT and social security (ZUS) purposes, and the athlete concerned may tax their income at a flat rate of 19%.

Even though the SAC's resolution only applies to sportspeople, there is a chance that the 19% flat-rate tax could also be used by other professional groups whose income is subject to the same taxation regime, such as artists, creators, scientists or trainers.

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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