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## **Commentary to the judgment of the Supreme Administrative Court of 6 December 2012, ref. II FSK 709/11**

In the presented judgment of the Supreme Administrative Court of 6 December 2012 ref. II FSK 709/11 the Court took into consideration the issue whether the income of management agents should include tools used in their work, i.e. company cars, mobile phones and others. The Court stresses that regardless of actual benefit, these tools should be included in the tax base for managers of the company on the basis on article 13 point 9 of PIT Act.

In the indicated judgment, the Court did not take into account the factual circumstances and legal provisions applicable in the matter and failed to observe that managers do not receive any increment. The Supreme Administrative Court also did not analyze the fundamental term "fringe benefit" and therefore misinterpreted the law. Due to the above, it is not possible to agree with the judgment of the Supreme Administrative Court and its partial justification. Besides, one shall also notice a violation of the Polish Constitution, in particular article 2 and article 217, which raises the demand for clarification of definitions of income and income arising from managerial contracts.

**Keywords:** taxation on salary, tax, revenues, managerial contract, manager