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Newsletter

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Tax

Key to Innovation: Relief for Research and Development Activities

In a world where the only constant is change, Polish companies find that research and development (R&D) relief not only offers an opportunity for innovation, but also significant tax savings.

Government support programmes, such as the research and development (R&D) relief, play an important role in stimulating technological progress and investment in research. This relief, which is part of the tax policy, allows companies to make an additional deduction from the tax base for expense incurred on R&D activities, which translates into direct financial benefits for companies engaging in the development of new technologies, products or services.

How does the R&D relief work?

The R&D relief allows companies to deduct a portion of expenses related to R&D activities that have already been included as deductible costs. In practice, the process requires that the financial expense incurred on research and development is first deducted as a deductible expense, and then it can be taken into account as an additional deduction from the tax base when filing the annual tax return.

Benefits of the relief

The basic rate of deduction is 19%, which in itself is a significant incentive for companies. Additionally, for companies with R&D centre status, the benefit rises to 28.5%, offering even greater potential savings. What is more, the R&D relief allows not just a single, but potentially double counting of certain expenses as deductible costs – both by direct deduction and by additional deduction from the tax base.

Ability to use the relief for losses

One of the most interesting features of the R&D relief is that it can be used even if the company incurs losses or the amount of the relief exceeds income. In such situations, the right to the relief can be carried forward and used over six consecutive years, giving companies flexibility in planning their R&D investments and managing their finances.

Who is the R&D relief for?

First and foremost, beneficiaries of the relief can be any business entities conducting research and development activities in Poland, regardless of their business profile. The relief is available to large corporations as well as small and medium-sized enterprises (SMEs) from various sectors of the economy. The condition to benefit from the relief is that the entity carries out development-oriented activities – it is not required to have the status of a research and development centre or to cooperate with scientific institutions.

Significantly, the relief is not limited to research only, but also covers development work in the broadest sense, which is carried out systematically rather than on a one-off basis. These activities should be aimed at discovering new technologies, expanding knowledge and finding new applications for various fields and inventions. Importantly, the outcome of this work is not decisive for the eligibility for relief, meaning that even activities that do not result in commercial success may be eligible for relief..

What are the benefits of the R&D relief?

Thanks to the R&D relief, companies can significantly reduce their tax burden, which translates into an increased ability to invest in innovation and development. This relief, by allowing part of the expenses incurred for R&D activities to be deducted from the tax base, creates better conditions for the development of scientific research and development works in companies. This is an important element in building the competitiveness and innovativeness of the Polish economy, encouraging businesses to invest in future technologies and solutions.

What can be deducted?

In a world where innovation is becoming the currency of the future, the research and development (R&D) relief offers significant financial support to businesses in Poland, encouraging investment in the development of new technologies, products or services. However, in order to make effective use of this tax instrument, businesses must have a precise understanding of what expenses are eligible for deduction. Qualified costs are the foundation on which the R&D relief is based, and their proper identification and recording can significantly affect the benefits of the relief.

The deduction under the R&D relief applies to a wide range of costs incurred for development activities. These include:

- Salaries of employees involved in R&D: Includes both basic salaries and related social security contributions. This includes both employees with an employment contract and those carrying out R&D activities on the basis of civil law contracts, i.e. mandate contract or contracts for specific work.
- Depreciation allowances: These relate to tangible and intangible assets that are used in the R&D process.
- The acquisition of expertise, opinions and consultancy services: Costs related to the purchase of expertise, opinions, consultancy and equivalent services, as well as research results from scientific entities that support R&D activities.
- Materials and raw materials: Expenses incurred on the purchase of materials and raw materials directly related to the R&D activity carried out.

- Use of scientific and research apparatus: Costs associated with the use of specialised apparatus for research purposes.

- Obtaining and maintaining intellectual property rights: This includes costs associated with obtaining and maintaining a patent, a utility model protection right, an industrial design registration right.

Conditions for deduction

In order to be deductible, these costs must meet certain criteria: the costs incurred must be tax-deductible, they must be identified separately in the records and they must be indicated in the annual report as eligible deductible costs. In addition, it is important that the business has not been reimbursed for these costs in any other form, such as through grants or donations.

Why is this important?

Understanding and correctly applying the rules on eligible costs is key to maximising the benefits of R&D relief. Companies that meticulously document their R&D expenses can significantly reduce their tax burden, which in turn can contribute to accelerating the pace of innovation and development of new technologies in Poland. Thus, in light of increasing global competition, the R&D tax credit becomes not only a financial support but also a strategic tool to building a competitive advantage on the market.

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Law

Single -use plastics directive

Against the backdrop of increasing environmental awareness and the need to protect the environment, European and national legislation is stepping up efforts to combat environmental degradation. One of the key pieces of legislation in this area is Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment, commonly known as the "Single-Use Plastics Directive". This regulation aims to reduce the impact of selected plastic products on the ecosystem, as published in the Official Journal of the European Union (OJ L of 2019, No. 155, p. 1).

What is the main objective of the Single-Use Plastics Directive?

The main mission of the Single-Use Plastics Directive is to reduce waste from single-use plastic products, which pose a significant threat to the environment. To achieve this goal, the Single-Use Plastics Directive introduces a number of restrictions and bans on the distribution of products such as plastic cutlery, plates, straws and polystyrene cups and containers. The introduction of these regulations is intended to significantly reduce the environmental burden of plastic waste.

In addition, the Single-Use Plastics Directive establishes a levy on certain types of packaging, as well as the obligation to label single-use products appropriately to inform consumers of their environmental impact. An important element is also the imposition of financial obligations on producers to maintain waste management systems, as well as to cover the costs associated with waste disposal and treatment.

Does the Single-Use Plastics Directive apply to Poland?

In Poland, in line with international environmental obligations, the Single-Use Plastics Directive has been reflected in the national legal system. The directive was implemented through the adoption of the Act of 14 April 2023, which amended existing laws, including the Act on the Obligations of Enterprises with respect to the Management of Certain Waste and the Product Fee. This law, promulgated on 9 May 2023, introduces significant changes to entrepreneurial, environmental, water and waste regulations, as well as waste management.

> *"The new regulations have been scheduled to come into force in several stages, starting on 10 May 2023, with further key dates set for 1 July 2024, 22 December 2024 and 30 March 2025. The law responds to the need to reduce the negative impact of plastic on the environment, while giving businesses time to adapt to the new requirements."*

In addition, since 1 January 2024, two regulations issued by the Minister of Climate and Environment have been in force, clarifying the fee rates for single-use plastic products and the fees to cover the costs of managing waste from such products. The first, dated 7 December 2023, applies to single-use products that are packaging, while the second, dated 9 December 2023, specifies the fees for the management of waste from such products.

The implementation of the Single-Use Plastics Directive in Poland is therefore a gradual process that aims to provide both environmental protection and adaptation time for the business sector.

Which selected obligations have been imposed on businesses under the Single-Use Plastics Directive?

Following the introduction of the Single-Use Plastics Directive, businesses in Poland faced a number of new legal requirements aimed at reducing the negative impact of plastic products on the environment. Here are the key obligations that have been imposed on companies:

- Marketing ban: As of 1 January 2024, the sale of selected single-use products such as straws, cutlery, cups and food and beverage containers made of expanded polystyrene is banned. However, it is possible to sell existing stocks of these products, provided they were placed on the market before 24 May 2023.

- Additional reporting obligations: Traders are required to update their entry in the Waste Database (BDO) and pay the relevant fees. A report on the number and weight of packaging purchased and issued for 2023 is also required for record-keeping purposes. The first electronic report for the period from 24 May to 31 December 2023 had to have been submitted by 15 March 2024.

- Product labelling: Single-use plastic products, such as sanitary towels (pads), tampons, wet wipes, tobacco products with filters, must be visibly, legibly and durably labelled with information about the negative environmental impact of these products and inappropriate disposal methods.

- Funding of waste management: Businesses are required to cover the cost of managing waste generated from single-use products, including the cost of educational campaigns. This includes food containers, beverage cups, lightweight shopping bags and tobacco products with filters containing plastic.

- Consumer education: It is also incumbent on businesses to inform consumers about the negative impacts of inappropriately waste handling and to encourage responsible behaviour, including the separate collection of waste from single-use products.

- Provision of alternative packaging: From 1 July 2024, a trader using products such as beverage cups or food containers will be required to provide alternatives to these products in the form of packaging made from materials other than plastics.

The above points represent only a selection of the obligations that have been imposed on businesses in relation to the implemented regulations. With this in mind, traders, particularly in the consumer industry, should conduct an internal audit and verify that their current practices are compliant and that they are ready for further changes, including those coming into force from 1 July 2024.

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Obligation to cooperate in the performance of the contract – the key to a successful business relationship

In a legal context, cooperation when performing a contract plays an extremely important role in the relationship between the contractual parties. The Polish legal system, based on the provisions of the Civil Code, in particular its Article 354, accentuates the importance of this principle.

This article introduces the obligation of the parties to a contract – both the debtor and the creditor – to cooperate with each other, which is fundamental for the effective performance of obligations and the maintenance of trust in their economic relations.

Cooperation requirement and socio-economic objectives

Article 354 § 1 of the Civil Code makes it clear that the debtor is required to perform a contractual obligation in accordance with its content and in a manner that corresponds to its social and economic purpose. This means that the debtor's actions should aim to achieve the purpose for which the obligation was established, taking into account generally accepted social norms and established customs.

The creditor's role in the process of cooperation

Similarly important is the obligation imposed on the creditor under Article 354 § 2 of the Civil Code, requiring it to act in such a way as to enable the debtor to perform its obligations effectively. This compels the creditor to avoid actions that would prevent or significantly hinder the debtor from fulfilling its obligations.

Practical aspects of cooperation

In practice, cooperation in the performance of a contract involves a wide range of actions and attitudes that are intended to facilitate the performance of the contract. This includes the sharing of information, documents or support in problematic or unforeseen situations. Such actions not only promote the efficiency of the transaction, but also build and maintain trust between the parties, which is invaluable for long-term business relationships.

Consequences of non-cooperation

A failure to cooperate can lead to a variety of negative consequences, including liability for damages on the part of one of the parties, or even judicial intervention to determine the appropriate courses of action as required by law. Therefore, compliance with the principle of co-operation is not only a legal obligation, but also a key element for the smooth performance of contracts.

Obligation to cooperate – case law

The public procurement regulations, introduced in Article 431 of the new Public Procurement Law, require both the contracting authority and the contractor to co-operate towards the proper performance of the contract. The principle of co-operation is intended to strengthen the process of performing public contracts by requiring the contractual parties – both the contracting authority and the contractor – to co-operate with each other, to keep each other informed about the progress of the contract, to report any doubts and problems, and to react and make decisions necessary for the proper performance of the obligation in a timely manner.

In addition, legal practice and case law emphasise the need for loyalty and fair dealing between the contractual parties. The Supreme Court, in judgments IV CSK 297/14 and I CSK 765/17, pointed out that both the debtor and the creditor are required to cooperate in a manner that does not complicate, impede or hinder the performance of the obligation. Actions that may violate this duty, such as deliberately obstructing contact or delaying the final acceptance of work, may be assessed as contrary to the principles of social interaction and to the law.

The importance of the obligation of co-operation is therefore crucial from both a legal and a practical contractual perspective. Developments in legislation and case law in this area point to a move towards greater efficiency and fairness in the performance of contracts, which is crucial for building trust and long-term business relationships.

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DO YOU HAVE ANY QUESTIONS?

WE LOOK FORWARD TO RECEIVING A CALL OR A MESSAGE FROM YOU

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