

Tax incentives for Research and Development costs – the Application Norms for Art. 19¹ have been approved

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- Corporate taxation
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- Withholding tax
- Value added tax
- Excises and customs duties
- Local taxes
- International Executive Services
- Individual taxation
- Foreign currency regulations
- Assistance during tax audits
- Forensic tax investigations
- Training

Order of the Ministry of Public Finance no. 2086 and of the Ministry of Education, Research, Youth and Sports no. 4504 approving the Norms regarding tax incentives granted for research and development costs („the Order”) has been published in Official Gazette no. 573/2010.

Article 19¹ of the Fiscal Code (Law no. 571/2003), provides for two main tax incentives for research and development (R&D) costs:

- 20% additional tax deduction for all eligible R&D costs;
- accelerated depreciation for equipment used in R&D activity.

However, the Fiscal Code does not contain specific provisions regarding the application of the above incentives. Therefore, the Order is meant to provide more guidance regarding the application in practice of the tax provisions currently in force.

In accordance with the provisions of the Order, to be able to take advantage of these incentives,

taxpayers must conduct R&D activities which generate an outcome that can be used by the taxpayer for its own benefit in order to increase revenues.

Additional tax deduction

The eligible expenses for the 20% additional tax deduction comprise:

- depreciation of tangible assets newly acquired or produced by the taxpayer, for the purpose of carrying out R&D activity;
- salary expenses in relation to staff involved in R&D activity;
- maintenance expenses incurred in relation to the above assets;
- depreciation of intangible assets used in R&D activity;
- operating expenses (e.g. raw materials, consumables, etc.) incurred in R&D activity;
- overheads related to R&D activities, that can be allocated either directly or based on an allocation key.

Furthermore, the Order stipulates that eligible expenses should be

booked in the accounts of the taxpayer based on relevant underlying documentation and they should be incurred for the purpose of deriving revenues.

The tax deduction may be calculated either quarterly or at the end of the year. For administrative purposes it should be listed in a separate line, (i.e. line 18 "Other deductible amounts") of the Corporate Tax Return (i.e. Return 101).

Accelerated depreciation

Regarding the second type of tax incentive that taxpayers can take advantage of in connection with R&D activities, the Order specifies that the method of accelerated depreciation may be applied in the case of fixed assets used for such activities, in accordance with Art. 24, paragraph 6 of the Fiscal Code.

The Order also defines the term "research and development" as well as the various types of research and development activities for which these tax incentives may be applied. Examples are also given for activities that do not qualify for these incentives, such as:

- research in the field of social sciences;
- tests and analyses conducted for control of quality;
- operational research;
- market research and sales promotion;
- prospection, exploration, drilling or production of minerals, oil and natural gas;
- administrative services and general assistance in relation to R&D activity.

We believe that these tax incentives could present interesting opportunities for companies, especially now that they have been clarified in the Norms. For further details on the above please contact us:

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