

R&D RELIEF NOT DEDUCTIBLE UNTIL IN ANNUAL RETURN

We wish to alert you to a taxpayer-unfriendly private tax ruling by Director of Warsaw Tax Chamber ("Authority") dated 23 May 2016 (ref. IPPB5/4510-405/16-2/MR), according to which the research and development relief cannot be deducted earlier than in the annual tax return.

The ruling was requested by a company engaged in the manufacture of shop shelves. The company carries on certain research and development activities in connection with its business and the costs of those activities meet the definition of eligible costs under Article 18d CIT Act. According to the company, because it acquires the right to the research and development relief during the tax year, it should be allowed to deduct its eligible costs already when making its advance tax payments during the year, without waiting for annual return preparation.

One of the ways in which the company argued its case was by reference to a similar allowance that is no longer in force, i.e. the new technology relief. This relief allowed taxpayers to deduct new technology purchase expenses from their taxable basis and the tax authorities did not question the right to make such deductions already in course of the tax year.

However, the Authority disagreed with the company and held that, according to current CIT Act regulations on R&D relief, the deduction must be made in the annual return for the year in which the eligible costs were incurred.

The way the Authority interprets the relief is unfavourable for taxpayers as it requires them to make increased advance tax payments during the tax year and wait with accounting for such overpayments until their annual tax return preparation.

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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