

In the tax rulings, tax authorities explain how to settle tax costs

I. Currency conversion of loan payments is tax neutral

In a situation where a loan indexed to the Swiss franc exchange rate was converted into gold, only the currency in which the obligation was to be settled changed. As a result of this operation, an excess emerged, which constituted an unduly paid amount. Therefore, the bank's repayment of that amount is tax-neutral. Since the currency conversion itself is a technical operation of converting an amount stated in a certain currency into the same amount stated in another currency, it did not result in revenue within the meaning of the Personal Income Tax Act (tax ruling of 13 September 2022, Ref. 0115-KDIT2.4011.395.2022.2.RS).

II. Payment of damages for stolen goods is not an expense

It is the taxpayer who bears the risk of business activity, and the payment of damages resulting from the actual decision of the taxpayer or taxpayer's employee to choose a specific resting place and to improperly secure the car and the transported goods, which leads to the theft of those goods, is a consequence of that risk and cannot be passed on to the Treasury by reducing the taxable income. In such a situation, non-performance of the contract - which resulted in the need to pay damages - cannot be treated as entirely without the fault of the taxpayer's company. As a consequence, the expense consisting in the payment of damages for non-performance of the contract due to the theft of the goods was not reasonable and does not qualify as a tax deductible expense (tax ruling of 6 September 2022, Ref. 0114-KDIP3-1.4011.680.2022.1.AK).

The possibility of including certain expenses as deductible costs invariably raises doubts among taxpayers. It is also one of the most frequently raised issues in requests for tax rulings. This is why we present today our selection of what we believe to be the most interesting tax rulings related to companies' expenses and issued in September 2022.



III. The consideration for non-competition is an indirect cost at daughter companies

The expense consisting in payment of non-competition consideration is an indirect tax-deductible expense for daughter companies, while for the parent company, only the portion of that expense that has not been invoiced to the daughter companies constitutes an indirect deductible expense. The portion of expense incurred by the parent company that has been invoiced to the daughter companies, on the other hand, constitutes a direct tax-deductible expense for the parent company. This is because the expense can be directly linked to a specific revenue, which in this case is the amount received by the parent company from the daughter companies as "reimbursement" of a portion of the partners' consideration for non-competition (tax ruling of 9 September 2022, Ref. 0111-KDIB2-1.4010.352.2022.2.DD).

IV. In the case of renovation combined with modernization, the expenses need to be depreciated

In connection with construction works involving renovation and modernization of a building, the taxpayer may not charge a part of the expenses incurred directly into current deductible expenses (as renovation expenses), and qualify the remainder of the expenses as an improvement that increases the initial value of a fixed asset. Expenses - involved in renovation and modernization alike - constitute an element of the initial value of a fixed asset and may be charged into deductible expenses through depreciation write-offs (tax ruling of 8 September 2022, Ref. 0112-KDIL2-2.4011.447.2022.2.IM). In the case at hand, the taxpayer intended to qualify the following as renovation works: repair (restoration) of the exterior facade with preservation of architectural ornaments; replacement of window woodwork in the existing roof openings, with restoration of the original divisions; replacement of wooden door woodwork, with restoration of the original divisions; repair of the staircase and interior stairs with preservation of their historic character; reinforcement of the ceilings over the basement, first and second storey; replacement and reconstruction of the internal plumbing, electrical, central heating and gas systems. Instead, the following works were to be classified as modernization: change of the functional layout of the premises (without changing the number of residential units); construction of mechanical ventilation and telecom systems; construction of new window openings on the ground floor of the rear building facade.

V. Expenses incurred to become a partner constitute cost at the time of their redemption

The taxpayer may recognize as tax deductible expenses of voluntary redemption and paid disposal of a part of the shares the expenses incurred to become partner in a limited partnership, i.e. the value of expenses actually incurred by the taxpayer for the taking up of shares in a company under transformation, taking into account the proportion of shares disposed of to total shares obtained as a result of the transformation (tax ruling of 12 September 2022, Ref. 0114-KDIP3-1.4011.668.2022.2.AK).



VI. Absence of a document based on which debts are included in costs

The court bailiff's decision to discontinue proceedings on the grounds that the creditor or debtor has no capacity to be a party in court proceedings, or when enforcement is inadmissible due to its subject matter or the person of the debtor, does not exhaust the prerequisites listed by the legislator in the provisions of the PIT Act on how to document non-collectible debts. In such a case, the taxpayer is not in possession of a document based on which the debt (amounts from unpaid invoices) can be included in deductible expenses, i.e. the debt has not been documented by a decision classifying it as non-collectible recognized by the creditor as corresponding to the facts and issued by a competent body conducting enforcement proceedings (decisions of the court bailiff on discontinuance of enforcement proceedings), from which the fact that the debt is non-collectible follows (tax ruling of 12 September 2022, Ref. 0115-KDIT3.4011.515.2022.2.MJ).

VII. CSR expenses require careful evaluation if they are to be treated as expenses

The CIT Law Act does not contain a provision that would allow expenses incurred within CSR to be recognized as it were "automatically" as deductible expenses. In each case when such expenses are incurred, the taxpayer must demonstrate their connection with obtaining revenue or preserving/securing its source. The need for individual assessment of each of the expenses incurred by the business operator within the framework of its adopted corporate social responsibility strategy is also emphasized by administrative courts in their judgments. The CSR program is a widely accepted method of advertising and promotion of business entities, operating especially in such specific industries where standard advertising (TV, radio, Internet) is not applicable or its use does not bring the expected results. In this perspective, expenses involved in the purchase of goods and services, incurred in connection with the implementation of CSR, may qualify as marketing expenses and may be related to the taxpayer's taxable activities (tax ruling of 7 September 2022, Ref. 0111-KDIB1-3.4010.244.2022.1.JKU).



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