

# Expenses for implementing KSeF (National System of e-Invoices) can be double deducted

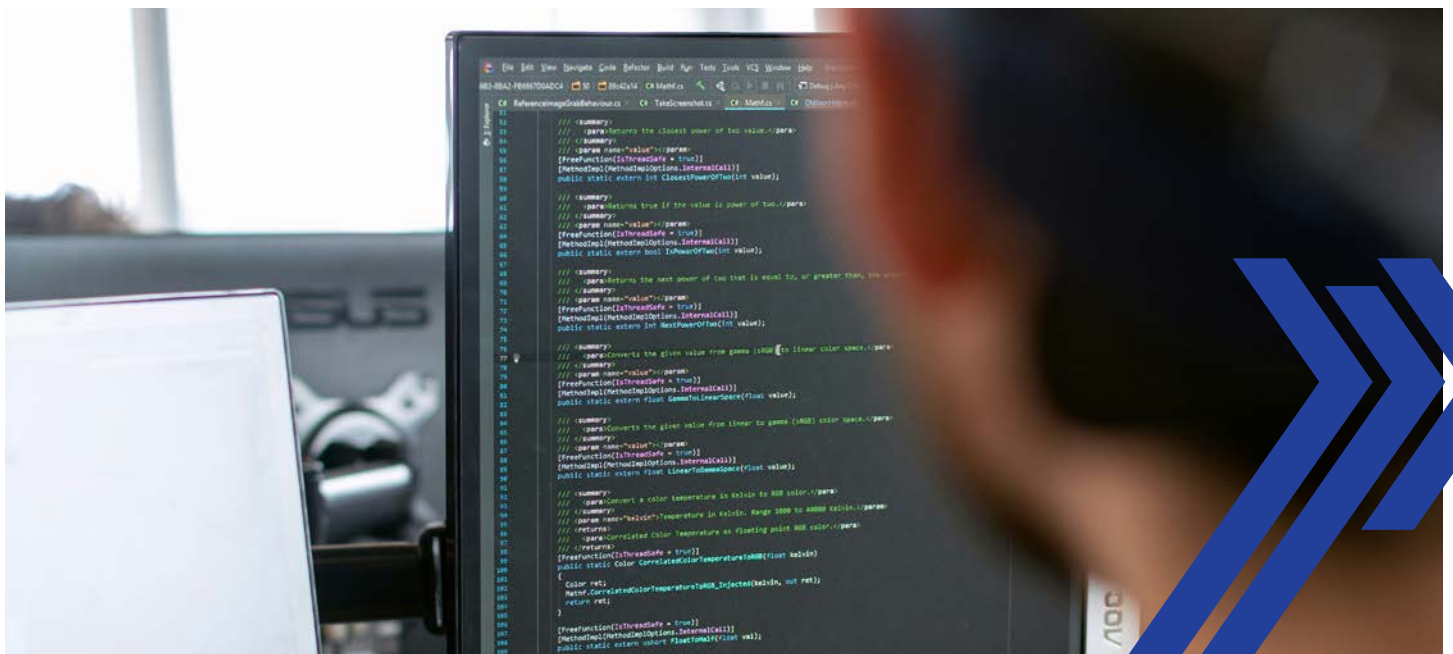
## I. KSeF is postponed, but the expenses for its implementation will be deductible

In the individual tax ruling of 22 January 2024, the Director of the National Revenue Information Centre stated that expenses related to the implementation of the National System of e-Invoices (KSeF) may, under certain conditions, be considered expenses for research and development (R&D), the consequence of which is that the relevant relief can be applied. This is important because the Ministry of Finance announced the postponement of the entry into force of the obligation to use KSeF. This date was originally planned for 1 July 2024. The new date of entry into force of the regulations concerning the mandatory use of KSeF is not yet known. Nevertheless, most companies have already incurred expenses for this purpose. In this situation, the possibility of taking advantage of the relief may be a way for them to partially compensate for the expenses incurred.

## II. Development works allow for "double" deduction of expenses

Employees of the taxpayer (who requested the ruling) are involved in the comprehensive process of implementing the software necessary to communicate with the National System of e-Invoices (KSeF). Let us recall that the relief for research and development (i.e. R&D relief) was introduced into the Polish legal system on 1 January 2016 (it replaced the older relief for acquisition of new technologies). It allows to deduct part of the expenses of research and development activities from the tax base. Its attractiveness lies in the fact that it allows for the re-deduction of a part of the expenses that the taxpayer had previously included in tax-deductible expenses, i.e. doubling the expenses and, additionally, reducing the tax paid this way.

Projects related to implementation of software necessary for communication with the National System of e-Invoices meet the conditions for recognition as development works and, thus, provide the basis for deducting eligible expenses under the research and development relief - stated the Director of the National Revenue Information Centre in a tax ruling.



## IV. Not every expense can be deducted under the tax relief

One must remember that the deduction applies to eligible expenses (but only those that are also tax-deductible) incurred in connection with conducting creative activities, including scientific research and development works, undertaken regularly, the aim of which is to acquire new knowledge and use knowledge resources to create new applications. The catalogue of such expenses is specified clearly in the regulations. Eligible expenses include expenses for: employee remuneration in the part related to R&D activities and related social security contributions; remuneration under contracts of mandate or contracts for specific work in the part related to R&D activities, and related social security contributions; purchase of specialised equipment (which is not a fixed asset) as well as materials and raw materials directly related to the conducted R&D activities; expert opinions, opinions, advisory and equivalent services, provided or performed under a contract by entities referred to in the regulations on higher education and science as well as purchasing from them the outcomes of their scientific research for the purposes of R&D activities; paid use of scientific and research equipment used exclusively in R&D activities if this use does not result from a contract concluded with an entity related to the taxpayer; purchase of the service of using scientific and research equipment solely for the purposes of R&D activities if the purchase of the service does not result from a contract concluded with an entity related to the taxpayer; specific expenses on obtaining and maintaining a patent, utility model protection right or industrial design registration right; depreciation write-downs of fixed assets and intangible assets used in R&D activities, excluding passenger cars and structures, buildings and premises that are separate property (except for research and development centres).

## III. Expenses on comprehensive implementation of KSeF are development works

The condition for using the deduction under the R&D relief is to conduct research and development activities and incur the so-called eligible expenses that must be separated in the records kept by the taxpayer. However, the taxpayer cannot receive reimbursement of these expenses in any form (e.g. subsidy or grant), and cannot conduct business in a Special Economic Zone, regardless of the scope of the permit obtained. The first key issue is, therefore, to determine whether the given taxpayer's activity can be classified as R&D. In the described ruling, the tax authority found that the activity described in the application, consisting in a comprehensive process of implementing software necessary for communication with the National System of e-Invoices, meets the conditions for recognition as development works because - as emphasised - in the course of the work, new solutions are created in the field of ICT techniques (advanced technical solutions in the area of programming) on the enterprise scale.

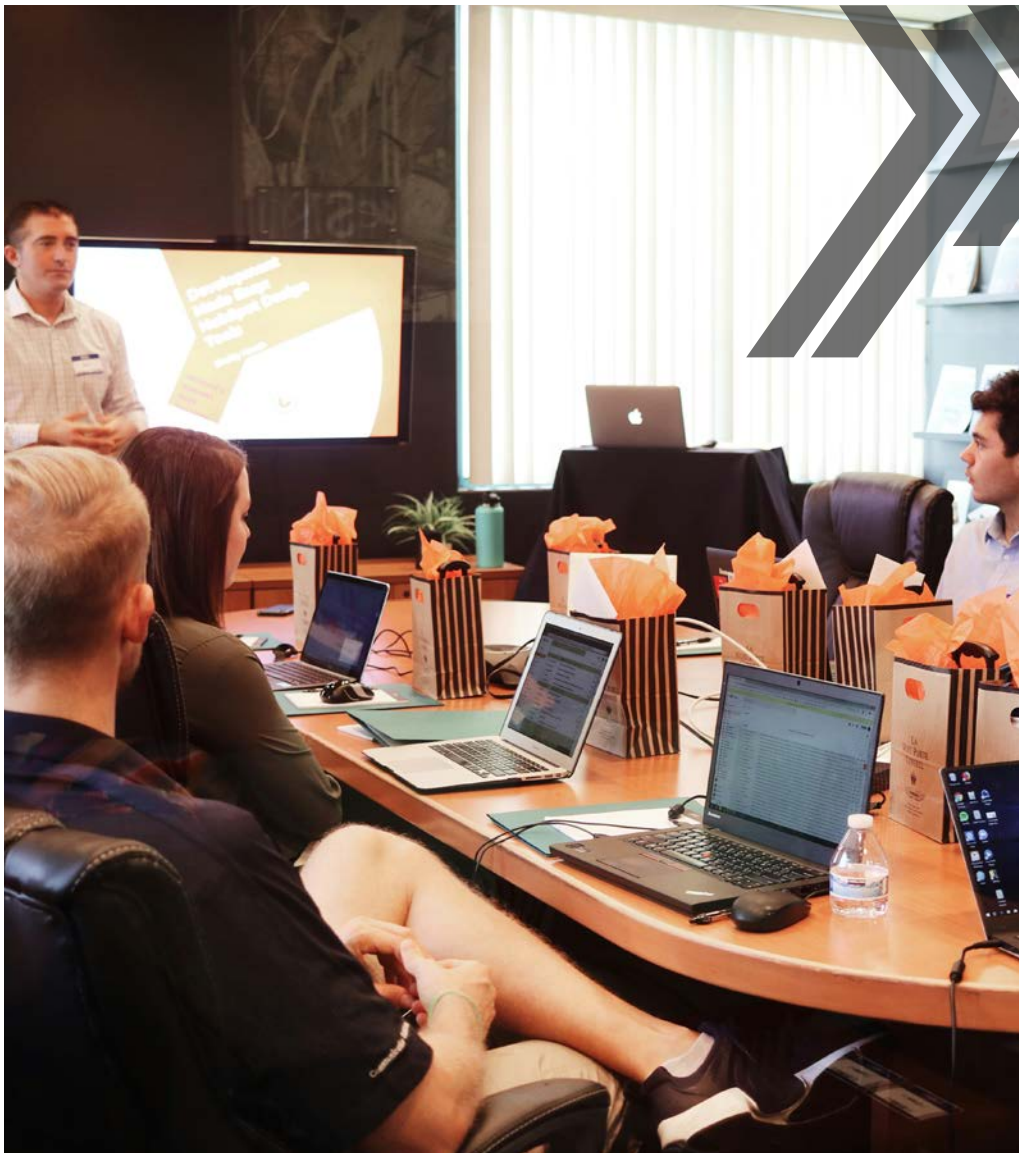


## V. Attention must be paid to the nature of the works carried out

Finally, it is worth noting that the R&D works described in the application for the ruling include, without limitation: selection and identification of programme and business needs, development (concepts) of system solutions corresponding to these needs, implementation (deployment) of developed concepts, participation in meetings of working groups aimed at mapping new processes or possible functionalities and testing them in terms of meeting the assumed expectations as well as incremental expansion applications used by the taxpayer. R&D works are not periodic, routine changes in nature - they involve creation of new functionalities in software and processes at the scale of the enterprise's operation. As the taxpayer emphasised, they are also characterised by an innovative (creative/novel) nature, systematicity of implementation (acting according to a structured plan), uncertainty (of the final result and risk of failure with regard to the final and partial outcomes of the work).



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