

# Tax Alert

KPMG IN POLAND

October 2015

## Amendments to the Corporate Income Tax Act as of 1<sup>st</sup> January 2016 – investment expenditures

**On the 1st October 2015, in line with the program of support for innovation, a new Act amending certain legislation has been passed by the Senate. As long as it is signed by the President, this Act will provide significant amendments to the taxation of investment expenditures. These amendments will be applicable as of 1<sup>st</sup> January 2016.**

### **Removal of tax relief for the acquisition of new technology**

As of 1st January 2016 the tax relief for new technology's acquisition will be removed. So far this tax relief has enabled tax savings to be obtained in the amount equal to 9.5 per cent of the expenditures spent on the acquisition of some types of intangibles – in particular patents, software and other types of copyrights.

According to transitional provisions taxpayers will be able to benefit from the relief regarding acquisitions (implementations) completed in 2015 – as such taxpayers might wish to consider speeding up at least some steps of these processes in order to ensure that intangible assets (or their parts) may be entered to the account records by the end of the current year.

While this relief is being removed, taxpayers will be still able to benefit from the relief for intangible assets acquired in previous years (up to 2009).

### **Implementation of the new tax relief for research and development activity**

A replacement for the tax relief for the acquisition of new technology will be implemented in the Corporate Income Tax Act. This relief will enable an additional tax deduction for expenditures spent on research and development activity.

In principle, the deduction will be equal to:

- 30 per cent of salaries of employees involved in research and development activity and
- 10 per cent (for large companies) or 20 per cent (for other companies) of other costs connected with research and development activity (including depreciation and amortization).

The Act implements also a definition of research and development activity and limits the possibility of benefiting from this relief by companies pursuing their economic activity in a Special Economic Zone.

### **The 2-years exemption for the sale of shares**

The new Act also implements a specific tax exemption for income obtained from the sale of shares.

Application of this exemption is possible only if all of the following conditions are met:

- The sold shares were acquired in 2016 or 2017;
- the only subject of the company's activity is performing financial investments;

- at least 75 per cent of assets of the selling company on the last day of the tax year in which the investment was completed are invested in the eligible assets (financial instruments) apart from the following:
  - securities which are subject of the public bid or securities admitted to trading on a regulated market;
  - money market instruments (unless they were issued by non-public entities, which securities were not admitted to trading on a regulated market);
  - real estate.
- the value of eligible assets of the selling company does not exceed 50 million EUR according to the purchase price;
- the selling company holds directly for an uninterrupted period of at least two years at least 10 per cent of shares of the sold company;
- the sold company is subject to income tax in Poland, the EU or an EEA country, it isn't considered to be a Controlled Foreign Company (CFC) and in the course of its activity hasn't produced goods which are subject to excise duty;
- the company sold is carrying out the economic activity in the area of research and development.

Please contact us if you would like to obtain more information on the new Act or discuss the possibilities it creates for your company.

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