Tax&Legal Highlights

Hungary

Positive changes in R&D tax incentive rules

A significant part of Hungarian based businesses with negative or non-significant pre-tax profit (e.g. subsidiaries operating on a cost-plus basis) seem to miss out on the fact that the cost of research and development activities pursued by them or in cooperation with other organisations may have various tax advantages. The costs directly related to R&D activities may be deducted from the taxable income for corporate income tax, local business tax and innovation contribution purposes with tax benefit also available for the social contribution tax amount.

Act LII of 2018 on Social Contribution Tax entered into force on 1 January, 2019 and introduced positive changes in the rules of the social contribution tax, including tax benefit available in the case of research and development activities. Several restrictive eligibility criteria whose interpretation and fulfilment used to cause difficulties on many occasions in claiming the tax benefit (e.g. 40% of all revenue must have come from R&D activities, placement of 3-5 interns, maintenance of R&D personnel headcount) has been removed.

According to the new rules, 50% of the social contribution tax on the payroll costs of R&D staff (as the direct cost of research and development carried out as part of one's own activities) may be deducted as tax benefit from the amount payable as social contribution tax. In the interest of reducing tax risks, it is of key importance to identify R&D activities performed as part of a company's own activities. Several procedures of the Hungarian Intellectual Property Office are available to identify R&D activities (e.g. project qualification, project group qualification, request for expertise) that can be used as final and non-appealable or quasi final and non-appealable instruments by NAV to determine whether a given activity can be qualified as research and development.

The tax benefit can be claimed in a simpler procedure than previously, on a monthly basis, although several typical issues may arise in connection with the procedure, for instance the question how to proceed in the case of employees who participate in research and development only for a part of their worktime.

For more information concerning the tax benefit or other R&D qualifications/state grants please turn to our experts at the following contact details.

Losing money on non-reclaim of foreign VAT

As regards VAT paid abroad, NAV has recently questioned on several instances, i.e. in a number of its resolutions, the recognition of non-reclaimed VAT paid to foreign tax authorities as VAT expense. This all means that in this case the VAT paid abroad, in addition to eventually burdening the business, may not be recognised as expenditure for corporate tax purposes.

In Hungary, a refund of the VAT paid in another EU member state or a third country must be requested using NAV's 'ELEKAFA' form that taxpayers are to submit until 30 September every year. The deadline is preclusive, i.e. no claims are accepted after its expiry.

In our experience, businesses often do not bother with reclaiming foreign VAT because of its cost implications and related administrative burden. This is why Deloitte developed a unique technology solution that offers a fast and cost-efficient way to reclaim VAT paid abroad.

Accordingly, businesses may want to review whether their operation involves any costs incurred abroad where VAT is paid. Such costs typically include for instance expenses related to foreign assignments and conferences, or fuel costs.

Deloitte has wide experience in foreign VAT reclaim procedures for a clientele spanning various industries and offers a complex, technologically assisted solution to clients that covers the entire VAT reclaim procedure from the review of incoming invoices through the preparation of refund requests to consultation with local tax authorities, so relieving businesses of related administrative burden.

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