

Tax deductible costs of services covered by an APA will not be limited

7th November 2017

Brief

On Friday, 27th October 2017, the Lower Chamber of Polish Parliament accepted the amendment to the Polish CIT Law. The new law is expected to introduce limitations on the amount of costs of intra-group services that could be treated as tax deductible. However, services covered by the Advance Pricing Agreement (APA) will be excluded from this limit, according to the latest version of the CIT Law amendments.

Detailed information

Limitation of tax deductibility

One of the main and most important changes introduced by the Act accepted on 27th October 2017 is the introduction of the limit on intra-group service/license fees that could be treated as tax deductible. The limitation applies to expenditures on services such as advisory, market research, marketing, management and supervision, data processing, insurance, guarantees and other similar support services. The cost of such services can be deductible only up to the value of 5% of EBITDA (calculated as a difference between (i) total revenues decreased by interest revenue and (ii) tax deductible expenses decreased by tax deductible amortization costs and interest expenses) for costs above PLN 3M per annum (“Deductibility Limit”).

APA – an exception

However, the new legislation provides the exception from the abovementioned limitations. According to the Article 15e Item 15, the Deductibility Limit will not apply to transactions covered by APA decision. The current wording of the draft legislation allows also to extend the deductibility of costs of such services and fees to one year before the year when APA decision is issued.

How to apply for an APA?

In order to benefit from the exception, a taxpayer should apply for an APA, following the standard procedure. The APA would be recommended in the case of material transactions as administrative fees payable to the MF may reach up to PLN 200,000 (approx. EUR 46,000). The timing of the APA procedure also depends

on whether APA would be unilateral (currently up to 12-15 months) or bilateral (up to 24 months). Therefore, in order to receive APA decision as soon as possible it is highly advisable to file the application at the earliest possible date.

Additional resources

[Link to recording of PwC Webinar about tax changes planned for 2018](#)

The current information is available also at PwC websites:

www.pwc.pl
www.taxonline.pl

What does it mean for taxpayers?

We recommend that you analyse the impact the new legislation may have on your business activity. If it is material, applying for an Advance Pricing Arrangement seems reasonable.

For more details – please discuss the topic with your PwC contact or our TP specialists:

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