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international taxation april 2016

INTRODUCTION

Research and development (R&D) activities are considered to be one of the key drivers of economic growth worldwide. Governments are therefore keen on encouraging R&D activities on their territories. One of the most widespread methods for encouraging R&D activities is granting R&D tax incentives. In general, there are two types of R&D tax incentives:

¬ **»Input incentives«** provide benefits at the beginning of the R&D process when R&D related expenses

occur (e.g. allowances, accelerated depreciation etc.).
- **»Output incentives«** provide benefits for income generated out of the intangible assets that are result of R&D activities (e.g. patent-box regime etc.).

The existence of R&D tax incentives is one of the key factors for MNEs when deciding where R&D activities shall be performed. Below, LeitnerLeitner gives you an overview of R&D tax incentives in the CEE region.

AUSTRIA

Input tax incentives on R&D

R&D premium

- **Scope:**
  - Premium of 12 % for qualifying in-house R&D and contract research (10 % for financial years beginning before 1.1.2016)
  - Cost base for contract research is capped at EUR 1 Mio per financial year, no upper limit for in-house R&D
- **Territorial scope:**
  - Applicable for residents or non-residents having a permanent establishment in Austria
  - Contract research may also be performed within EU/EEA (has to qualify as R&D activity on a stand-alone basis)
- **Definition of R&D for tax purposes:** The definition of qualifying R&D coincides with the definitions of the Frascati Manual
- **R&D expenditures:** Personnel expenses, financing costs, direct expenditures, CAPEX for qualifying R&D equipment in the year of investment (fixed asset has to be used for R&D activities for more than 50 % of its useful life, real estate for at least 10 years), indirect costs as well as the purchase of R&D services. For contract research a group exemption for members of a tax group or if the contractor is controlled by the principal is applicable.
  Tax-free public subsidies connected with the R&D activities reduce the assessment base for the R&D premium.
- **Carry forward:** n/a, the premium is paid out irrespective of a profit or loss situation
- **Documentation requirements:**
  - As proof of eligibility of the R&D projects a yearly ex-post opinion of the Austrian Research Promotion Agency (FFG) is needed.
  - All R&D expenses qualifying for a R&D premium need to be indicated to the tax authorities in an officially prescribed form.
- **Advance Ruling:** Ex-ante confirmation from the Austrian tax authorities and FFG regarding the qualification of a certain R&D project is available (fee EUR 1,000.00).

Output tax incentives on R&D

- Not available

BOSNIA AND HERZEGOVINA

Input tax incentives on R&D

Tax allowance for R&D

¬ **Scope:** The amount invested in R&D during the tax year can be treated as fully deductible expense. No special tax incentive exists in this respect.
¬ **Territorial scope:** No territorial restrictions. The beneficiaries are the corporate profit tax payers.
¬ **Definition of R&D for tax purposes:** The definition of qualifying R&D is prescribed by the corporate profit tax legislation.
¬ **R&D expenditures:** R&D deductible expenses are all expenses related to the R&D; especially all direct expenses such as salaries, remunerations, costs of material and services, depreciation costs of the real-estates and the equipment used for the R&D, deprecation costs of the patents and licenses used for the R&D and other general costs.
¬ **Documentation requirements:** Documentation for R&D has to include: annual operative plan, project documentation, analysis, final results of the R&D project and other valid documentation.
¬ **Carry-forward:** n/a

Output tax incentives on R&D

¬ Not available

BULGARIA

Input tax incentives on R&D

¬ Not available

Output tax incentives on R&D

A. Specific tax treatment of assets created as a result of R&D

¬ **Scope:** Upon determination of the taxable income the taxpayer has the right to decrease the financial result by the historical costs of an intangible fixed asset.
¬ **Application:** on a single occasion in the year of assessment.
¬ Cumulative fulfilment of the following **conditions:**
  ¬ Asset must be created as a result of an R&D activity;
  ¬ The R&D activity must be related to the regular business activity carried out by the taxpayer;

¬ The R&D activity must be commissioned under market conditions to a research institute or a university.

¬ In this case the intangible fixed asset accounted for cannot be treated as a tax depreciable asset.

B. Remission of Tax

¬ **Scope:** remission of 50 % of the income tax due in respect of business activity directly related or auxiliary to the implementation of the core activity.

¬ **Legal entities, allowed tax remission:** any publicly-financed scientific research enterprises, state universities, state-owned and municipal schools included in the public education system

CROATIA

Input tax incentives on R&D

Tax allowance for R&D

¬ **Scope:** Tax reliefs for R&D are permitted in the form of an additional decrease of the taxable base depending on the type of research.

¬ The maximum amount of incentives for which an additional reduction of the taxable base is possible may not exceed the following amounts:

¬ for basic research up to 150 % of the project's eligible costs,

¬ for applied research up to 125 % of the project's eligible costs,

¬ for development research up to 100 % of the project's eligible costs.

¬ **Territorial scope:** No territorial restrictions. The beneficiaries are the Croatian corporate profit tax payers. Applicable also for a PE of non-residents. The Ministry of Science, Education and Sport has to confirm each project.

¬ **Definition of R&D for tax purposes:** The definition of qualifying R&D is prescribed by the Croatian Law on scientific activity.

¬ **R&D expenditures:** Salaries of the employees and remuneration for the persons involved in the R&D, costs of materials and services related to R&D activity, depreciation costs of the real-estates and the equipment used for the R&D, deprecation costs of the patents and licenses used for the R&D and other general costs. The Croatian Law on scientific activity precisely prescribes which expenses could be qualified as eligible. Separate tracking of R&D expenditures is required.

¬ **Documentation requirements:** A taxpayer may claim the R&D tax allowance using a prescribed form. The form is filed together with the CIT return and the Certificate from the Ministry of Science, Education and Sport.

¬ **Carry-forward:** n/a

Output tax incentives on R&D

¬ Not available

CZECHIA

Input tax incentives on R&D

Tax allowance for R&D

¬ **Scope:** Reduction of the tax base for 100 % of the amount invested in R&D during the tax year but not exceeding the amount of the tax base. Reduction of the tax base for additional 110 % of the amount exceeding the R&D expenditure of the previous tax period.

¬ **Territorial scope:** No territorial restrictions. Applicable also for a PE of non-residents.

¬ **Definition of R&D for tax purposes:** The definition of R&D for tax purposes is adopted from the Act No. 130/2002 Coll., on the support of research and development from public funds and on the amendment to some related acts (the Act on the Support of Research and Development). R&D projects shall simply contain an appraisable element of newness or must lead to a clarification of research or technical uncertainty.

¬ **R&D expenditures:** Investments in internal R&D activities that include e.g. costs of personnel, depreciations of R&D equipment, costs of materials and energy consumption related to R&D activity, travel expenses of employees in direct relation to R&D activities. The deduction especially may not be claimed in relation to royalty payments, expenditures where a public subsidy was granted, services and intangible results of research and development acquired from other parties (with the exception of costs expended on services purchased from public universities and research organizations). It may be applied for a binding ruling as to the deductibility of particular expenses upon a prior written (and explanatory) request and a fee of CZK 10,000.00.

¬ **Carry-forward:** The unused part of the tax allowance may be carried forward to the subsequent three (3) tax years or periods for which the corporate income tax return is filed.

¬ **Documentation requirements:** R&D investments shall be described in a written R&D project description that has to be prepared before the start of the R&D activities. This has to be approved by a statutory body of the company. Separate records must be kept about the R&D expenditures divided by the single projects and accounting events. The burden of proof lies upon the payer. There is no strictly prescribed form as to the R&D project and expenditure records.

Output tax incentives on R&D

¬ Not available

HUNGARY

Input tax incentives on R&D

A. Tax allowance for R&D

¬ **Purpose:** The so-called development tax allowance is available for several investment titles. In case of R&D investments, the eligible projects concern basic research, applied research and experimental development, if valued at HUF 100 million (approx. EUR 320,000.00) or more at current prices. The investment has to be in use for a minimum of 5 years (3 years in case of SMEs).

¬ **Scope:** Reduction of the corporate income tax payable based on the amount invested (R&D expenditures) by max. 80 % of the payable corporate income tax for 10 tax years. The maximum amount of the development tax allowance depends on the intensity rate of the concerned region in which the investment is made and then used.

¬ **Territorial scope:** Considering the fact that for the determination of the development tax incentive amount, the investment value should be multiplied by the intensity rate deriving from the EU Subsidy Map, the various territories of the country may have different access to the tax incentive. However, it may also be available for a PE of non-residents in proportion of the Hungarian activity.

¬ **Definition of R&D for tax purposes:** Basic research, applied research and experimental development qualify as R&D for tax purposes.

¬ **R&D expenditures:** Investments in R&D activities performed by own assets and personnel (costs of personnel, purchase of R&D equipment, costs of materials and services related to R&D activity, costs of education/training, costs related to the protection of intellectual property arising directly from the taxpayer's R&D activity) and purchase of R&D services performed by other persons including associated enterprises (cost of contracts concluded with external experts and researchers, cost of contracts relating to R&D activities).

¬ **Carry-forward:** Taxpayers may utilize the tax allowance in the tax year (or alternatively the following) of the investment's capitalization and the subsequent nine tax years; however, not later than the 14th tax year following the year of applying for the tax allowance.

¬ **Documentation requirements:** The tax allowance may only be claimed according to a Government's resolution adopted upon the European Commission's authorization in case the requested State Aid exceeds EUR 100 million calculated at present value per municipality (in case of SM companies in the Central-Hungarian region EUR 7.5 million calculated at present value) or if a similar activity in the European Economic Area has been/is planned to be terminated by the taxpayer in the past two years/within two calendar years following the accomplishment of the investment. A notification must be filed even to other cases prior to the commencement of the investment.

B. Multiple deductibility of R&D costs from the corporate income tax base

¬ **Scope:** Possible reduction of the corporate income tax base by 200 % - 400 % of the R&D expenditures incurred during the tax year or the amount of the depreciation booked in the tax year if the expenditures have been activated amongst the intangible assets – subject to certain limitations.

¬ **Definition of R&D for tax purposes:** Basic research, applied research and experimental development qualify as R&D for tax purposes.

¬ **Possibility to shift unused tax credit:** Taxpayers may shift their unutilized tax base deduction credit to a Hungarian related party company based on a declaration – subject to meeting certain criteria.

Output tax incentives on R&D

A. Reported intangible assets

¬ **Scope:** Capital gains realized from the alienation (including sale or contribution in-kind) of certain intangible assets (i.e. royalty income generating patents) are exempt from corporate income tax.

¬ **Legal conditions:**

a) the asset must be reported to the tax authority as "reported intangible asset" within 60 days from the date of the acquisition or creation;

b) the asset shall be held for a minimum period of 1 year;

c) the taxpayer did not apply the scheme for income generating intangibles to be introduced below for the same intangible asset (e.g. patent right) in the year prior to notifying the intangible to the Tax Authority as "reported intangible asset".

¬ **Additional consequences:** Losses realized on the alienation of the reported intangible asset are not tax deductible (an exception is the alienation in the way of a transformation like merger, spin-off, de-merger, etc.).

B. Special scheme for income generating intangibles

¬ **Applicability:** The applicability of the favourable scheme for "income generating intangibles" requires first of all that the intangible does not qualify as a "reported intangible assets" under the scheme as introduced above.

¬ **Scope:** Upon applying the scheme, capital gains realized from the alienation (i.e. sale or contribution in-kind) of royalty income generating patents is exempt from corporate income tax.

¬ **Legal conditions:**
a) a special reserve is created from the amount of the profit realized on the alienation (to be booked from the profit reserve to the tied-up reserves) and
b) this reserve is used for the acquisition of further royalty income generating intangibles in the next 3 tax years (the tied-up reserves may be booked back to the profit reserve in the amount of the value of the newly acquired intangibles).

¬ **Additional consequences:** For the reserves remaining unused within the statutory deadline of 3 years, the applicable corporate income tax is due plus late payment interest amounting to twice the Hungarian prime rate (actually 2*1.35 % p.a.). The same sanctions may apply if the tied-up reserve is booked back to the profit reserve without the required intangible asset purchase(s).

C. Tax exemption of royalty income (50 % for CIT, full-exemption for LBT)

¬ **Scope:** 50 % of royalty claimed as income under pre-tax profit for the tax year may decrease the corporate income tax base, which however shall not exceed 50 % of the pre-tax profit. Resulting from this exemption, tax on royalty income may amount to 5 %-9.5 % in Hungary. On the top of this, royalty income is entirely exempt from local business tax (normally it would be 2 % of the adjusted net sales revenues).

¬ **Definition of royalty:** Royalty shall mean any consideration received by the right holder for the transfer of:
a) a patent, industrial design and other protected intellectual works and know-how exploitation rights,
b) a trade mark, or the right of use of a trade name or trade secret,
c) right of use of authentic works protected by the Copyright Act and rights related to copyright, and
d) rights of use related to protected industrial designs and other copyrighted articles mentioned in a) and c);

D. Withholding tax exemption on royalties paid

¬ **Scope:** Royalties paid by a Hungarian corporation to any entities being a non-transparent entity subject to corporate income tax or similar tax in its jurisdiction of residence is not subject to any withholding tax.

POLAND

Input tax incentives on R&D

Tax allowance for R&D

¬ **Scope:** Reduction of the CIT base by R&D costs incurred in the current tax year. The deduction may not exceed an amount between 10 % to 30 % of the value of these costs, depending on its type and situation of the taxpayer (micro, small and medium-sized enterprises are allowed to deduct more).

¬ **Tax exemption of capital gains** from the disposal of shares by R&D companies, provided that the shares were acquired in 2016 and 2017 – some additional conditions have to be met.
¬ **Territorial scope:** No territorial restrictions.
¬ **Definition of R&D for tax purposes:** The definition of R&D coincides with the Frascati Manual.
¬ **R&D expenditures:** Costs of personnel (remuneration of employees hired for carrying out R&D), research costs (e.g. expert advices, opinions, advisory services, expenditures for the acquisition of research results, expenses for materials and raw materials directly related to R&D), property costs (expenses for usage of research equipment, amortization and depreciation of both intangibles and fixed assets used in R&D – already included in tax-deductible costs, excluding passenger cars and buildings, structures and premises which are separately owned).
¬ **Carry-forward:** The deduction shall be made in the tax return for the tax year in which the R&D costs were incurred. If the taxpayer incurs a tax loss or the R&D costs exceed the income, the deduction can be carried forward to the next three years. The maximum period in which the tax relief may be applied is 4 tax years.
¬ **Documentation requirements:** No specific requirements; obligation to separately report the R&D costs in the accounting records.

Output tax incentives on R&D

¬ Not available

SERBIA

Input tax incentives on R&D

¬ Not available

Output tax incentives on R&D

¬ Not available

SLOVAK REPBULIC

Input tax incentives on R&D

Super deduction from tax base of R&D costs

- **Scope:**
  - additional deduction from the tax base ("super deduction") in the amount of 25 % of the R&D costs incurred in the tax period;
  - 25 % of wages/salaries of employees under 26 years participating in the R&D project subject to prescribed conditions and 25 % of the year-on-year R&D costs increase.
- **Territorial scope:** No territorial restrictions.
- **Definition of R&D for tax purposes:** The definition of R&D coincides with the definitions of the accounting procedures for entrepreneurs. An important element is the verifiability of the character of R&D activities – the criteria include the presence of a measurable novelty element and research-related uncertainty.
- **R&D expenditures:** The additional deduction may be claimed e.g. in the case of the following cost types relating to R&D projects: personnel costs and social security contributions, travel costs, direct expenditures, other operating expenses (raw material, consumption of electricity, gas and heat, telecommunication costs). The deduction may not be claimed on costs for which public funding has been granted, on services, licenses, and R&D results acquired from third persons excluding public institutions (Slovak Academy of Sciences, universities) and persons licensed for the performance of R&D activities.
- **Carry-forward:** If it is not possible to claim the full deduction due to a lower tax base or a tax loss, the unclaimed deduction may be carried forward and claimed in the nearest tax period in which the taxpayer reports a positive tax base, however, no later than during the four (4) directly following tax periods after the entitlement was originally available.
- **Documentation requirements:** A written R&D project must be prepared and is to be submitted to the tax administrator in the case of an audit. A list of taxpayers claiming the super deduction will be published by the Financial Directorate.

Output tax incentives on R&D

- Not available

SLOVENIA

Input tax incentives on R&D

Tax allowance for R&D

- **Scope:** Reduction of the tax base for 100 % of the amount invested in R&D during the tax year but not exceeding the amount of the tax base.
- **Territorial scope:** No territorial restrictions. Applicable also for a PE of non-residents.
- **Definition of R&D for tax purposes:** The definition of R&D coincides with the definitions of the Frascati Manual to a great extent. The purchase of licences is not a deemed part of investments in the purchase of R&D services.
- **R&D expenditures:** Investments in internal R&D activities (costs of personnel, purchase of R&D equipment, costs of materials and services related to R&D activity, costs of education/training, costs related to the protection of intellectual property arising directly from the taxpayer's R&D activity) and purchase of R&D services performed by other persons including associated enterprises (cost of contracts concluded with

external experts and researchers, cost of contracts relating to R&D activities).

- **Carry-forward:** The unused part of the tax allowance may be carried forward to the subsequent five (5) tax years.
- **Documentation requirements:** R&D investments should be indicated in a business plan or a specific development project and/or programme in detail and in a manner which will facilitate subsequent verification by the authorities of compliance with the relevant project and/or programme. A taxpayer may claim the R&D tax allowance using a prescribed form, filled-in according to the prescribed methodology. Separate tracking of R&D expenditures is required.

Output tax incentives on R&D

- Not available

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