

## Tax Alert

18 March 2015

### Articles in this issue:

#### Legislative Updates

The Norms regarding the deduction for corporate income tax purposes for the research and development expenses, approved through the joint set out Order 2086/4504/2010 were modified through a new order published in the Official Gazette on 16<sup>th</sup> March 2014. The changes bring both an allignment to the Fiscal Code and a series of new elements.

The Official Gazette no. 178 / 16.03.2015 contains the new order jointly set out by the Ministry of Public Finances (Order no. 256 / 10.03.2015) and the Ministry of Education and Research (Order no. 3331/10/03/2015).

The Order contains the methodological norms for the application of the research and development ("R&D") tax incentives introduced by the Romanian Fiscal Code (Art. 19<sup>^</sup>1).

The main changes to the actual legislation brought by this new order are the following:

- The rate for the additional tax deduction of the eligible expenses from R&D activities was updated to **50%**, to align it with the rate provided in the Fiscal Code.
- **Fundamental research** was excluded from the eligible activities, to align it with the Fiscal Code.
- The R&D activities should be **creative activities** which bring a significant **element of novelty** in solving **scientific or technological uncertainty**; the solution should not be obvious for a competent professional in the field.
- When assessing the eligibility of the R&D activity, reference to **Frascati Manual** issued by OECD should be made.
- The R&D activities should be **included in a project** detailing the objective, period, field of research, financing, type of result and the novelty component.

- The R&D tax incentive is granted to taxpayers:
  - performing R&D activities **by own means or in collaboration/association/ agreement**, in view of **valorification**;
  - performing R&D activities through an **allocation agreement** at the level of the group with the condition to receive **full rights to use the results** of the research in their own activities.
- The **valorification of the R&D results** may be obtained by the taxpayers through: **using** the results in the own activity, **selling** the results or **exploiting** the corresponding intellectual property.
- Where part of the R&D activities are performed by a third party, upon command, **the tax incentive is granted to the initiator of the command** (i.e., entity subcontracting part of the R&D activities).
- The list of the eligible expenses is updated with various expenses, the most important being the **expenses with services rendered by third parties**.
- The R&D deduction is applicable also when the R&D **expenses are capitalized** according to the accounting regulations, this could be applied also at the capitalization moment.
- Taxpayers may require **certifications/expertizes** regarding their conformity with the conditions for the eligibility of the tax incentives. A register of experts would be constituted at the level of the Ministry of Education and Research.

Please do not hesitate to contact us if further clarifications are needed:

**Dan Bădin**

Tax and Legal Partner-in-Charge  
+40 21 207 53 92

**Silviu Sandache**

Senior Manager – Direct taxes  
+40 21 207 53 19



For further information please contact us at:  
[Romania@deloittece.com](mailto:Romania@deloittece.com) or visit the web page  
<http://www2.deloitte.com/ro/tax-alerts>

This Alert is provided as a guide only and should not be construed as advice. Professional tax/legal advice should be sought before acting upon any of the points raised in this document.

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, any of its member firms or any of the foregoing's affiliates (collectively the "Deloitte Network") are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/ro/about](http://www.deloitte.com/ro/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 200,000 professionals, all committed to becoming the standard of excellence.