Intangible services acquired from affiliated entities - limitation in the treatment of expenses incurred as revenue generating costs

15 May 2018

On 1 January 2018, the amendments to the CIT Act entered into force. As pointed out in the explanatory memorandum to the bill, the principal objective of the introduced changes is the closer monitoring of the Corporate Income Tax, as a result of which the amount of the tax to be paid, in particular by large international entities, is to be more closely linked with the actual place of income generation.

The proposed direction of the changes is parallel to the activities currently undertaken in other countries. In particular, it is correlated to the project implemented by the Organisation of Economic Cooperation and Development (OECD) devoted to counteracting taxable base erosion and profit shifting (BEPS).

Within the framework of the amended provisions, under Art. 15e of the CIT Act, effective as of 1 January 2018, taxpayers are obliged to exclude from their revenue generating costs specific kinds of expenses incurred directly or indirectly in favour of associated entities, as referred to in Art. 11 of the CIT Act, and the entities whose places of residence, registered offices, or management boards are located on the territory, or in a country, where harmful tax competition is applied (so-called tax-havens).

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