

# Tax Flash *K.Y.A. 109343/12*

July 2017

On July 11, 2017 Common Ministerial Decision no. 109343/12/29.6.2017 was issued, providing for interpretative guidelines with respect to the conditions for the qualification of research and development costs of enterprises (R&D).

## **Preliminary remarks**

- This Decision is issued in the framework of article 22A of the current Income Tax Code (Law 4172/2013) which permits the enterprises to deduct from their gross revenue the R&D costs with an 'extra' deduction of 30% replacing the previous Ministerial Decision no. 12962 (ΠΟΑ) 2029/3.11.1987 (GG B' 743/1987).
- The decision seems to follow more closely the definitions and rules of R&D costs of the OECD Frascati Manual.

## **Scope of R&D activities**

- The Decision sets out the key criteria for classifying R&D activities under article 22A of the ITC from other related activities and provides the cases of inclusion or exclusion from these activities.

## **Significant changes**

- The Decision has explicitly included the following activities to the scope of the R&D regime:
  - ✓ Development of innovative software programs if their completion contributes to a substantial scientific or technological advance, and the aim of the project is the systematic resolution of a scientific or technological uncertainty. Specifically, the Decision mentions cases that fall within the scope as well as exceptions.
  - ✓ Clinical trials (studies) of new vaccine drugs and treatments of phases 1, 2 and 3. Phase 4 clinical trials should only be treated as R&D activities if they bring about a further scientific or technological advance.
- Contrary to the previous Ministerial Decision, the implementation of demonstration projects as well as the conduct of marketing studies on new products are no longer included in the scope of R&D activities.
- Furthermore, it is clarified that the R&D activities should be linked to self-financing projects carried out by the company itself, excluding any projects co-financed by any other body (an alternative which was permitted under the previous Ministerial Decision).

## **Scope of R&D costs**

- The Decision defines the restrictive framework of the qualifying expenses related to the R&D activities.
- It clarifies that in order for any costs to qualify for the R&D relief, their exclusive relevance/direct link to the ongoing R&D project is required.
- The following qualifying R&D costs are added:

- ✓ Depreciation of the costs of purchase, construction, maintenance, renovation of buildings, etc.
- ✓ Operating expenses of the enterprises such as rents or finance leases etc.
- ✓ Connectivity costs with databases, knowledge networks, electronic libraries, etc.
- ✓ Costs for the contractual outsourcing of specific part of the R&D project *(Besides government bodies, the new Decision provides for the possibility of outsourcing to private bodies, Universities etc, as well).*

#### ***Entry into force***

- The Decision refers to the qualification of costs as R&D costs for the fiscal year 2017 onwards.
- It further clarifies that for the respective costs of fiscal year 2016, the provisions of the Ministerial decision no. 12962 (ΠΟΛ) 2029/3.11.1987 (B'743 / 1987) shall be applicable.

*The PwC R&D Tax Services team can advise you throughout your innovation life cycle to make sure you are benefiting from the full range of the R&D super deduction regime.*

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