

# Flash Report

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## Advance Corporate Tax (ACT)

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### ***Taxpayers are entitled to offset CPT overpayments against ACT liabilities***

The Tax Code provides that from 1 January 2013 taxpayers have to make monthly ACT payments based on prior year tax liabilities.

Based on our detailed analysis of the legislation, if taxpayers have an overpayment of corporate tax from prior periods they should be entitled to offset this against ACT liabilities, but the tax office does not appear to agree with this view.

In December 2012, the tax authorities issued the general tax ruling<sup>1</sup> on peculiarities of corporate tax payments in 2013. The ruling states that CPT overpayments cannot be automatically offset against current ACT liabilities. This does not appear to be solid legal basis for this tax ruling.

The Tax Code expressly provides for an automatic offset for tax liabilities of a similar nature. There is no fundamental reason to consider an ACT liability anything other than a CPT liability. It appears that the tax authorities are not likely to accept this approach, and will expect ACT payments even if there is a CPT overpayment.

If taxpayers decide to utilize a tax overpayment, they will need to be prepared to defend their position in court. PwC is available to assist in developing a specific strategy if taxpayers are faced with this issue.

<sup>1</sup> Order No. 1171 dd. 21.12.2012