



# 50% tax deductible costs for the IT industry

## Possibility to apply increased copyright costs to employees who create works subject to copyright

Pursuant to Article 22 (9)(3) of the PIT Act, authors are entitled to 50% tax-deductible costs for the use or transfer of their copyrights. For example, programmers or developers of computer games and applications may benefit from increased copyright costs. This tax preference makes it possible to offer a more attractive compensation scheme to employees/creators, which in practice translates into the latter earning a higher net salary.

## Conditions necessary to benefit from 50% tax deductible costs:

- a copyrighted work (e.g., a computer program) is created as part of duties under an employment contract (or possibly under a civil law contract), that can be used or transferred by the author,
- the employer clearly distinguishes between the programmer's royalty (where the increased 50% copyright cost applies) and other components of the remuneration,
- appropriate documentation is kept confirming, among other things, the creation of the work, as well as the amount of income earned by the employee from the copyright or from the transfer of such rights.

## 50% copyright costs → what needs to be taken care of



Relevant provisions in the employment contract addressing the transfer of copyrights between the programmer and the employer



Controlling the limit on increased copyright costs



Separate and specified author's royalty



Keeping a record of works created, confirming, among other things, the moment of transfer of author's economic rights



Properly determined amount of royalties based on current judicial decisions and tax authorities' positions, including the general interpretation issued in 2020

## The limit of copyright costs

- The amount of increased tax deductible expenses is limited,
- 50% of tax deductible costs (from items listed in Article 22(9)(1-3) of the PIT Act) cannot exceed PLN 85,528 in a tax year.

## Royalty amount

- Selecting the appropriate method for calculating the royalty is critical,
- The royalty fee must be connected to a specific work (or works of a specific type).

## How to apply this in practice?

### Stage 1 Analyze

Determine whether the employee creates works subject to copyright as part of his or her duties, and whether the employee makes use or transfers the copyright as part of the employment relationship;

### Stage 2 Update the contract and determine the royalty fee

In the case of programmers who create computer programs, update the relevant provisions of the employment contract > distinguish the royalty and choose a method for determining its amount > obtain a binding tax interpretation if needed;

### Stage 3 Settle tax

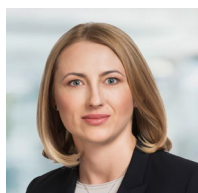
Calculate the employee's income with 50% of the tax deductible copyright cost included > collect advance income tax payment at a rate lower than before > pay a higher remuneration to the employee;

### Stage 4 Monitor

Keep records of how you apply increased copyright costs to employees on an ongoing and continuous basis > control the limit on increased copyright costs

## KONTAKT

Should you be interested and looking for support on the above topic, please feel free to contact us. Our experts will provide support in implementing 50% copyright cost in your company.



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