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Newsletter

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AUTHOR: TAX ADVISOR AGATA WLEKLIŃSKA

INNOVATION TAX CREDITS: NEW OPPORTUNITIES FOR BUSINESSES

Innovation is one of the key elements in the competitiveness of modern companies. To encourage companies to invest in research, development and cutting-edge technology, legislators have introduced a number of tax incentives. These include tax incentives for research and development (R&D) activities, prototype relief, robotics relief, expansion relief and innovative employee relief. These allow companies to significantly reduce their tax base while investing in the future of their business. Below is a detailed description of each incentive, its conditions and benefits.

R&D relief: The foundation of innovation

The R&D (Research and Development) allowance is one of the most popular forms of support for companies investing in development. It allows costs associated with research and development activities to be deducted from the tax base.

What does the R&D relief cover?

- Salaries of employees involved in R&D, including social security contributions;
- Purchase of materials, raw materials and tools necessary for research projects;
- Costs of external services, including the rental of laboratories, analyses and expert opinions; and
- Depreciation of fixed assets used in R&D activities.

Additional benefits:

If, as a result of R&D activities, a company creates or improves an intellectual property right (e.g. software, patent or industrial design), the income from the sale of these rights can be taxed at a preferential rate of 5% under the so-called IP Box. In addition, from 2022, companies will be able to benefit from both the R&D relief and the IP Box relief.

Unique benefit:

As of recently, the deduction for eligible costs related to employees' salaries has been increased up to 200%. This makes the relief even more attractive for companies employing R&D specialists.

Relief for innovative employees: For companies with limited income

Sometimes companies involved in R&D activities do not generate enough income to benefit fully from the R&D tax credit. If this is the case, they can apply for the Innovative Employee Relief.

Who can benefit?

- Companies making a loss or generating low income; and
- Employees who devote at least 50% of their working time to R&D activities, regardless of the form of employment (full-time, contract of mandate or contract for specific work).

How does the relief work?

It allows the deduction of advance income tax paid on employees' salaries, which brings direct financial benefits to the company.

Prototype relief: From idea to market

Businesses who decide to create and test a prototype of a new product can benefit from a tax relief.

What costs can be deducted?

- Trial production costs; and
- Expenses related to marketing the product, including tests and market research.

Restrictions:

The relief allows for a deduction of 30% of eligible costs, but the total cannot exceed 10% of the income earned in a given tax year.

Robotisation relief: An investment in the future of manufacturing

Automation and robotisation of processes are the future of industry. The robotisation relief allows companies to reduce the costs of implementing modern technology.

What does the relief cover?

- The purchase of robots, machines and equipment;
- The software required to operate robotic systems;
- Training and maintenance costs; and
- Leasing fees related to robotisation.

Rules:

Businesses can deduct 50% of the eligible costs, but the deduction cannot exceed the income received in a given tax year.

Expansion relief: Developing new markets

Companies wishing to increase their turnover by expanding into new markets can benefit from an expansion allowance. This relief allows an additional deduction of 100% of the costs incurred in developing markets.

What can be deducted?

- Costs of marketing and promotional activities.
- Expenses for product certification.
- Registration of trademarks and obtaining patents.

Limits:

The maximum amount of deduction is PLN 1 million in a tax year.

Why is it worth using innovation tax relief?

Innovation reliefs are a tool to support not only the development of companies but

also their competitiveness on the market. By making appropriate use of the reliefs, businesses can:

- Significantly reduce business costs;
- Increase the efficiency of research and development activities;
- Develop new products and technologies; and
- Increase their presence on domestic and foreign markets.

Feel free to contact us

Need help with tax optimisation or want to find out more about support opportunities for your business? Get in touch with our team of experts - we can help you use the full potential of innovation tax relief!

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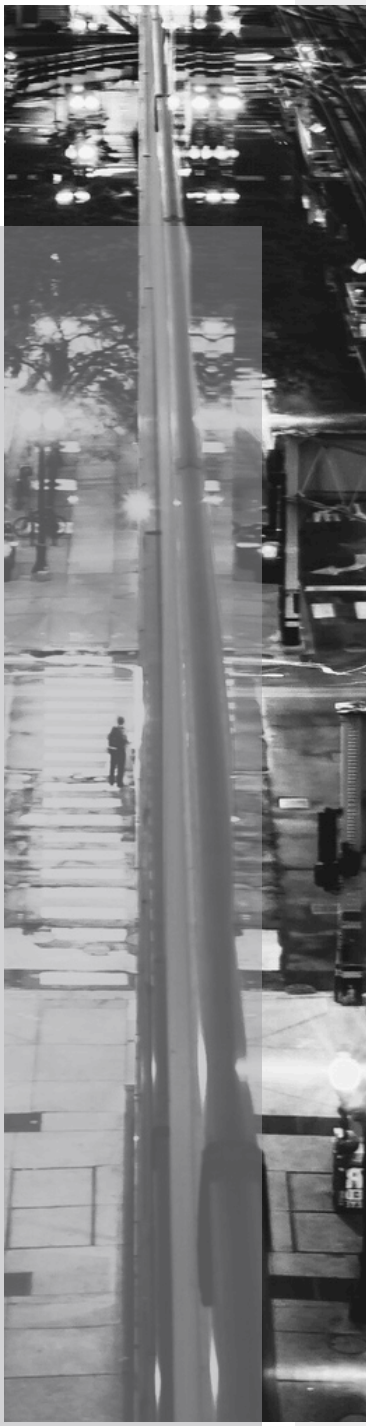
YOUR CONTACT

Agata Wleklińska
tax advisor
agata.wleklinska@ecovis.pl



AUTHOR: ATTORNEY AT LAW AGNIESZKA SŁOWIKOWSKA

WHISTLEBLOWERS IN AN ORGANISATION : RESPONSIBILITIES AND SANCTIONS

Whistleblowers in an organisation – responsibilities and sanctions

A month has passed since the 25 September entry into force of the Polish Act on the Protection of Persons Who Report Breaches of Law, popularly known as whistleblowers (the "Whistleblower Protection Act"). This is an opportune time to take stock of the obligations involved and the potential consequences for organisations that have not yet implemented proper whistleblower protection procedures. Below, we answer key questions about the implementation of the requirements under the new regulation.

Who is obliged to implement whistleblower protection procedures?

The obligation to implement whistleblower protection procedures, including a system for receiving reports of potential irregularities, applies to certain groups of businesses:

Businesses employing more than 50 individuals

This requirement covers businesses that:

- Engage individuals under an employment contract; and
- Cooperate with people performing work on the basis of civil law contracts (e.g. mandate or B2B contracts), provided that the work is performed personally and these people do not employ others to perform the task.

Businesses employing at least one individual in specific sectors

This obligation applies to companies operating in specific high-risk areas, in particular:

- Financial services, products and markets;
- Anti-money laundering and countering the financing of terrorism;
- Transport safety; and
- Environmental protection.

Specifically, this obligation applies to:

- Accounting firms;
- Lending institutions; and
- Real estate agents.

These regulations result from the implementation of the provisions of Directive 2019/1937, which aims to increase the protection of whistleblowers in the European Union.

What documents and procedures should be implemented?

The implementation of a whistleblower protection system requires the preparation of appropriate documents and procedures to ensure compliance. Here are the key elements:

- An internal procedure for reporting and follow-up: The main document is the bylaws that set out the rules for reporting violations of the law and how they should be followed up. This is an essential element of the whistleblower protection system, which must comply with the requirements of the Whistleblower Protection Act.
- Authorisation of people responsible for receiving reports: Written authorisations should be prepared for anyone who will be responsible for receiving and following up on reports.
- Information documentation: The employee is required to provide information on the procedure in place. To this end, a document with information on the reporting system should be developed and provided to employees, contractors and other interested parties, e.g. at the recruitment stage.
- Agreements to operate an external platform for reporting: If a business uses an external entity or platform to accept notifications, a written agreement governing the terms of cooperation is required. The agreement should cover, at least, the acceptance of applications, the provision of feedback and ensuring compliance with the Personal Data Protection Act.
- Personal data processing agreements: The business, as a controller of personal data, must enter into personal data processing agreements with entities handling reports. This is a requirement under current data protection legislation.

Is whistleblower protection at group level sufficient?

Although the protection of whistleblowers is regulated by an EU Directive, each Member State has implemented its provisions in its own way, adapting them to local needs. In Poland, whistleblower protection provisions set out obligations for the administration of personal data.

Under the Polish law, a business is obliged to introduce a local reporting channel in Poland, regardless of the existence of a group system operating in other EU countries.

The Polish regulation assumes that a business operating on the Polish market is the controller of personal data and bears full responsibility for processing it.

In practice, this means that:

- A reporting channel operating at group level may be considered an additional tool.
- However, it cannot replace the local reporting channel, which must be implemented in accordance with Polish regulations.

Polish businesses should therefore adapt their procedures and reporting channels to national regulations, even if they belong to international structures, in order to avoid non-compliance and potential sanctions.

What does the consultation phase look like and how long does it last?

The consultation phase preceding the establishment of whistleblower protection regulations is mandatory and crucial for the proper implementation of internal procedures.

The business is obliged to consult with trade union representatives or, if there are none, with designated employee representatives.

According to the Whistleblower Protection Act, the consultation phase should last between five and 10 days from the date of the draft regulations being presented. The business must comply with this deadline to avoid breaching the regulations and to ensure compliance with the requirements of the Whistleblower Protection Act.

When do the regulations enter into force?

An internal procedure in the form of bylaws comes into force seven days after it is communicated to employees and other individuals working with the trader.
In practice, the manner in which the rules and regulations are communicated should be consistent with the company's normal methods of communication, e.g. by publication on the intranet, notice board or transmission of the document by email. It is important that the rules and regulations are made available not only to employees with an employment contract, but also to those cooperating under civil law contracts such as mandate or B2B.

What are the penalties for failing to implement the regulations?

The Whistleblower Protection Act provides for a fine of up to PLN 5,000 for failing to implement internal procedures in accordance with the regulations. This sanction applies to businesses that have not implemented whistleblower protection regulations within a certain timeframe, or have not complied with the formal requirements under the Whistleblower Protection Act.

What are the consequences of a whistleblower making a false report?

A whistleblower who knowingly makes a false report is subject to criminal sanctions. In the event that the report was made in bad faith, the legislation provides for:

- A fine,
- The restriction of liberty,
- Imprisonment for up to two years.

These sanctions are intended to prevent abuse and protect against false accusations.

What will change from 25 December 2024?

Although most of the provisions of the Whistleblower Protection Act have been effective since 25 September 2024, the legislature decided to postpone the implementation of some regulations until 25 December 2024.

These changes include:

External reporting channels for public institutions:

- The Ombudsman will have the main responsibility for receiving external reports.
- Public institutions will be required to implement mechanisms to receive such reports.

Information obligation for businesses:

- Businesses will have to provide accessible and understandable information on how to report irregularities to the Ombudsman, public authorities or, where applicable, to the EU institutions.
- This information must be easily accessible to employees, contractors and other individuals who cooperate with the business.

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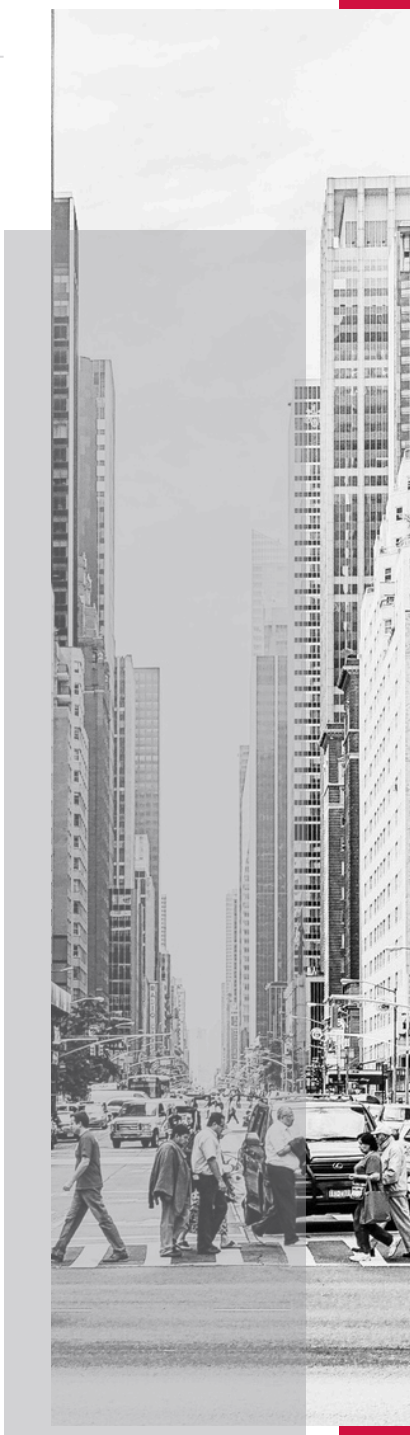
YOUR CONTACT

Agnieszka Słowikowska
attorney at law
agnieszka.slowikowska@ecovis.pl



SUCCESSFULLY IMPLEMENTING AI INTO YOUR BUSINESS – WHAT TO WATCH OUT FOR?

Artificial intelligence (AI) is increasingly influencing global technology trends, forcing businesses to rethink how it can be used in their organisations.

As many as 73% of companies believe that the introduction of advanced technologies such as AI will bring tangible benefits to their growth. However, is the implementation of these solutions in every company justified?

Deciding to implement AI requires a thoughtful approach and proper preparation. It is crucial to analyse the potential benefits and risks associated with this technology.

Technological preparation – the key to success

Introducing AI into a company requires a solid technological background, including:

- Data: access to large, qualitative datasets that can be the basis for learning algorithms.
- Computing and network infrastructure: systems capable of processing massive amounts of data in real time.
- Integration between company departments: artificial intelligence should support as many business areas as possible, such as marketing, sales, human resources management and logistics.

However, not all companies will benefit from incorporating AI into their structures. Before incorporation, it is important to assess whether these solutions will bring real benefits to a specific organisation and not merely increase operational costs.

Risks associated with the introduction of AI

Privacy and GDPR

AI systems operate on voluminous data sets, including personal data, which carries a high risk of breaches of data protection legislation (GDPR). Insufficient attention to information security can result in:

- Financial penalties from regulatory authorities;
- Loss of credibility in the eyes of customers and business partners;
- Disclosure of confidential data, which can lead to financial and reputational damage.

To minimise these risks, companies need to ensure that appropriate data protection mechanisms are in place, such as encryption, access control or regular audits of AI systems.

Compliance with business ethics and the AI Act

The EU Artificial Intelligence Act – Regulation (EU) 2024/1689, known as the AI Act, came into force in August 2024. It introduces strict regulations on the use of AI systems. Key requirements include:

- Risk management and security assurance of AI systems;
- Transparency in the operation of algorithms; and
- Conducting risk assessments in the context of fundamental rights.

Compliance with the principles arising from the AI Act not only ensures legal compliance, but also supports the company's image as being socially responsible and ethical, which is increasingly important in a competitive marketplace.

Is introducing AI always a good step?

Investment in artificial intelligence can open up new opportunities and attract the attention of investors and business partners. However, businesses need to be cautious, especially if they have limited financial and technological resources.

AI-based technology is still in its infancy and implementing it in smaller companies may prove challenging. The decision to implement AI should be preceded by a detailed analysis of:

- The needs of the organisation: will artificial intelligence actually solve the company's key problems?
- Available resources: does the company have the right infrastructure and team to support AI systems?
- Risks and costs: will the investment in AI deliver returns relative to the expenditure incurred?

Summary: AI as a strategic tool

Artificial intelligence has the potential to become a key element of business strategy, boosting a company's growth and increasing its competitiveness. At the same time, the integration of AI requires not only proper technological resources, but also an awareness of risks and legal liability.

Challenges related to data protection, business ethics and compliance with regulations such as the AI Act show that employing AI is not only a technological decision, but also a strategic one. A responsible approach to introducing AI will help companies build a competitive advantage while avoiding potential risks and legal issues.

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YOUR CONTACT

Michał Kaczmarski
junior lawyer
junior tax consultant
michal.kaczmarski@ecovis.pl

AUTHOR: ATTORNEY AT LAW MICHAŁ SOBOLEWSKI

MANAGEMENT CONTROL IN A LIMITED LIABILITY COMPANY: RISK PROTECTION MECHANISMS AND THE LIABILITY OF THE MANAGEMENT BOARD

Conducting business in a limited liability company (sp. z o.o.) requires appropriate oversight of the actions of the members of the management board. Under the Commercial Companies Code, the management board members have broad powers to conduct business and represent the company. Although such an arrangement is necessary for the smooth operation of the company, it does come at the risk of abusive or erroneous decisions that may jeopardise the financial condition and reputation of the company.

Control mechanisms in the articles of association

In order to mitigate the risks arising from the actions or omissions of management board members, it is worth considering additional control mechanisms in the articles of association. Examples include:

- Requirement to obtain consent for key decisions: The management board may be required to obtain the approval of a supervisory authority (e.g. a supervisory board) or the shareholders before making decisions concerning significant areas of the company's business.

- Limits on the value of transactions: The articles of association may specify a maximum value of transactions that the management board may enter into without additional approval from shareholders or the supervisory board.

- Procedures for related party transactions: Detailed reasons and approval of any related party agreements or the granting of additional benefits, such as bonuses, to management board members may be required.

- Reporting on the state of the company's business: Management board members can be required to submit regular reports on the financial situation, ongoing projects or business risks, which will allow shareholders and supervisory authorities to better monitor the company's activities.

The management board regulations – a tool to promote transparency

The management board regulations are an additional document that can set out controls put in place in the articles of association. It should include:

- The principles of decision-making by the management board;
- The specific responsibilities of management board members;
- Procedures for reporting and obtaining approval of actions; and
- Sanctions for the non-fulfilment of duties.

With management board regulations, the board members are motivated to make transparent and informed decisions. Such a document can also be helpful in conflict situations, especially when management board decisions are challenged by shareholders or supervisory bodies.

Civil liability of management board members

Regardless of any control mechanisms in place, management board members may be liable under civil law to the company for damage caused. The condition for liability is that the following prerequisites are met jointly:

- The unlawfulness of an act or omission of a management board member.
- The fault of the management board member, including wilful misconduct or gross negligence.
- The occurrence of damage on the part of the company.
- An adequate causal link between the management board member's action and the damage caused.

This liability is an important means of protecting the interests of the company, complementing the optional control mechanisms.

A comprehensive approach to protecting the company's interests

The combined use of control mechanisms, such as provisions in the articles of association or management board regulations, together with the civil liability of management board members, effectively minimises the risk of damage to the company's assets.

The introduction of such solutions increases the transparency of the management board's operations and builds trust among shareholders and stakeholders. Thoughtful protection against dishonest decisions by management board members is not only a legal obligation, but also a key element of a company's long-term risk-management strategy.

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YOUR CONTACT

Michał Sobolewski
attorney at law
michal.sobolewski@ecovis.pl

E-DELIVERY: A DIGITAL COMMUNICATIONS REVOLUTION

The introduction of the electronic form of communications with authorities ("e-Delivery") into the Polish communications system symbolises a landmark step towards digitalisation. This service, which is the digital equivalent of a registered letter with acknowledgement of receipt, aims to streamline the exchange of correspondence with authorities and provide users with the convenience that traditional solutions often lack. Although it raises some concerns, its potential to improve the efficiency of communication cannot be overestimated.

Benefits of introducing e-Delivery

E-Delivery has been designed to increase security and convenience for users. Among the many advantages of the system are:

- Data security: e-Delivery letters are protected to the highest standards, minimising the risk of leakage, loss or unauthorised access to documents.
- Convenience and accessibility: users can send and receive correspondence anywhere and anytime, avoiding queues at the post office and the constraints of office opening hours.
- Efficiency of document exchange: the new system eliminates the need to physical send correspondence, significantly speeding up administrative processes.
- Savings for authorities: public institutions can exchange documents between themselves free of charge, which reduces the costs of handling correspondence.
- In addition, users receive immediate notifications of new correspondence to the assigned e-Delivery address, making communication management easier.

Challenges for users

Despite the numerous benefits, the introduction of e-Delivery services also raises certain concerns, especially resulting from the fact that e-Delivery will become mandatory for many businesses.

- Obligation to have an e-Delivery address: the system will cover, among others, trust service providers, public entities and businesses entered into the Central Registration and Information on Business (CEIDG) and the National Court Register (KRS). Sole traders may choose whether to use the new solution or to remain with traditional correspondence.
- Service by default: every action in the system, including simply logging onto an account, is treated as receipt of a document. If no response is received, the document is deemed to have been served by default, which could lead to unexpected consequences.
- Timetable for implementation: the introduction of the e-Delivery obligation will take place in stages, according to the statutory timetable. For many operators, keeping an eye on deadlines and adapting to the new requirements may be a challenge.
- All of these aspects require users to regularly check correspondence and closely monitor changes, which, especially for less tech-savvy individuals and companies, might be difficult.

Timetable for implementation

The obligation to have a e-Delivery address will be imposed on the first group of users in January 2025. This is a key moment, allowing the effectiveness and functionality of the new system to be tested and assessed.

It is important for both institutions and businesses to be prepared for the new obligation early, in order to reduce the risk of issues that may arise at the initial stage of the process.

Summary: digital future within reach

E-Delivery is a step towards modernity that has the potential to revolutionise the way we communicate with authorities and beyond. The introduction of this service should significantly improve the efficiency of document exchange, while benefiting both citizens and public entities.

Nevertheless, the success of the new solution depends on users and authorities being properly prepared. Therefore, it is advisable to know the principles of the system's operation now and to adapt your processes to fully use the potential of e-Delivery and avoid any problems in the future.

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YOUR CONTACT

Kinga Bączyk
junior lawyer
kinga.baczyk@ecovis.pl

DO YOU HAVE ANY QUESTIONS?

WE LOOK FORWARD TO RECEIVING A CALL OR A MESSAGE FROM YOU

ECOVIS LEGAL POLAND
MULTAN, PRUŚ AND PARTNERS LAW & TAX FIRM
9A/5 BELWEDERSKA STREET
00-761 WARSAW
+ 48 22 400 45 85

email: warsaw-law@ecovis.pl

www.ecovislegal.pl
www.ecovis.com