Council of the
European Union

Brussels, 2 June 2022
(OR. en)

9295/22
ADD 4

LIMITE

FISC 114
ECOFIN 452

REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Code of Conduct Group (Business Taxation) - Report to the Council = Approval

Poland's robotisation tax relief (PL016)

1. Background:

1. The PL016 measure – robotisation tax relief - was notified in the standstill exercise 2021.

2. Relevant legal framework

2. The Act of 29 October 2021 amending the Act on Personal Income Tax, the Act on Corporate Income Tax[1] and certain other acts, the so-called 'Polish Deal', provides for several tax amendments or new measures, amongst which the PL016 measure.

3. The above measure entered into force on 1st January 2022.

3. Purpose of the measure

4. Poland has introduced the measure to promote investment in robotisation by allowing for an additional tax deduction from the tax base of eligible robotisation costs.

[1] Article 38eb UPDOP (Corporate Income Tax Law)

4. Design of the measure

4.1. Beneficiaries

5. Taxpayers conducting business activities are entitled to a deduction of 50% of robotisation costs (eligible costs) from their tax base at the end of the tax year[2].

6. The robotisation tax relief is available to resident and non-resident taxpayers alike, regardless of their size, type of business activity or legal form.

4.2. Eligible investments/ assets

7. The relief is limited in time to five tax years (eligible period: 2022-2026), i.e. the eligible costs have to be recognised as tax deductible costs within the eligible period.

8. The additional tax deduction is limited to the amount of income generated by the taxpayer through a business activity in a given tax year (income from capital gains is excluded). If the taxpayer incurs losses in the given period, the right to deduct is carried forward. The carry forward rule is limited to 6 years.

9. The following tax-deductible costs are considered to constitute eligible costs:
   a. costs of purchasing brand new:

      - industrial robots[3],

      - machines and peripheral devices intended to work with industrial robots[4],

      - machines, devices and other things intended to work with industrial robots, used to ensure ergonomics and work safety (occupational health and safety equipment),

      - machines, devices or systems for remote management, diagnosis, monitoring or

      servicing of industrial robots,

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[2] Similar to the Polish R&D tax incentive.

[3] Industrial robot (provisional translation):

is an automatically controlled, programmable, multi-purpose and fixed or mobile machine with at least 3 degrees of freedom, with manipulative or locomotive properties for industrial applications, which cumulatively meets the following conditions:

 exchanges data in a digital form with control and diagnostic or monitoring devices for remote: control, programming, monitoring or diagnosis;

 is connected to information and communication systems which improves the production processes, in particular production management, planning or product design systems;

 is monitored by means of sensors, cameras or other similar devices;

 is integrated with other machinery in the production cycle.

[4] Accessories, e.g. running tracks, rotors, end effectors.

- human-machine interaction devices;

b. costs of purchasing intangible assets that are indispensable for activation and proper use of the fixed assets mentioned above;
c. costs of purchasing training services concerning the fixed assets and intangible assets mentioned above;
d. costs of leasing fees concerning the fixed assets listed above, where ownership of those fixed assets is transferred to the taxpayer after the end of the leasing contract.

10. All eligible costs have to be recognised as tax-deductible costs. In a majority of cases it results in the robotisation costs being equal to the depreciation costs.

11. A taxpayer who sells the eligible assets before the end of the depreciation period is required in the tax return for the tax year in which the disposal took place, to increase the tax base by the amount of deductions previously made.

4.3.<u>Tax advantage</u>

12. The tax advantage consists in an additional deduction of 50% of the eligible costs from the tax base at the end of the tax year.

4.4.<u>Amount of the tax advantage</u>

13. From the information made available in the notification exercise, the law does not seem to provide for any cap regarding the amount of the investment/ eligible costs.

14. Therefore, assuming eligible costs of 1 000 000 EUR stemming from the acquisition price of a new industrial robot, the eligible software and the training costs with the relevant staff, the additional tax deduction would amount to 500 000 EUR (50% of the eligible costs). The standard CIT rate in Poland is 19% (9% for small taxpayers[5]).

15. The 500 000 EUR deduction from the tax base would amount to a tax benefit of 95 000 EUR of CIT reduction.

5. Impact of the measure

16. The measure has just been recently introduced, thus such data is at this moment not available.

17. The relief is limited in time to five tax years (eligible period: 2022-2026), i.e. the eligible costs have to be recognized as tax-deductible costs within the eligible period.

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[5] Taxpayers whose income earned in a tax year does not exceed the equivalent of €2 million in Polish zloty are subject to a 9% tax rate.

6. Conclusion

18. It is the Commission Services' opinion that the measure does not need to be assessed, in particular for the following reasons:

    i. The tax relief is linked to real costs incurred upon acquisition of "tangible fixed assets"[6] (brand-new industrial robots); Fixed assets are *per se* less prone to tax planning;
    ii. Such assets need to be used in generating business profits;
    iii. The assets must be new and not in use before – thus, the law avoids cascading of the asset in the group to benefit several times the additional deduction;
    iv. The measure applies temporarily - only for eligible costs recognized as tax-deducible within the period 2022-2026;
    v. The tax relief can only be used against amount of income generated by the taxpayer through a business activity in a given tax year; income from capital gains is excluded.
    vi. If in a given year the tax relief cannot be used fully, it can be carried forward for a limited period of six years.
    vii. The tax benefit is granted only if assets are maintained as no interruption of the depreciation is allowed (a recapture mechanism of the previously allowed deductions is provided for if assets are sold before the end of the depreciation period).

7. Follow-up

19. In light of the aforementioned, the GOCG agreed that the measure does not need to be assessed.

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[6] And related costs, purchasing i) intangible assets that are indispensable for activation and proper use of the fixed assets mentioned above; and ii) training services concerning the fixed assets and intangible assets mentioned above.