

# Tax authorities and NSA explain how to claim tax-deductible costs

## I. Expenses incurred for a rally car may be a company cost

Expenses associated with rally cars may constitute tax-deductible costs if the vehicles are intended solely as a promotional and advertising tool. Whether a given expense is representational in nature should be assessed through the lens of its purpose. These expenses are not representational in nature because their purpose is to promote the company and its products, and not to create a positive image or show its good financial position – the Voivodship Administrative Court in Poznań indicated in its ruling of 23 May 2024 (case file I SA/Po 174/24).

## II. Sole traders will claim two leased cars

There is no rule that would prohibit claiming expenses for two passenger cars, as long as they are used for the purposes and as part of the taxable person's business – according to an individual interpretation issued by the Director of National Tax Information on 23 May 2024 (number 0112-KDIL2-2.4011.182.2024.1.AA). If the value of a leased car does not exceed PLN 150 thousand, the expenses will be fully deductible. Insurance premiums for a car with an insured value of no more than PLN 150 thousand are also fully tax-deductible.

## III. Hairdresser and manicure costs not deductible for training provider

The expenses incurred for hairdressing, gel nails and beautician services incurred by a trader whose main activity is the provision of training cannot be considered tax-deductible, as they are personal in nature. This is not mitigated by the fact that the business involves frequent interaction with clients and training participants, which makes it necessary to maintain a professional image – indicates an individual interpretation issued by the Director of National Tax Information on 5 June 2024 (number 0112-KDIL2-2.4011.363.2024.2.MW).

Taxable persons invariably continue to be concerned with being able to include certain expenses in tax-deductible costs. It is also one of the matters that is raised most often in requests for tax interpretations. We are, therefore, presenting what we believe to be the most interesting recently issued tax interpretations and court rulings on expenses incurred by companies.



#### IV. Interest paid on a mortgage may be claimed as tax-deductible

The costs incurred to maintain and use a home (power, water, gas, waste removal, sewage disposal, Internet service), in proportion to the area of the home used for business purposes, will be tax-deductible for the business – the Director of National Tax Information found in an individual interpretation issued on 16 May 2024 (number 0113-KDIPT2-1.4011.196.2024.2.KD). The interpretation also explains that interest paid on a mortgage, in proportion to the area of the house occupied for business purposes, will also be tax-deductible for the business.

#### V. Leasing and purchase of a leased car with separate cost limits

Traders will be entitled to two limits of PLN 150 thousand with regard to an operating lease agreement, i.e. one arising out of Article 23 par. 1 point 47a of the PIT Act (on fees under a lease agreement), and the second set out in Article 23 par. 1 point 4 of the PIT Act, relating to depreciation write downs taken after buying the subject of an operating lease (the calculation of which should take into account the buyout value of the leased car) – according to a ruling issued on 7 February 2024 by the Voivodship Administrative Court in Białystok (case file I SA/Bk 490/23).

#### VI. CEO will pay no PIT for company car used to commute to the office

A CEO who has been provided a company car in order to properly fulfil his official duties, including to commute from his/her place of residence to the place of performance of those duties and back, will generate no taxable income on this account from gratuitous benefits, in respect of which the company would have to meet the obligations of a tax remitter – states an individual interpretation issued by the Director of National Tax Information on 12 April 2024 (number KDIT1.4011.130.2024.1.MN).





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## VII. Costs of a jointly owned car tax-deductible

A trader may claim as tax-deductible, in proportion to his/her share in the joint ownership of a car, the depreciation charges on the initial value of a car constituting a fixed asset. If a passenger car is used for both business and private purposes, then the eligibility to claim 75% of the operating costs incurred for fuel, maintenance, repairs, car wash, new tires, purchase of parts, will be proportionate to the trader's share in the ownership of the car – according to an individual interpretation issued by the Director of National Tax Administration on 8 March 2024 (number 0113-KDIPT2-1.4011.19.2024.4.MAP).

## VIII. Penalty for failure to properly secure goods for shipment tax-deductible

Given that while using civil law terminology a reasonable law maker lists among the contractual penalties that are tax-deductible only those that relate to defects in the goods delivered, it is fair to assume that contractual penalties for defects relating to securing, packaging and delivering goods may be claimed as tax-deductible – states a ruling issued by the Supreme Administrative Court on 13 February 2024 (case file II FSK 666/21). Thus the court disagreed with the interpretation of the Director of National Tax Information that expenses incurred to cover debit notes for goods delivered for sale through a selling portal, which did not meet the portal's requirements, fall within the catalog of contractual penalties and damage compensation excluded from tax-deductible costs in accordance with Article 23 par. 1 point 19 of the PIT Act.

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