

Ministry of Finance explains thermal modernization relief

I. Modernization relief after several conditions are met

Thermal modernization relief is addressed to those taxable persons who pay personal income tax on the tax scale, at the flat rate of 19% (flat-rate tax) or with lump-sum tax on registered income. Thermal modernization relief is available to taxable persons subject to unlimited taxation in Poland, as well as to those whose tax liability in Poland is limited to the income (revenue) generated in the territory of Poland. The relief consists of a deduction from the tax base (for tax scale and flat-rate taxable persons) or from income (for those who pay lump-sum tax on registered income) of the expenses incurred for a thermal modernization project. Eligibility for thermal modernization relief depends on the fulfilment of conditions relating to: the type of expenses, proper documentation of the expenses, building type, building location, legal title to building, thermal modernization project duration, the amount and financing source of the expenses.

II. Not every expense is deductible under thermal modernization relief

The regulations contain a catalogue of expenses recognized as thermal modernization expenses, which include the costs of: improvements resulting in a decrease in the demand for energy used to supply hot water and heat to residential buildings; improvements resulting in a reduction of primary energy losses in local heating systems and the local heat sources that supply them, if the residential buildings to which energy is supplied from these systems meet the energy-saving requirements of the building code, or steps have been taken to reduce the consumption of energy supplied to these buildings; connecting to centralized source of heat following the elimination of a local source of heat, resulting in a reduction of the costs of obtaining heat supplied to residential buildings; total or partial replacement of energy sources with renewable sources or the use of high-efficiency cogeneration. Deductible under the relief are only the expenses incurred for the purchase of those materials and services that are listed in the relevant decree issued by the minister of investments and development.

III. Deduction only based on invoices issued by active VAT taxable persons

The amount of thermal modernization expenses is determined based on invoices issued by a person taxable with value added tax and not exempt from that tax. If the expenses were taxed with value added tax, then considered to be the amount of the expense is the expense along with value added tax, as long as the tax was not deducted under the VAT Act. Importantly, the requirement to document a thermal modernization expense with an invoice issued by an active VAT taxable person also applies to expenses incurred abroad. And so assuming that all the other conditions are met, an expense can be deducted under thermal modernization relief only if the taxable person has been issued an invoice by a VAT taxable person not exempt from that tax.

No energy audit is required for a thermal modernization project - the tax explanations issued by the minister of finance on 30 March 2023 indicate. They also state that expenses for the purchase and installation of a heating function air conditioner do not qualify for thermal modernization relief.



IV. Only expenses for single-family buildings are deductible

Deductible under thermal modernization relief are only those expenses from the list that are incurred for the implementation of a thermal modernization project in a single-family residential building as defined in the building code. Therefore, whenever for the purposes of thermal modernization relief reference is made to a single-family residential building, this means a building that is: detached or semi-detached, terraced or grouped - used to meet residential needs, is structurally an independent whole, where no more than two residential units or one residential and one commercial unit with a total area equal to no more than 30% of the total area of the building are allowed. Importantly, the relief is also available in a situation where because it is not technically possible to install a system (including a photovoltaic system) on a single-family building, the system is instead installed on the ground or on another building, such as a garage or outbuilding, and serves not only the residential building, but also other buildings on the taxable person's property.

V. Deduction can only be made by building owner

Thermal modernization relief only applies to those expenses that the taxable person incurred for a thermal modernization project in a single-family residential building he owns or co-owns. In the case of co-ownership, this includes both fractional and joint co-ownership. In the case of fractional co-ownership, the size of the shares is not important. The condition of having legal title must be met when the relief is applied in the tax return filed for the tax year in which the taxable person incurred expenses eligible for thermal modernization relief. This means that the relief is not available to those who only rent a residential building.

VI. Three years to complete thermal modernization project

To be able to apply the relief the taxable person must complete the thermal modernization project within 3 consecutive years from the end of the tax year in which the first expense was incurred for the project. If the deadline is not met, the taxable person will have to return the relief by adding the previously deducted amounts to the income/revenue for the tax year in which the deadline for completing the project expired. It is also important to remember that thermal modernization relief may be applied to a thermal modernization project commenced by 31 December 2021 and completed after that day, but no later than within 3 consecutive years counting from the end of the year in which the first expense was incurred.

VII. Separate thermal modernization relief limits for spouses

Irrespective of the amount of expenses incurred for thermal modernization, the amount of the deduction cannot exceed PLN 53 000 for all the taxable person's thermal modernization projects, for all the single-family residential buildings he owns or co-owns. The relief limit is not, therefore, tied to a single investment or thermal modernization project, but is determined for each taxable person irrespective of the number of thermal modernization investments. For taxable persons who are married, each of the spouses has a separate limit of PLN 53 000, but where a portion of the limit is unused by one of the spouses, it does not increase the limit for the other spouse. A taxable person who deducted expenses incurred for a thermal modernization project and then returned the relief (by correcting a return or adding previously deducted amounts) renews his limit by the returned amount.



VIII. When using a credit or loan, deduct expenses, not repayments

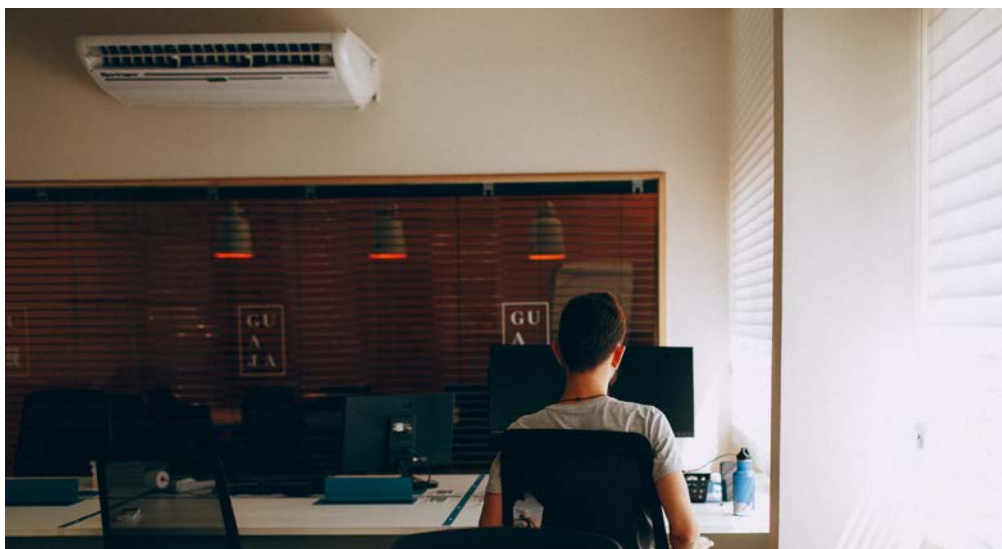
When it comes to thermal modernization expenses, the source of financing is important. Deductible under the relief are expenses financed with the taxable person's funds. No deduction may be made on that portion of the expenses, which was: financed (subsidized) from the National Fund for Environmental Protection and Water Management or from voivodship environmental protection and water management funds; returned to the taxable person in any form; included in tax-deductible costs; claimed by the taxable person for the purposes of tax relief as defined in the Tax Ordinance; already deducted. Eligible for deduction are only those expenses whose economic burden is borne by the taxable person (i.e., expenses that reduce the taxable person's assets). Such expenses will also include those financed with a credit or loan if the repayment of the debt is borne by the taxable person. In such cases, the amount of eligible expenses is determined based on the amount of thermal modernization expenses financed with the credit or loan, and not the amount repaid.



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IX. Deduction must be corrected after expenses returned

If after the year in which the taxable person applied the thermal modernization relief he is refunded the previously deducted thermal modernization expenses, the taxable person is required to account for this refund by adding the previously deducted amounts back to his income (or revenue), or by filing a correction to the previously filed return in which he applied the relief. In the event of a correction, there may be consequences in the form of interest charges if the correction is filed after the tax filing deadline. The taxable person is free to choose how to account for the refund of any previously deducted thermal modernization expenses. He can choose the solution he considers to be the best for him.



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