

# Corporate tax treatment of personally traceable expenses (1/48/18)

A key principle of the corporate income tax (CIT) reform is to exempt CIT on costs already charged to personal income tax (PIT). Yet there is the question of how to charge CIT on costs that are exempt under the PIT Act.

## The general principle in the CIT Act

Costs charged to PIT are not deemed profit distributions under the new CIT Act.<sup>1</sup> There could be situations in which the same cost was charged to both PIT and CIT under the old CIT rules. Regardless of its substance and link to an employee or unrelated party, any cost on which PIT has been withheld is now exempt from CIT.

The CIT Act provides that business expenses include amounts spent on employees and shareholders that are exempt from PIT under the PIT Act.<sup>2</sup> Since the CIT Act restricts this relief to particular classes (employees and shareholders) we conclude it does not automatically extend to other classes, such as customers or suppliers. So, in the case of costs that are exempt from PIT and traceable to a customer or supplier, their substance should be assessed to determine whether they are related to business.

There are not many cases where costs associated with a particular unrelated party are exempt from PIT (e.g. a competition prize of up to €143 and a student scholarship of up to €280 under a tripartite placement contract with an education establishment). In such cases, their business nature should be assessed separately. The business link of a scholarship is easier to prove, but the treatment of a competition prize is more complicated.

## Funeral benefits

The CIT Act provides that funeral benefits, which are exempt up to €250 under the PIT Act, are treated as spending on staff sustainability events. While these are non-business expenses, they are not deemed profit distributions up to a statutory cap.<sup>3</sup> While exempt funeral benefits are considered business expenses under article 8(2)(1) of the CIT Act, they have a slightly less favourable CIT treatment under article 8(4)(4) than other employee income that is exempt from PIT.

## Summary

	<i>Cost traceable to employee or shareholder</i>	<i>Cost traceable to unrelated party such as customer</i>
<i>PIT has been paid</i>	Business expense	
<i>Exempt income under PIT Act</i>	Business expense	Separate assessment required: it could be business or non-business expense
<i>Funeral benefit of up to €250</i>	Spending on staff sustainability events	n/a
<i>Excess of funeral benefit over €250</i>	Subject to PIT and therefore business expense	n/a

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<sup>1</sup> Article 4(3) of the CIT Act

<sup>2</sup> Article 8(2)(1) of the CIT Act

<sup>3</sup> Unless these expenses, combined with other spending on staff sustainability events and representation expenses, exceed 5% of gross payroll.