

ACCOUNTING AND TAXATION OF LEASING CONTRACTS

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TOPICS:

5. TAXATION OF LEASING CONTRACTS



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Maintenance and repair of own fixed assets (lessor - in the case of operational leasing, lessee - in the case of financial leasing)

According to item 20 of GD no. 704/2019, the attribution of subsequent expenses/costs related to the repair or development to current expenses or to subsequent costs to be capitalized is carried out in accordance with NAS/IFRS. Accordingly, the deductibility of these expenses for tax purposes depends on the entity's decision on how to classify repairs as current costs/expenses of the period or capitalization of the cost of fixed assets in accordance with the provisions of NAS/IFRS.



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Maintenance and repair of own fixed assets (lessor - in the case of operational leasing, lessee - in the case of financial leasing)

Subsequent costs/expenses for repairs, which, according to the provisions of NAS/IFRS, should be reflected as current costs/expenses for tax purposes do not require adjustments and are allowed for deduction if they comply with paragraph (1) of art. 24 of the CF.

A separate rule is provided for the expenses related to the repair of the own means of transport used for the provision of road transport services for people in taxi mode, the deduction in the amount of 100% being allowed.



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Regarding the costs of maintenance, servicing and technical assistance, taking into account the provisions of paragraph 23 of GD no 704/2019, they are not considered expenses for repair, being attributed to current expenses, with the recognition of the deduction in accordance with art.24 (1) of CF no 1163/1997.

If the subsequent expenses/costs that, according to the provisions of the NAS/IFRS, must be capitalized (in accounts 121, 131, 151), for tax purposes, they are also capitalized by increasing the initial cost by the sum of the subsequent expenses/costs incurred.



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That is, for tax purposes, the same approach applies as in accounting with regard to the procedure for capitalizing the cost of repairing fixed assets.

The amount of capitalized expenses (subsequent costs) for repairs/development influences the increase in depreciation calculated for tax purposes starting with the month following the month in which the capitalization took place.

At the same time, we note that, both in financial accounting and for tax purposes, for the period of repair works, the depreciation of fixed assets is not interrupted.



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Example In 202N, the entity incurred the following expenses related to the maintenance, servicing and repair of fixed assets, reflected in the balance sheet:

maintenance and technical service of the Mercedes car - 6 280 lei;

capital repair of the administrative building - 947 000 lei.

The renovation works were completed on May 16, 202N and, as a result, it was established that the duration of use of the building increased by 7 years.



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Example

According to the data, for example, expenses related to the maintenance and upkeep of cars, as well as current repairs of fixed assets, carried out for the purpose of entrepreneurial activity are deductible for tax purposes.

As for the expenses for the capital repair of administrative buildings, the procedure for deducting them is carried out by calculating the depreciation, starting with the following month after the completion of the repair works.

According to the example, the capitalized amount of 947,000 lei from June 202N will increase the depreciable value of the building.



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When filling in the Register of depreciation of fixed assets for tax purposes (Annex 1 to GD no. 704/2019), the operations related to the capitalization of costs are reflected in columns 13-22 of section II "After the repair/development has been carried out".



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Maintenance and repair of rented fixed assets

'Leased fixed assets' include fixed assets received by the entity for use and which are subject to the limitation of repair costs. Such assets include fixed assets that can be depreciated for tax purposes, i.e. investments in fixed assets that are used by the entity in its activity and that are subject to a contract of:

operational leasing,

rent

concession

rental

commodity,

sublease

other types of contracts.

The specificity of the so-called "investments in fixed assets" is that they are recorded in off-balance sheet accounts, and the repair costs, according to the above contracts, are borne by the lessee, lessee or concessionaire.



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According to art. 26/1 paragraph (11) of the CF, the expenses related to the current and capital repair of fixed assets that do not correspond to the provisions of para. (2) The following are allowed for deduction:

within the limit of 15% of the calculated amount of the lease, lease, operational lease or royalty (concession payment), incurred during the fiscal period,

in the case of repair expenses of international air transport means - in the amount of 100% of the calculated amount of the operational leasing rate, incurred during the fiscal period.



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According to the norm, it is stipulated that all types of repair works, both current and capital, which do not correspond to para. (2) of art.26/1 of the CF are limited to 15% of the calculated amount of the lease, lease, operational leasing or royalty (concession payment), excluding expenses related to the repair of international air transport.

The amount of repair expenses allowed for deduction and the value of the fixed asset to be ascertained in accordance with art.26/1 para. (3) of CF no. 1163/1997 shall be determined by filling in the form in Annex no. 2 to GD 704/2019.



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The amount of the excess of the repair expenses of fixed assets that do not correspond to the provisions of art. 26/1 para. (2) of CF no.1163/1997 above the 15% admitted in accordance with art.26/1 para. (11) of CF no. 1163/1997, upon completion of the repair works, is recognized as a separate fixed asset unit, which is included in the Register on the record and calculation of depreciation of fixed assets for tax purposes.



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The depreciation period for fixed assets ascertained in accordance with art.26/1 para. (3) of CF no. 1163/1997 represents the minimum duration between the remaining duration of the contract and the useful operating period of the fixed asset that is the object of the contract.

The useful operating period is established by the lessee/concessionaire according to the manner established by the Government, similar to the fixed assets over which the entity holds the right of ownership.



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The entity shall be entitled to establish a useful life longer than that determined in accordance with paragraph 26.

The expenses related to the current and capital repair of fixed assets that are the subject of an operational leasing, lease, concession, lease, bailment, sublease or other contracts that give the right to use them, concluded for a period of less than 12 months inclusive, are fully allowed for deduction in the respective fiscal period.



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In case of carrying out two or more repairs or in case of carrying out a single repair during several fiscal periods, related to the same fixed asset, at the decision of the entity, the amount of the excess of the repair expenses above the limit allowed for deduction according to art.26/1 para. (11) of CF no. 1163/1997:

is capitalized in a single fixed asset recognized according to art.26/1 par. (3) of CF no. 1163/1997 or separate fixed assets are created for each repair.

