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Corporate Income Tax

FINLAND

Sale of apartments did not affect the tax exemption of a city-owned rental apartment company

Advance ruling 64/2014 by Central Tax Board, 17th of December 2014

A Oy was owned by city X. The company was tax exempt as its operations consisted of acquiring, holding and renting of apartments in the City X's area. A Oy had planned to sell the shares that entitled to the ownership of three apartments. With the capital received from the sale, A Oy was supposed to acquire new apartments which would match better to the needs of A Oy's customers. According to the advance ruling by the Central Tax Board, the sale of shares did not affect the income tax exemption A Oy had.

SPAIN

Several amendments to the Spanish corporate taxation as from 1 January 2015

The new law comprises amendments among others to the following matters: depreciation and losses, definition of permanent establishment, tax rates, elimination of double taxation as regards dividends and capital gains, group taxation, transfer pricing and anti-abuse provisions.

According to the amended regulation, losses will be carried forward indefinitely instead of the current limit of 18 years. However, there are certain limitations to the deductibility of tax losses regarding the tax years 2014 and 2015.

The general corporate income tax rate (CIT) is lowered to 25 % and withholding tax rate to 19%, respectively, as from 2016. Newly founded companies continue to be taxed at the decreased CIT rate of 15%.

NETHERLANDS/SWEDEN

Swedish Tax Authorities have defined Dutch FGR funds for withholding tax purposes

The Swedish Tax Authorities have released a circular on 15 January 2015, in which a closed fund for mutual account (*fonds voor gemene rekening*, "FGR") established in the Netherlands is regarded as transparent for Swedish withholding tax purposes. Therefore the investments made via FGR are deemed as directly owned by the investors.

NETHERLANDS

Sister companies can form a fiscal unity for group taxation consolidation purposes

The Dutch group taxation was amended on 30 December 2014 by a new decree on group taxation (BLKB2014/2137M). According to the decree, a fiscal unity can as of 16 December 2014 consist also of



sister companies, which both are owned by a company resident in another EU Member State, and of a parent company and a sub-subsidiary owned by an intermediary company resident in another EU Member State. The reason behind the amendment was that the previous legislation on tax consolidation was contrary to EU tax law.

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Transfer Pricing

Current trends in double taxation elimination

International double taxation usually occurs when an amount is included in the taxable income in one state but is not accepted as deductible in another state. This has harmful effects on the cash flow and effective tax rate of a company.

The prevalence of international double taxation has clearly been on the increase already for several years according to the statistics of both EU and OECD. The amount of mutual agreement procedures under the EU Arbitration Convention has increased on average by 15 %, although differences between Member States were substantial. This can be considered as an indication of corporations not always assenting to the decisions made in the tax audits but being ready to seek a solution from mutual agreement procedures or arbitration.

The EU Arbitration Convention provides for the obligatory elimination of double taxation by agreement between the contracting states whereas the OECD Model Tax Convention Article 25 includes rules for the Mutual Agreement Procedure and where the possibility of incorporating an arbitration clause is optional. The tax treaties of Finland do not include arbitration clauses but are based on mutual agreement procedures. Lack of obligatory arbitration process can lead to a situation where the countries cannot agree on the elimination of the international double taxation. Moreover, the BEPS Project may lead to an increase of international double taxation situations and disputes. Therefore, internationally operating corporations can already be prepared by either utilizing Advance Pricing Agreements (APA), which prevent tax disputes, or in case an APA is not possible, by having a well-thought tax defense strategy.

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Corporate Law

The new general terms and conditions for public procurement of supplies and services

The new general terms and conditions for public procurement of supplies and services ("JYSE 2014") were published in July 2014. On the revised JYSE 2014 some significant material changes were achieved also from the business world point of view. The first material change is the introduction of liability cap. According to JYSE 2014, the maximum amount of liability for damages is defined for both contracting parties as the value of procurement contract multiplied by five. Other important changes concern the possibility of price adjustments after 12 months fixed period and the service provider's liability towards the service user in case of a breach of the agreement. In addition, the overall structure of the general terms and conditions has been clarified and definitions and concepts specified.

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