

5.6.2014

Corporate Income Tax

FINLAND

Tax Administration's updated guidelines regarding the tax treatment of co-operatives

The Tax Administration has updated its guidelines on the tax treatment of co-operatives to correspond the Co-operatives Act that became effective on 1 January 2014. The updated guidance concerns income tax treatment of a member of a co-operative as regards the disbursements by a co-operative based on the amount of shares held. In addition, the guidance applies to the additional stakes, investment shares and remittances in accordance with the previous Co-operatives Act that have been paid from the reserve for invested unrestricted equity.

EU

Commission-led Expert Group's final report on Taxation of the Digital Economy

The European Commission released the final report on 28 May 2014 regarding taxation of the digital economy in the EU. The report discusses the general principles that should guide international taxation. The main conclusions of the report are the following:

- There should be no separate tax regime for digital economy.
- A well-coordinated, simple and neutral tax system is necessary for digital technology to realize its Single Market potential, thus it is important to remove existing tax barriers to Single Market.
- Tax incentives and credits should be approached with caution, since any departure from neutrality and simplicity should be justified on grounds of market failure.
- It is suggested in the report that VAT should be levied in the country where consumption occurs.
- The G20/OECD project should be used as a framework to prevent tax avoidance and aggressive tax planning.
- The proposed directive on Common Consolidated Corporate Tax Base (CCCTB) could enable adoption of new international standards and clarify business environment within EU.
- More radical reforms of the tax system could be possible in the longer term.

The report is meant for discussion purposes, but it also reflects the Commission's will to develop necessary EU initiatives to improve the tax framework for the digital sector in Europe.





RUSSIA

Amendments to the Russian Model Convention

The Russian government has issued Decree No. 371 on 26 April 2014 which amends the Russian Model Convention. The amendments were made in order to update the Russian Model Convention to correspond to the 2010 OECD Model Convention.

The most important amendments include

- amendment of the term “company”,
- introduction of the term “enterprise” and
- addition of a new paragraph to Article 6 “Income from immovable property”.

The Decree applies with effect from 8 May 2014.

BELGIUM

Circular on calculation of notional interest deduction

The Belgian tax authorities have issued a circular on 18 April 2014 (AAFisc Nr. 19/2014 (Nr. Ci.RH.421/629.195)) on the consequences of the recent judgment by the Court of Justice of the European Union (CJEU) in case C-350/11, Argenta Spaarbank. The CJEU concluded that the Belgian rules on the notional interest deduction (NID) were discriminatory as they facilitated different tax treatment between assets of a permanent establishment or immovable property situated in an EEA country other than Belgium and assets of a permanent establishment or immovable property situated in Belgium.

The Belgian legislator has amended the Belgian Income Tax Code earlier this year. The new rules distinguish between the EEA countries, treaty countries and non-treaty countries. The amount of NID is reduced according to the new rules concerning assets in the EEA countries other than Belgium. The Belgian Council of State and scholars have expressed their concern for the legality of the new method of calculation as it contains a difference in treatment between a Belgian permanent establishment and a permanent establishment located in an EEA country. The circular contains instructions also on how to retroactively deal with NID calculations.

UNITED STATES

Bill to curb offshore inversion transactions

A new bill was introduced on 20 May 2014 titled Stop Corporate Inversions Act of 2014. Inversion is a transaction in which the place of incorporation of a US corporation is effectively transferred from the US to a foreign jurisdiction with a lower tax but the shareholders of the corporation remain largely unchanged and business activities are not substantially conducted in the latter jurisdiction. In a typical inversion the ownership of the US corporation is transferred to the new foreign parent company the ownership of which is in the hands of the previous shareholders of the initial US corporation. The aim of the inversion is to move the US corporation offshore, i.e. that it will no longer be treated as a US corporation for income tax purposes.



The proposed bill would e.g. make an offshore inversion more difficult by increasing the required percentage change in stock ownership to at least 50 % from the previous more than 20 %.

The proposed bill would treat the new foreign parent company as a US company for Federal income tax purposes if management and control of the new corporation remains in the United States and at least 25 % of the employees, sales, or assets are located in the United States.

If enacted the bill would apply to inversions completed after 8 May 2014.

For further information, please contact

Eija Kuivisto, eija.kuivisto@fi.pwc.com, tel. +358 (0)20 787 7876

Corporate Law

Liability of the member of association

The article is about the liabilities of a member of a registered association. According to the Finnish Associations Act the basic principle related to the liabilities of a member of a registered association is that the member is not responsible for the actions made on behalf of the registered association. A registered association has a full legal capacity and thus it is held responsible for the actions made by the members on behalf of it. Furthermore, according to the Associations Act, the members of an Association are not responsible for the damages caused to the Association by their actions. However, in some occasions it is possible to base the liability of a member on the other legislation than the Associations Act. For example, the member may have a crime-based or contract-based liability or even under tort liability in certain circumstances.

For further information, please contact

Mikko Reinikainen, mikko.reinikainen@fi.pwc.com, tel. +358 (0) 20 787 7463
Milla Kokko-Lehtinen, milla.kokko-lehtinen@fi.pwc.com, tel. +358 (0)20 787 7390