

13.2.2014

## ***Corporate Income Tax***

### **FINLAND**

#### **Decision 14/0038/6 of the Administrative Court of Helsinki**

The decision concerned a situation where an accounting firm providing tax consulting services was requested to provide the Finnish Tax Administration with a confidential memorandum regarding a client's VAT treatment. The Administrative Court stated that the burden of proof, with respect to both the bases for tax deductions and the acknowledgement of the nature of one's actions in the process later seen to be incorrect, lies always with the taxpayer. The Administrative Court ruled that memorandums made by third parties are not considered to form a basis for tax assessment and, therefore such memorandums are not included in the list of items third parties are liable to submit to the authorities. The decision is not yet final.

#### **Tax Administration's guideline: Income taxation of foreign entities in Finland**

Tax Administration has published a renewed guideline concerning income taxation of foreign entities on 29 January 2014. The guideline discusses for example the impact of international double tax treaties to taxation of foreign entities and how a permanent establishment is constituted in Finnish income taxation. Compared to the replaced guideline, income tax liability of such entities has been described in more detail in the new version.

#### **Tax Administration's guideline concerning interest base rate and reference rate**

The Tax Administration published a guideline on how the base interest rate and reference rate affect taxation on 3 February 2014. The Ministry of Finance affirms the base rate every six months and for the period of 1.1.2014–30.6.2014, the base rate is 0.5%. The reference rate is announced by the Bank of Finland. For the fiscal year 2014 (i.e. 1.1.2014–31.12.2014), a reference rate of 0.5% applies.

#### **Tax Administration's guideline: Revised guideline on appeal procedures in taxation**

The Tax Administration has published a revised guideline regarding appeal procedures in taxation on 3 February 2014. The guideline is applicable to all decisions given by the Tax Administration that are subject to tax appeal. From the beginning of 2014, the procedure of addressing certain appeals directly to the Supreme Administrative Court is taken into account in the guideline. In addition, the guideline includes a list of tax offices and a tax collection unit which are responsible for acting as intermediaries when processing tax documents between the Tax Administration and courts.

### **AUSTRIA**

#### **Changes proposed to corporate taxation**

The Austrian government has approved a draft version of the Tax Law Amendment Act 2014 on 29 January 2014, which provides several changes to corporate taxation in Austria. These changes, if enacted, would affect limited tax liability, deductibility of interest and royalty payments, use of losses in certain cases and the minimum amount of corporate income tax due. The proposed amendments have been discussed also in Tax Express 2/2014 earlier this year.

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## **NETHERLANDS**

### **New substance requirements for financial holding companies**

A new provision on substance requirements set for Dutch financial holding companies came into effect on 1 January 2014. According to the provision, Dutch financial holding companies must declare to the tax authorities that they fulfill certain conditions indicating real presence in the Netherlands. The provision was introduced to prevent taxpayers with no real presence in the Netherlands from obtaining benefits under the vast Dutch treaty network. In case the financial holding company does not fulfill the requirements, but wishes to eliminate double taxation with one of the methods available, the Netherlands will spontaneously provide the necessary information about the taxpayer to the relevant double tax treaty partner state or EU Member State.

## **SWITZERLAND**

### **Safe haven rates for 2014 announced**

The Swiss Federal Tax Administration published two Circulars and announced safe haven interest rates applicable to shareholder and related party loans on 30 January 2014. Higher rates can be applied if such rates can be reasoned from business perspective.

## **RUSSIA**

### **Ministry of Finance clarifies deductibility of royalties paid for intellectual property registered in Russia**

The Russian Ministry of Finance clarified the deductibility of royalties paid for the use of intellectual property subject to registration in Russia. According to Letter (No. 03-03-06/1/44292) issued 23 October 2013, when the intellectual property must be registered in Russia, royalties that are paid for the use of that intellectual property are tax deductible only, if the licensing agreement is also registered (or is in the process of registration) in Russia.

## **PORTUGAL**

### **Changes to corporate taxation**

The Republic Gazette published law on amendments in Corporate Income Tax Code. The law is applied to tax years starting on or after 1 January 2014. The most important amendments are as follows:

- the statutory tax rate is reduced from 25% to 23%
- the reduced 17% tax rate is applied to the taxable income up to EUR 15,000 earned by SMEs
- certain tax reporting obligations are simplified
- participation exemption regime is introduced for dividends and capital gains
- the carry-forward period for tax losses is extended from 5 to 12 years
- the group taxation regime is extended.

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## ***Corporate Law***

### **General reform of the public procurement legislation**

The European Parliament has accepted new directives concerning the public procurements and concession contracts on 15 January 2014. The directives will enter into force in the spring 2014 and the member states are obliged to implement the directives within two years period. The procurement legislation will be renewed in its entirety. The reform includes several highly detailed changes. Mainly it aims to ensure better quality and value for money when public authorities buy or lease works, goods or services. New stipulations will also make it easier for small and medium-sized firms to bid and introduce new award criteria that place more emphasis on environmental considerations, social aspects and innovation as well as include tougher provisions on subcontracting. The reform of the national procurement legislation is planned to take effect in Finland in the spring 2016 at the latest.

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