



21.8.2014

Corporate Income Tax

FINLAND

SAC 2014:99, SAC 2014:100 and SAC 2014:101

The Supreme Administrative Court ruled that the missing information in the return receipt regarding the date when the decision subject to appeal was received by the appellant did not constitute legal uncertainty as the date of the receipt can be verified from post office's electronic tracking system. Thus, the Supreme Administrative Court dismissed the appeals on the grounds that the appeals have been filed too late.

SAC 2014:120

The Supreme Administrative Court ruled that the activated development costs could be considered to have value as meant in Section 2.2 of the Act on Valuation of Assets for Tax Purposes. Thus, the costs were taken into account when calculating the net asset value of the company.

Government Proposal 95/2014

The government has proposed amendment to the Finnish Withholding Tax Act. According to the proposal, refund interest shall be paid on the refunded withholding tax.

The Tax Administration Guidelines, record number A47/200/2014

The Tax Administration has updated the guidelines regarding the taxation of non-profit entities.

Tax Administration's notice, 27th of June 2014

The hearing procedure related to tax audits changes in the new tax audits starting in fall 2014. The taxpayer is given the opportunity to submit a response only once the final tax audit report has been finalized. Until now the taxpayer has had also the opportunity to respond to the initial tax audit report.

EU

Council adopts amendment to parent-subsidiary directive to combat aggressive tax planning

The Council of the European Union has on 8 July 2014 formally adopted an amendment to the parent-subsidiary directive (directive 2011/96/EU). The adopted amendment will prevent cross-border groups of companies from planning their intra-group payments in a way which allows the double non-taxation of payments made in relation to hybrid loan arrangements.

Under the amended Article 4 of the directive, the Member State of the parent company will be obliged to refrain from taxing profits to the extent that such profits are not deductible by the subsidiary, and tax such profits to the extent that such profits are deductible by the subsidiary.





Member states have until 31 December 2015 to transpose the amendment into national law.

The Commission has also proposed to revise the current anti-abuse provision in the parent-subsidiary directive. The matter will be further discussed under the Italian EU Council Presidency.

SWEDEN

Changes proposed to the corporate taxation

Swedish Committee on Corporate Taxation, appointed in 2011, has published its proposal on amendments to corporate taxation. The purpose of the Committee was to reform the corporate tax system in order to achieve greater neutrality between the taxation of equity and debt. The proposed model consists of two parts:

1. Under the proposal, the financial costs are tax deductible to the extent that there is a corresponding financial income. Thus, net financial costs are not tax deductible.
 - The definition of financial costs for tax purposes is defined broadly to cover, among others, interest, exchange rate differences and loss on disposal of financial instruments.
 - Under certain conditions, affiliated companies are allowed to offset net financial income and net financial costs.
 - The currently in force interest limitations rules relating to intercompany debt will be abolished.
2. For tax purposes the companies are allowed to make an additional deduction (financial allowance) which corresponds to 25 % of the company's taxable income.
 - This financial allowance is available regardless of whether or not the company has financial costs.
 - In practice, this financial allowance would be equivalent to reducing the corporate tax rate by 5.5 percentage points (i.e. from 22 % to 16.5 %).
 - The proposed rules also apply to financial institutions. In addition, the proposal includes specific provisions for financial institutions.

In its report, the Committee also proposes an alternative model which limits the deductibility of net financial costs to the amount of 20 % of EBIT (earnings before interest and taxes). In this alternative, the corporate tax rate would be reduced to 18.5 %.

Committee proposes that the changes would enter into force in January 2016. Government Bill has not yet been presented to the Parliament.

SPAIN

Council of Ministers announces tax amendments

The Council of Ministers of Spain announced on 20 June 2014 a list of tax measures to be included in the next tax reform. The aim of the amendments is to create employment, boost growth and to provide a more equitable tax system. The amendments concern both corporate and individual income taxation



as well as value added taxation. The following measures concerning corporate taxation will be applied, inter alia:

- The corporate tax rate will be reduced gradually from the current 30 % to 28% for 2015 and to 25 % from 2016 onwards. A reduced tax rate of 15 % will be maintained for newly established companies for the first EUR 300.000.
- Companies will be able to create a special tax-free reserve, where 10 % of their annual profits can be allocated. The aim is to promote self-financing of the companies.
- The tax audit procedure will be modified.

UNITED STATES

Internal Revenue Service issued guidance on revised withholding tax certificate W-8BEN-E

The US Internal Revenue Services (IRS) has issued instruction regarding the revised IRS Form W-8BEN-E. The aim of the renewal is to implement FATCA (Foreign Account Tax Compliance Act) and only foreign (non-US) entities submit the form W-8BEN-E. Foreign entities use the form for example to certify their FATCA-status or to claim income tax treaty benefits.

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Corporate Law

New regulation on central securities depositories into force in autumn 2014

New regulation of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories (CSDs) and amending Directive 98/26/EC enters into force during the autumn 2014. Due to the EU regulation also amendments in the Finnish national legislation are required. The Ministry of Finance set a working group in March 2014 to evaluate the current legislation and to propose relevant amendments. The working group published a memorandum on 1 July 2014. As a key result, the working group proposed that the account system shall be opened to competition by allowing the investors, including also Finnish investors but excluding politically exposed persons, to choose between direct ownership and administrative registration of securities. Other important proposals are the return of the obligation to keep the shareholder register to the companies themselves and the creation of a public shareholder register. The proposal is likely to receive strongly varied comments.

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