

21.11.2013

Corporate Income Tax

FINLAND

Decision 20.10.2013 T 3406 of the Supreme Administrative Court

In the case, the Finnish Supreme Administrative Court decided the following: Company B had merged into Company A. Before this merger, Company B had had an indirect change in ownership in a situation where it had confirmed tax losses. Due to the indirect change in ownership, Company B would not have had the right to retain tax losses without a special permit granted by the Tax Administration. Company B did not have applied for the permission. After Company B had been merged into Company A, Company A applied for the permission to retain tax losses of Company B. The Finnish Supreme Administrative Court ruled, that Company A may apply for the permission even when Company B has lost its right to utilize the losses.

Decision 2013:178 of the Supreme Administrative Court

In the case, the Finnish Supreme Administrative Court decided that the conditions for granting the permission to retain tax losses of a mutual real estate company are the same as any other companies. This is despite the fact, that mutual real estate companies have financial and legal special characteristics.

Before this Supreme Administrative Court's decision, Administrative courts made a number of decisions in which the conditions for granting the permission to retain tax losses of a mutual real estate company was interpreted more severe and the permission was not considered to be necessary for the operations of the company. As a result, the Tax Administration issued an announcement in summer 2013, according to which the Tax Administration would tighten the conditions for granting the permission to retain tax losses of a mutual real estate company.

SAC's decision 2013:178 will probably restore the Tax Administration's permission granting practice.

Advance ruling 47/2013 by the Central Tax Board

The company had substantial reparation expenses which were amortised for accounting purposes. The company aimed at deducting the same expenses as annual costs for tax purposes. According to the Central Tax Board, the company had a right to do so despite of the amortisation of the expenses in the accounts.

Advance ruling 48/2013 by the Central Tax Board

The company's business activities included processing and selling soil. The company had acquired a scrubbing plant for stone products. The scrubbing plant did not fulfill the requirements set for making accelerated depreciations on production investments.

Law package regarding ne bis in idem enacted

A set of laws regarding instituting punitive actions in administrative and criminal process was enacted 8 November 2013 (based on government proposal HE 191/2012). In the future, generally, there will be no possibility to start criminal process, if a punitive tax increase has already been imposed by the Tax Administration, Finnish Customs and Finnish Transport Safety Agency. The laws will be applicable as



of 1 December 2013 and they are applicable to individuals, estates of a deceased person and partnerships.

The Finnish Tax Administration has published the following announcements

An announcement dated on 1 November 2013: The Finnish Tax Administration has published an announcement regarding the statistics of its corporate customers. The statistics concern the tax year 2012. Statistics include information regarding income taxes, tax refunds, outstanding taxes and the amounts allocated to the tax recipients in the whole country, regionally and communally.

The Finnish Tax Administration has started publishing statements on their webpages

The subjects of the statements vary and they concern for example business and international taxation. The statements are not official instructions or official decisions. Statements are available only in Finnish.

NORWAY

Proposed changes to corporate taxation

New Norwegian government has provided its amendments to the Budget Bill for 2014 on 8 November 2013. The amendments seek to stimulate growth by reducing taxes. The proposed amendments, which would generally be applicable as of 1 January 2014, include changes to the corporate income tax rate, R&D scheme and interest deductibility rules.

PORTUGAL

Proposed changes to corporate taxation

A proposal for a reform of Corporate Income Tax Code was submitted to the Portuguese parliament on 14 October 2013. The proposed amendments include changes among others to corporate income tax rate, loss carry-forward provision, dividend taxation and exit taxation. Most of the amendments, if approved by the parliament, will enter into force on 1 January 2014.

RUSSIA

Evaluation of tax-deductible interest expenses should be done quarterly

The Russian Supreme Arbitration Court has given a decision on the deductibility of interest expenses subject to thin capitalisation rules on 17 September 2013. The taxpayer in question had evaluated the deductibility of interest and debt-to-equity ratio in a related-party debt on a yearly basis whereas the Supreme Arbitration Court ruled that the evaluation should be done quarterly, which is in line with the Ministry of Finance's clarifications.



Corporate real estate tax approved

The proposed corporate real estate tax discussed in the previous Tax Express (19/2013) has been approved on 2 November 2013 and will be applicable as of 1 January 2014.

For further information, please contact

Eija Kuivisto, tel. +358 (0) 400 810 253, eija.kuivisto@fi.pwc.com

Corporate Law

Letter of Intent or Preliminary Agreement?

Contract negotiations may be a long and challenging process in which the contracting parties spend a lot of time and money. The issues to be agreed upon may require extensive advance investigations and the parties' wishes, and along with those also many of the contract terms, may be possible to be specified only in the course of the negotiations. Therefore during the negotiations it may be useful to draft a separate letter of intent or a preliminary agreement before the actual main agreement. These types of contracts, however, differ from each other substantially, among other things as regards to their bindingness, and thus it is good to consider during the negotiations what kind of a contractual instrument is the most appropriate in different situations.

For further information, please contact

Elina Kangas
Tel. +358 (0)400 432 343
elina.kangas@fi.pwc.com

Leena Oksanen
puh. 040 522 6054
leena.oksanen@fi.pwc.com