

Corporate Income Tax

FINLAND

Mining right was not considered as a benefit in accordance with Section 31.1 of the Act on the Valuation of Assets for Tax Purposes SAC 9 May 2014, T 1536

According to the decision, mining right cannot be considered as a benefit within the meaning of Section 31.1 of the Act on the Valuation of Assets for Tax Purposes. The real estate tax was nullified to the extent it was based on said benefit.

Interest on an outstanding tax could only be imposed based to unpaid tax SAC 9 May 2014, T 1541

On 8 December 2003, A paid withholding tax and interest on the outstanding tax for a period between 1 April 2003 and 6 December 2003 as imposed by the Tax Administration on 31 October 2003. Following a complaint by A, the Administrative Court reversed the Tax Administration's decision and on 27 January 2006 the Tax Administration refunded the excess payments to A.

The Supreme Administrative Court reversed the Administrative Court's decision and on 8 November 2011 the Tax Administration re-assessed the original taxation. A was imposed to pay interest on outstanding tax for the period from 1 April 2003 to 14 December 2010. However, since A had paid taxes for the period of 8 December 2003 – 27 January 2006 as originally imposed, A was not liable to pay interest for the said period.

FRANCE

Changes to corporate income taxation

The French parliament has approved amendments to French corporate taxation on 29 April 2014. The most important amendments comprise the following:

- The standard rate of corporate income tax (*impôt sur les sociétés*) is gradually reduced to 28 % in 2020 starting from 2016.
- The temporary surtax on corporate income tax (*contribution exceptionnelle sur l'impôt sur les sociétés*) will be abolished in 2017.
- The social solidarity tax (*contribution sociale de solidarité des sociétés*, C3S) on companies will be completely abolished within 3 years.

INDIA

Court ruling on establishment of permanent establishment through secondment

The Indian High Court has stated in a decision (W.P. (C) No. 6807 of 2012) on 25 April 2014 that the secondment of employees in India constituted permanent establishments for their foreign employers.



The High Court considered in its ruling the terms of the contract between the Indian company and the employees' foreign employers. The Court held that the seconded employees were in fact sharing their technical expertise and know-how to the regular employees of the Indian company. The Court also held, with respect to the aforesaid, that this is in practice a transmit of knowledge possessed by the seconded employees to the regular employees and that this falls within the context of "technical services".

In its ruling the Court held that the arrangement was not a pure secondment but the seconded employees performed work, which was connected with their employers' activities. Since both activities were connected, the Court held that the foreign employers were considered to have permanent establishments in India based on double tax treaties concluded between the countries.

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Corporate Law

Restructuring proceedings of a contracting party

Growing number of companies face a situation where their contracting party applies for restructuring proceedings. It is possible to try to minimize losses caused by debt arrangements included in a debtor company's restructuring program. Creditors' real security rights are not affected by the debt arrangements. Thus, agreeing on real securities for major debts is recommended. The right of a creditor depends on the provisions of the contract between the creditor and the debtor. Thus, entering into written contracts is recommended and the provisions of the risk of a corporate restructuring should be considered when drafting the contracts. The creditors also have several possibilities to influence the on-going restructuring proceedings and the contents of the restructuring program, these should be investigated.

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