

19.6.2014

Corporate Income Tax

FINLAND

Decision 14/5085/1 of the Administrative Court of Itä-Suomi, 3.6.2014

The advance ruling request concerned a situation where the foundation to be established would give an annual grant of 20% of the foundation's total aid budget to its founding partner X in accordance with the foundation's regulation. The main question was whether the foundation to be established shall be regarded as a non-profit organization, despite of the aforementioned aid arrangement.

The initial purpose of X was to enhance and support operations for the public good, but as of 2002, X was considered to only carry out business activities. However, from the beginning of 2015, X would continue its operations for the public good and it would be regarded as a non-profit organization. In order to enhance and support its initial purpose, X contemplates establishing a foundation to which it would grant 3 million Euros.

The Administrative Court of Itä-Suomi considered that the annual grant would be given to X on the basis of its participation in the foundation's activities, and therefore the grant would be different from other given aid. Taking the aforementioned matters into account, the foundation was not regarded as a non-profit organization pursuant to the provisions of the Income Tax Act. The decision is not legally valid.

Tax Administration's guideline concerning tax treatment of controlled foreign corporations

Tax Administration has published a renewed guideline concerning tax treatment of controlled foreign corporations on 12 June 2014. In principle, the renewed guideline summarizes the previously published announcements and guidelines and includes an application diagram regarding companies resident in the EEA and countries with which Finland does have a tax treaty.

EU

The European Commission opens formal state aid investigations in a number of Member States

On June 11 2014, the European Commission announced that it will open a formal state aid investigation process regarding tax arrangements with three EU countries: Ireland, the Netherlands and Luxembourg. In its press release, the European Commission announced that the investigation will focus on transfer pricing and the purpose of the investigation is to find out whether the EU countries under investigation have granted significant tax reductions for certain companies against the EU state aid rules. The article 107 of the Treaty on the Functioning of the European Union (TFEU) forbids any aid granted by a Member State in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods. Thus, a state aid can be granted if it does not provide selective advantages to a specific company or group of companies. In addition, the European Commission announced that it will continue its investigations concerning other Member States specifically with regard to IP regimes. The Commission's final decision is not prejudged by the outcome of the formal investigation and there is no specific time limit for rendering the decision.



If the European Commission finds evidence on illegal stated aid practices, any aid granted may be recovered from the beneficiaries with respect to the last 10 years, unless the aid can be qualified as 'existing aid'.

UNITED STATES

First list of FATCA compliant financial institutions released

The United States Internal Revenue Service (IRS) has released the first list of Foreign Financial Institutions compliant with the Foreign Account Tax Compliance Act (FATCA) as per 23 May 2014. The list comprises Financial Institutions and other entities that have completed the FATCA registration and obtained a global intermediary identification (GIIN) number. The list will be updated on the first day of each month. The current list includes 467 Finnish entities.

List of boycott countries reissued

The United States Treasury Department has on 5 June 2014 reissued the list of countries that require cooperation with, or participation in, an international boycott as a condition for doing business. The countries listed are Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and the Republic of Yemen. The new list is unchanged from the list dated 14 February 2014.

BRAZIL

Amendments to the tax on cross-border loan agreements

The Decree 8,263/2014 was published in the Official Gazette of 4 June 2014. The Decree amended the legislation concerning the tax on financial transactions (*Imposto sobre Operações Financeiras – IOF*), which is levied on foreign exchange transactions carried out upon inflows of funds into Brazil under cross-border loan agreements. The new Decree is applicable to foreign exchange transactions carried out as of 4 July 2014.

According to the decree, foreign exchange transactions carried out under cross-border loan agreements with a minimum average term exceeding 180 days are taxed at a rate of 0 %. The Decree changes legislation by decreasing the minimum average term requirement to 180 days from the previous 360 days. The 0 % rate continues to apply to foreign exchange transactions carried out by the Brazilian borrower in order to pay back the principal amount, irrespective of the term of the loan in question.

RUSSIA

Draft Law on the exchange of information with foreign tax authorities

The Russian government has on 14 May 2014 approved a draft law on the procedure of exchange of information with foreign tax authorities. The draft law proposes amendments to several federal laws including laws on banks, foreign exchange regulations and controls. Most important of these amendments are discussed briefly below.

The draft law introduces the obligation for Russian financial institutions to provide the foreign tax authorities and tax agents certain information required for withholding tax purposes of their clients. The draft law also introduces an obligation for foreign credit institutions to inform Russian tax authorities about the foreign bank accounts of Russian citizens and companies with Russian individual beneficiaries. The draft law was prepared in order for the Russian financial institutions to conform to



the requirements set by the United States Foreign Tax Account Compliance Act (FATCA). If enacted, the amendments would come into force from the day of its official publication.

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Corporate Law

Authorization to represent a company on the basis of one's position

A limited liability company can be represented by the board of directors, the managing director, other representatives granted the right to represent the company, an authorized representative and an employee authorized on the basis of his/her position. The authorization on the basis of one's position is regulated in the Contracts Act. According to the said Act where a person by virtue of employment with a company holds a position, which according to law or custom, establishes a certain authority to act on behalf of the company, he/she shall be deemed empowered to conclude contracts within the scope of that authority. As an example of the authorization on the basis of one's position can be mentioned employees in banks or shops, who are authorized to conclude certain contracts on the basis of their position.

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