

## Amendments to Cyprus Tax Legislation

On 14 December 2010 the Cyprus Parliament introduced several amendments to Cypriot Tax Legislation, which were published in the Official Gazette on December 31, 2010 and are outlined below.

### Income Tax Law

#### Invoices and receipts for deductible expenditure

In effect from 1 January 2011 all expenditure needs to be supported by invoices or relevant receipts, otherwise these will not be treated as deductible expenditure for income tax purposes.

#### Payments to non-Cypriot Residents

Any tax withheld and not remitted by the end of the following month from the 1 July 2011 on payments to Non-Cypriot residents for income on intellectual property rights for use within Cyprus, film royalties or fees of professional athletes and artists will be subject to an additional tax of 5% on the amount due.

#### Notional Interest

The "burden" of notional interest (9%) on receivables from shareholders as of 1 January 2011 will only apply to individuals and not companies. The new law enacted is based on the provisions of article 33 and application of the arm's length principals for transactions between related parties.

### Special Defence Contribution Law (from July 1, 2011)

#### Deemed Dividend Distribution

If a Company disposes an asset to either its shareholder (individual) or relative up to the second degree (including spouse) at a consideration price below the market value of that asset, then the difference between the market value and the consideration price will be

### Assessment and Collection of Taxes Law (from July 1, 2011)

#### Obligation of Companies to register with Cypriot Tax Authorities

A newly incorporated company is now obliged to send notice of registration to the Tax Authorities immediately after its incorporation (or within 60 days following its incorporation). For companies incorporated outside the Republic, the notice needs to be sent after the company is incorporated or immediately after it becomes a Cyprus Resident (or within 60 days following the incorporation or residency).

#### Requests for information from Banks and other government departments

The Commissioner of Inland Revenue is granted powers to request information from Banks. However the prior consent of the Attorney general will need to be obtained on subject to certain conditions. These conditions are essentially there to ensure that no fishing expeditions take place.

In addition, the Commissioner is empowered to request information for specific tax purposes from almost any civil servant with the exclusion of civil servants working with the Central Bank or the Department regulating cooperative companies.

#### Inspections by the Commissioner

Tax inspections by the Commissioner at offices or any other facilities whereby a business is conducted are introduced. The visit needs to be within normal working hours and it can only take place after sending a reasonable notice.

#### Tax Returns and Tax Assessments

Electronic filing system of tax returns is introduced. To encourage such practice a 3 month extension is given when filing electronically.

deemed as distributed dividend to its shareholder. This will not apply if the asset was initially acquired by way of gift

Calculating the profits subject to deemed distribution must now consider the Income tax, Special Defence Contribution (SDC), Capital Gains Tax (CGT) and any foreign taxes (paid or provided for).

#### Voluntary dissolution or liquidation

Companies which are under voluntary dissolution or liquidation are required to submit the relevant resolution within 1 month from the date of its approval, declare any deemed dividend and pay any SDC applicable to the accounting profits of the specific tax year and the two preceding tax years. Realized deemed dividend distribution should not exceed the net assets of the company

The above will not apply if the assets of the company are not sufficient enough to repay its creditors and no residual amount is available for shareholder distribution.

#### Capital Reduction

Any capital reduction in excess of the share capital which was initially paid by the shareholders will be treated as deemed dividend and taxed accordingly.

#### Special Defence Contribution on Rents

Companies, Partnerships, the Republic or any local authorities that pay rent are now required to withhold the special defence contribution on the rent paid (3% on 75% of the rent).

#### **Imposition of administrative penalties**

A company's omission or refusal to comply with its obligations within a given time period, and/or late submission of declarations including any supporting documentation requested by the Commissioner will result in administrative penalties amounting to €100 or €200. Additionally, late payments on taxes payable will be subject to an additional tax of 5% on the amount due.

The above will be applicable from 1 July 2011.

#### **Conclusion**

A mixture of positive and negative amendments has been introduced. As such, they represent a balanced reaction to current financial crisis and the extra care taken by the Cypriot Government to avoid any possible practices of tax evasion and tax avoidance. These amendments will increase even further the good reputation of Cyprus as an International Business Centre. The increased transparency and increased penalties will help to attract larger and law abiding corporations instead. The widespread rumours that Cyprus would increase its corporation tax have proven wrong and this represents the biggest success for the investors. The lifting of the banking secrecy was a measure which was anyway being implemented by the European Directive for the Exchange of Information.

\*This briefing has been prepared in cooperation with Eurofast Taxand and Euroglobal S.E.E. Audit Limited.

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