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Albania

by *Erjola Aliaj (Tirana)*

The new tax rates for Corporate Income Tax and Personal Income tax

On 28 December 2013 the Albanian Parliament approved amendments to the current tax legislation affecting multiple areas of the tax legislation.

These amendments envisage an increase of the corporate income tax rate for legal entities registered for corporate income tax purposes from 10% to 15% and a series of measures for the facilitation of the fiscal burden for the small business. Specifically, taxpayers with an annual turnover between ALL 2 million (approx. euro 14.185) and ALL 8 million (approx. euro 56.740) will be subject to the 7.5% rate of simplified income tax on small business. It should be noted that the previous rate was 10%.

Additionally, these amendments involve a change of the taxation of employed individuals, who shall now be taxed with a progressive rate. The new provisions have replaced the existing 10% flat tax on any income derived from employment (e.g. salaries, wages, bonuses, compensations, awards, etc.). Additionally, monthly income from employment not exceeding ALL 30.000 (approx. 210 euro) is exempt from taxation, while income from ALL 30.000 (approx. 210 euro) to ALL 130.000 (approx. 900 euro) shall be progressively taxed at 13 %. Income over ALL 130.000 (approx. 900 euro) shall be subject to a progressive tax of 23%.

Other types of personal income, i.e. dividends, rent, capital gains, interest et al, along with any other income specifically characterized as personal income of individuals shall be taxed at a rate of 10%.

Bulgaria

by *Veneta Kutleva (Sofia)*

Amendment in the tax treatment of the relations between resident persons and companies registered in jurisdictions with preferential fiscal arrangements

The regulation of the tax treatment of the relations between resident persons and companies registered in jurisdictions with preferential fiscal arrangements has been changed with the new Act on the Economic and Financial Relations with Companies Registered in Jurisdictions with Preferential Fiscal Arrangements, Associated Persons and their Beneficial Owners, published in SG No. 1 from 03.01.2014 coming into force on 01.04.2014.

With the Final Provisions of the new Act on the Economic and Financial Relations with Companies Registered in Jurisdictions with Preferential Fiscal Arrangements, Associated Persons and their Beneficial Owners, the definition of the term "associated persons" has been broaden, and since 01 January 2014 as associated persons shall be treated also resident and the non-resident persons, with whom the resident persons entered into a deal, if: (i) the non-resident person is registered in a State which is not a Member

State of the European Union and in which the income or corporate tax due on the income which has accrued or will accrue to the non-resident person as a result of the transactions is by more than 60 per cent lower than the income or corporate tax in the country, unless the resident person proves that the non-resident person owes a tax which is not subject to a preferential treatment or that the non-resident person has sold the goods or has provided the services on the domestic market, and (ii) the State in which the non-resident person is registered refuses or is not in a position to exchange information regarding the transactions or relationships implemented, where there is a concluded and effective international tax treaty. As a non-resident person in the meaning of the above mentioned provision shall be considered also a juridical person, controlled by a company satisfies the conditions under item (i) and (ii). In this cases as associated persons shall be treated also the owners of the resident person and the non-resident company satisfies the conditions under item (i) and (ii), with whom the resident person entered into a deal.

The purpose of this amendment is to prevent the opportunities of tax avoidance and evasion through deals between resident persons and companies registered in jurisdictions with preferential fiscal arrangements. With the new legal fiction the transactions between resident persons and persons registered in jurisdictions with preferential fiscal arrangements, concluded under non-market conditions shall be considered as hidden profit distribution. The tax consequences in cases of hidden profit distribution are as follows: (i) the amount paid by the resident person under the transaction shall not be recognized as an expense and shall be subject to 10% income tax; (ii) 5% withholding tax of the amount paid by the resident and (iii) pecuniary penalty to the amount of 20 per cent of the amount of the hidden profit distribution.

European Union

by Stelios Psaroulis (Athens)

Mandatory Automatic Exchange of Information

Under the provisions of Directive 2011/16/EU the mandatory automatic exchange of information (art. 8) shall apply to income arising from 01.01.2014.

This means of exchange provides that the competent authority of each Member State, as the source country, shall communicate to the corresponding authority of any other Member State, as the resident country, available information concerning realized income and capital by that other state's residents. In this sense, it is a systematic communication of predefined information without prior request.

Specifically, this type of information exchange applies on five categories of income and capital. Namely:

- income from employment,
- director's fees,
- life insurance products not covered by other Union legal instruments on exchange of information,
- pensions,
- ownership and income from immovable property,

Following a Commission report to be submitted before 1 July 2017, and on the basis of a new proposal by the Commission, this list might be extended to include dividends, capital gains and royalties. In addition,

the Council may also decide to introduce unconditional automatic exchange of information in respect of at least three of the five aforementioned categories.

The communication of information shall take place at least once a year, within six months following the end of the tax year of the Member State during which the information became available.

National laws, regulations and administrative provisions implementing this particular provision of the Directive will, exceptionally, enter into force on **1st January 2015**. It should be reminded that Member States were required to take all necessary measures in order to bring the rest of the provisions into force on **1st January 2013**.

Furthermore, the Directive provides for two other means of exchange of information:

- The exchange on request, where one state requests specific information to implement domestically,
- The spontaneous request, where one state communicates information that is deemed relevant for the other state,

that apply to all taxes of any kind imposed by a Member State with the exception of VAT, customs duties, excise duties and compulsory social contributions already covered by other Union legislation on administrative cooperation, as per art. 2(2).

G r e e c e

by Stelios Psaroulis (Athens)

Necessary documentation needed regarding the credit of foreign tax

The Ministry of Finance with circular no. 1026/22.01.2014 seeks to clarify the necessary documentation needed regarding the credit of foreign tax as per the provision of art. 9 (1) of l. 4172/13.

Any taxpayer resident in Greece that realizes foreign income which has been subject to taxation at the country of source, in order to receive the appropriate foreign tax credit, ought to submit to the competent authority the following documentation:

- In regard to countries that Greece has signed a Double Taxation Treaty with, a certificate issued by the foreign competent authority ascertaining the tax already paid.
- In regard to countries that Greece has not signed a Double Taxation Treaty with, a certificate either from the foreign competent authority or a chartered accountant.
- In the case of withholding tax on foreign income, a certificate issued by the person withholding the tax authenticated by the competent authority or a chartered accountant. Authentication is not needed when the tax is withheld by a public body, insurance company or a financial institution.

If the country of source has signed the Apostille Convention, the certificate has to be supplemented with the Apostille seal. In regard to the rest of the countries, authentication may be given by the Greek Consulate. The certificate is submitted in its original form accompanied by an official translation in Greek.

OECD

by Dr. Katerina Perrou (Athens)

Discussion Draft on transfer pricing documentation and country-by-country reporting released for public comment

According to a press release issued by the OECD, an initial draft of revised guidance on transfer pricing documentation and country-by-country reporting was released for comment by interested parties on 30 January 2014.

Action 13 of the BEPS Action Plan released on 19 July 2013 calls for a review of the existing transfer pricing documentation rules and the development of a template for country-by-country reporting of income, taxes and economic activity for tax administrations.

The Committee on Fiscal Affairs believes that it is essential to obtain input from stakeholders on this Discussion Draft to advance the work. Specific issues on which comments would be appreciated are noted in the draft.

Comments should be submitted in writing to transferpricing@oecd.org by **23 February 2014**. A public consultation event will be held at the OECD in Paris at the end of March 2014 with specifically invited persons selected from among those who provide written comments.

An open discussion of the draft with all interested persons will take place at a future date to be determined in April or May.

More details and links to the related documents you may find at:

<http://www.oecd.org/tax/discussion-draft-transfer-pricing-documentation.htm>

Source: www.oecd.org

Poland

by Michał Trzoska (Warsaw)

New time limits for issuing VAT invoices

As of January 2014 a new amendment to the VAT Act entered into force. One of the significant changes in the Act is the introduction of a new deadline for issuing VAT invoices. So far, the taxpayer had to issue an invoice within 7 days from the date of service or delivery. Now, according to art. 106i par. 1 of the VAT Act, the invoice will have to be issued no later than 15 days following the month in which the goods were delivered or the services provided.

The Act also provides for several exceptions to the basic time limit for issuing invoices, for example a 30-day time limit from the date of services, for the provision of construction or construction-assembly, or a 60-day time limit from the date of delivery of the goods, in the case of delivery of printed books and newspapers, and magazines printed.

The amendment, also, specifies the earliest time limit within which a VAT invoice may be issued i.e. no earlier than 30 days before the delivery of goods or services. Also, as of this date, there are exceptions allowing for earlier invoicing, as referred to in Art. 106i par. 8 of the VAT act.

Special attention shall be paid to invoices issued before the emergence of a tax obligation, where the amount indicated on the invoice will be determined in foreign currency. In this case, the vendor will convert the amount of the invoice to Polish zlotys at the average exchange rate of the foreign currency announced by the Polish National Bank on the last working day preceding the date of the invoice



by Cristina Constantinescu (Bucharest)

Artificial transactions criteria

A new law project launched by the Ministry of Finance, established the criteria based on which a transaction or a series of transactions may be considered by the fiscal authority as being artificial, and thus not take them into consideration upon the calculation of the fiscal obligations.

VAT amendments

Companies with a turnover less than 500,000 EUR shall have the option, and not the obligation, to pay the VAT upon cashing the relevant payment. Also, the obligation to collect the VAT within a maximum of 90 days from the invoice date is abrogated. For the tax payers opting to pay VAT upon cashing, the due date is the actual receipt of the partial or total value of the goods or services rendered.

Additional tax imposed on income from leases

Natural persons who obtain income from leases, irrespective of other income, shall owe, besides the 16% income tax, a percent of 5.5% from the monthly base, to the social and health budget. The base of calculation may not be less than the minimum gross salary for 2013 (800 lei) and not bigger than five gross average salaries (11,115 lei).

Payment from damages awarded

Romanian citizens, who are entitled to damages from the State following a law suit, shall receive the entire amount only if they do not have any debt to the budget. Otherwise, they will receive the amount remaining after compensating the unpaid taxes by the respective person.

Offsetting of payments with taxes owed.

Considering the fact that the authorities managing the European funds delayed the payment of the approved European funds, and in the meantime the companies that were supposed to receive the funds could have accumulated taxes and penalties for not paying in due time the fiscal liabilities, the Romanian State decided the annulment of the penalties (accessory amounts) and the reschedule of the taxes

(principal amounts), for those who can prove that the delay of the European funds coincided with the due date of the owed taxes.

There are currently several issues under discussion between the Romanian Government and the I.M.F., among which:

- Supplementary tax on fuel of 7 eurocents/litre which is currently delayed until 1st of April 2014;
- Decrease of the social contributions by 0.5%.



by Alina Karas (Kiev)

A new treaty for the avoidance of double taxation ("DTT") entered into force between Cyprus and Ukraine on January 01, 2014

The DTT brought changes to the following fields of taxation: Dividend, interest and royalty Income, capital gains, permanent establishment. It's also implemented the credit method of eliminating double taxation on income.

Enlargement of transparency countries list on exchange of tax database

Ukraine, as a member of the Organisation for Economic Co-operation and Development, **widens the list of off-shore zones for cooperation on exchange the tax data** as Great Britain, the Netherlands and Denmark **broaden the enactment of Convention on Mutual Administrative Assistance in Tax Matters to their territories as follows:**

- Montserrat, Turks and Caicos Islands, Aruba, Curaçao, Sint Maarten, the Faroe Islands and Greenland (enactment since January 01. 2014);
- Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Isle of Man (enactment since March 01, 2014).

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