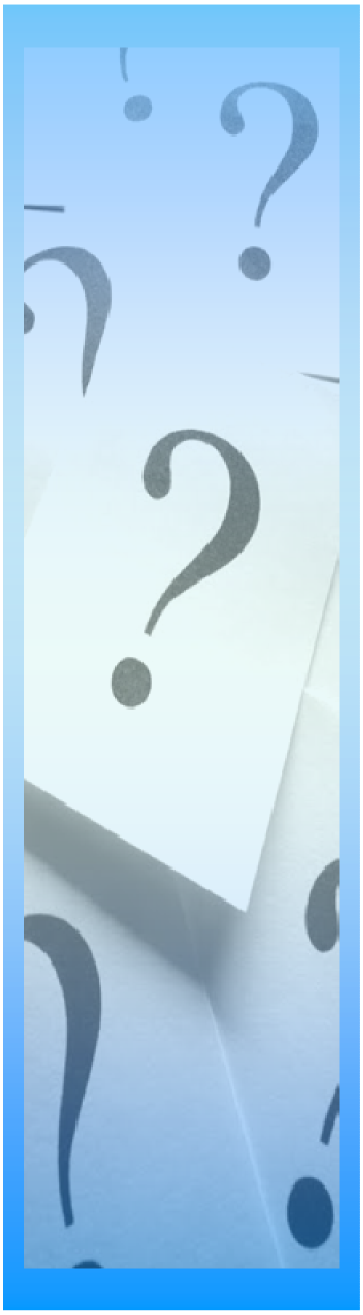
Rokas
International Law Firm

Taxation Newsflash

January 2014

1st ISSUE



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Bulgaria

Reduced rate of 5% withholding tax on interest and royalties income

by Dr. Dzabarova – Anagnostopoulou (Sofia)

According to the Article 200a of the Bulgarian Corporate Income Tax Act the tax rate on the income from interest and royalties is 5% where the following conditions are simultaneously present, as follows: i. the beneficial owner of the interest or royalties is a foreign legal person from a Member State of the European Union or a permanent establishment situated in a Member State of the European Union of a foreign legal person of a Member State of the European Union and ii. the local legal person which is the payer, or the person whose permanent establishment in the Republic of Bulgaria is treated as the payer, of interest or royalties is an associated person of the foreign legal person which is the beneficial owner, or whose permanent establishment is treated as the beneficial owner, of that interest or those royalties.

According to the same Article a person is an associated person of a second person if, at least at the moment the income is calculated: i. the first person has a minimum holding of 25 % in the capital of the second person, for a period of at least two years or ii. the second person has a minimum holding of 25 % in the capital of the first person, for a period of at least two years or iii. a third person, which is local legal person or a foreign legal person from a Member State of the European Union has a minimum holding of 25 % both in the capital of the first person and in the capital of the second person.

The amendment in Article 200a of the Bulgarian Corporate Income Tax Act announced in State Gazette No. 100 from 19.11.2013, in force as of 01.01.2014, shall allow the advance application of a reduced rate of 5% withholding tax on interest and royalties income prior to the expiry of the two-year holding period requirement (with a minimum required direct shareholding of 25%). The effective rate of 10% withholding tax shall be applied in cases where the reduced rate was enjoyed in advance but the two-year holding period requirement was not ultimately satisfied, whereas in such cases statutory interests shall be due on the difference between the paid and the due withholding tax.

Romania

Taxation of on-line gambling activities; tax on special constructions and infrastructure; increase of minimum gross salary

by Cristina Constantinescu (Bucharest)

1. Possible amendments of taxation of on-line gambling activities

The National Office for Gambling Activities elaborated a law project according to which the winnings of individuals from such gambling activities will not be taxed anymore (i.e. slot-machine, video-lottery, fix quota bets, on-line gambling and other gambling specific to the casinos and poker clubs). The Project is under public consultation at the Ministry of Finance since it would imply the amendment of the Fiscal Code. The reasoning is that such income is hard to be controlled, and that the loss of not applying such tax, will be compensated by implementing a new taxation scheme on the persons organizing such activities (forecast of increased taxation).

2. Tax on special constructions and infrastructure

By the Gov. Ordinance no. 102/2013, the taxation of different infrastructure of utilities (energy and natural gas), at the value of 1,5% is envisaged.

3. The national guaranteed minimum gross salary is set to be increased.

Minimum gross salary is predicted to be increased in 2014 at the level of 900 lei/month.

4. The local taxes may be increased from next year for the individuals with more than 20%.

The Government may lift the obligation of the local authorities to observe the maximum increase percentage of 20% for natural persons. Currently, the limitation is applicable for both natural persons and legal persons, and the intent is to keep this obligation only for legal entities, meaning that the local authorities will have the right to decide on the level of the increase applicable for natural persons, which may be above 20%.

Ukraine

Changes to Terms of Payments in Export/Import Transitions and Mandatory Selling of Foreign Currency Income

by Alina Karas (Kiev)

On November 20, 2013 the Resolution No 453 of the National Bank of Ukraine "On Changes to Terms of Payments in Export/Import Transitions and Mandatory Selling of Foreign Currency Income" came into force.

The Resolution implements restrictions listed below, which act up to May 17, 2014 as follows:

- limit of term for payment due to export/import transitions from 180 days to 90 days;
- implementation of mandatory selling of foreign currency obtained by legal entities (exception: banks), self-employed individuals, foreign representative offices (exception: official representative offices), for accounts opened with the purpose of joint venture business activity without founding legal entity, incomes of residents of Ukraine in foreign currency pursuant to licenses issued by the National Bank of Ukraine.

The mandatory selling of 50% of main liquid foreign currency (the exclusive list of currency provided by Resolution of the National Bank of Ukraine No 34) at the mentioned accounts was implemented by Resolution No 457 of the National Bank of Ukraine dated 15.11.2013.

The provisions are not applicable to:

- - income in favor of the state or state guarantees;
- - loans, credits pursuant to international agreements of Ukraine;
- - projects (programs) of international technical support which were officially registered;
- - money means obtained in favor of residents-intermediaries/agents or under agreements of commission, agency, consignment, which are subject further reinsurance.

Greece

Clarifications on the tax treatment of capital gains from the alienation of shares

by Stelios Psaroulis (Athens)

Given the confusion regarding the taxation of capital gains derived from the alienation of shares, the Ministry of Finance has issued decision D12B 1159820/18.10.2013 (Δ12Β 1159820 ΕΞ/18.10.2013) in order to clarify the issue.

With the aforementioned document it is noted that under art. 72, par. 7 of l. 4172/2013 the gains deriving from the alienation of shares, either quoted on a stock exchange or not, when taking place from 01.01.2014 and thereafter, are subject to tax at rate of 15% as per the provisions of art. 42 & 43 of l. 4172/2013.

Consequently, the gains deriving from the alienation of shares quoted on a stock exchange, when taking place prior to 01.01.2014, remain untaxed, while the transfer of unquoted stocks are taxed at a rate of 5%, as per art. 38 & 13 of l. 2238/1994.

New Real Property Tax Law Ratified

by Stelios Psaroulis (Athens)

A new property tax law was ratified on 31.12.13, in effect as of 01.01.2014, replacing a series of previous taxes on real estate. Under the provisions of l. 4223/13, tax is levied on all properties, including farmland and agricultural buildings, whether they realize a profit or not. Furthermore, real estate properties are taxed in accordance to their area and commercial value, factoring in, were applicable, the age and floor of the property and whether it is within city zoning plans.

European Union

Tackling Tax Avoidance: Commission tightens key EU corporate tax rules

by Dr. Katerina Perrou (Athens)

In November 2013 the Commission proposed amendments to key EU corporate tax legislation, in order to significantly reduce tax avoidance in Europe. The proposal will close loopholes in the Parent-Subsidiary Directive, which some companies have been using to escape taxation. In particular, companies will no longer be able to exploit differences in the way intra-group payments are taxed across the EU to avoid paying any tax at all. The result will be that the Parent-Subsidiary Directive can continue to ensure a level-playing field for honest businesses in the Single Market without opening opportunities for aggressive tax planning.

The Parent-Subsidiary Directive was originally conceived to prevent same-group companies, based in different Member States, from being taxed twice on the same income (double taxation). However, certain companies have exploited provisions in the Directive and mismatches between national tax rules to avoid being taxed in any Member State at all (double non-taxation). The proposal aims to close these loopholes.

First, it updates the anti-abuse provision in the Parent Subsidiary Directive i.e. the safeguard against abusive tax practices. The proposal obliges Member States to adopt a common anti-abuse rule that will allow them to ignore artificial arrangements used for tax avoidance purposes and ensure taxation takes place on the basis of real economic substance.

Second, it will ensure that the Directive is tightened up so that specific tax planning arrangements (hybrid loan arrangements) cannot benefit from tax exemptions. Under the proposal, if a hybrid loan payment is tax deductible in the subsidiary's Member State, then it must be taxed by the Member State where the parent company is established. This will stop cross-border companies from planning their intra-group payments to enjoy double non-taxation.

Member States are expected to implement the amended Directive by 31 December 2014.
Source: http://europa.eu/rapid/press-release_IP-13-1149_en.htm

OECD

Global Forum moves towards automatic exchange of tax information and transparency

by Dr. Katerina Perrou (Athens)

The international community has taken new steps to strengthen transparency and boost the comprehensive exchange of information between governments worldwide.

Members of the Global Forum on Transparency and Exchange of Information for Tax Purposes took significant steps during a 21-22 meeting in Jakarta, Indonesia to implement a global call for greater international co-operation against tax evasion. Actions taken include:

Publication of new compliance ratings for 50 countries and jurisdictions on practical implementation of the Global Forum's information exchange standard. Eighteen jurisdictions are rated Compliant [i], 26 jurisdictions are rated Largely Compliant [ii], two jurisdictions are rated Partially Compliant [iii] and four jurisdictions are rated Non-Compliant [iv]. Fourteen additional jurisdictions [v] were not given compliance ratings, pending further improvements to their legal and regulatory frameworks for exchange of information in tax matters.

Establishment of a new Automatic Exchange of Information (AEOI) Group, open to all interested countries and jurisdictions, to prepare the move towards AEOI implementation. Italy was elected chair of this group.

Agreement for further work aimed at strengthening the definition of beneficial ownership and the availability of this type of information.

Agreement that the Forum continue monitoring implementation of the transparency and information exchange standard, while further developing its *Terms of Reference* and review processes.

The Global Forum brings together 121 countries and jurisdictions for wide-ranging discussions on transparency and exchange of information. Its sixth meeting attracted more than 200 delegates from 86 member jurisdictions and 11 international organisations. During the Jakarta meeting, six new countries became members: Azerbaijan, Dominican Republic, Lesotho, Romania, Senegal and Ukraine.

Working through a peer review process, the Forum assesses the adequacy of its members' legal and regulatory framework for exchange of information in tax matters (Phase 1 review) as well as the application of this framework (Phase 2 review). To date, 124 peer reviews have been completed, including 50 Phase 2 reviews.

Source: http://www.oecd.org/tax/global-forum-moves-towards-automatic-exchange-of-tax-information-and-transparency.htm

Albania

The new fiscal package in Albania

by Erjola Aliaj (Tirana)

Albania's economy is projected to grow by 2.1 % and its public debt to rise to 74.8 % of the Gross Domestic Product (GDP) in 2014, according to the 2014 draft state budget submitted to the Albanian Parliament for discussion.

The 2014 state budget has been prepared in a close consultation process with the International Monetary Fund and World Bank in order to ensure the restoration of the macroeconomic stability for a long-lasting and sustainable economic development

The new draft fiscal package involves a change of the taxation model, replacing the 10 % flat tax with the progressive tax. Monthly salaries under ALL 30.000 (approx.210 euro) are not supposed to be taxed, while monthly salaries from ALL 30.000 (approx. 210 euro) to ALL 130.000 (approx. 900 euro) are expected to be progressively taxed at 13 % and monthly salaries over ALL 130.000 (approx.900 euro) will be subject to a progressive tax of 23%. It also envisages a series of measures to ease fiscal burdens on small businesses and increase tax rates on big companies from 10 to 15 % of their turn over.

The business community has expressed its deep concern that the Albanian government has not yet invited them to offer their opinion on the new fiscal package. According to the statements of the representatives of this community, changes to the fiscal package increase the burden of taxation on business in Albania and stimulates opportunities for an increasing informality. The business community has put forward several proposals to the government with the aim of reducing the effects of the crisis, such as:

- The debt that the government owes to the business to be included in the 2014 state budget;
- The current 10% tax on profit must remain unchanged. The entire flat tax system must not change.
- The reimbursement of VAT (Value Added Tax), excises and all other taxes that the state may owe to private enterprises to be paid within a period of 3 months.
- VAT, which is currently 20% on all services and products, must not exceed 10% on domestic agricultural and farming products and tourism services.
- No increase of VAT on all machineries, which assist the activity of private enterprises.
- No increase of VAT on urban and interurban transport.
- No increase of excise on fuel used for urban and interurban transport.
- The allocation of a financial fund for the stimulation of women entrepreneurship.
- The allocation of a financial fund for newly graduate students.

Due to the lack of an efficient public debate and consultation with the groups of interests, which may bring to a well-thought fiscal package, the business community has required the postponement of the new fiscal package of 2014, which starts from January 1, 2014.

The final 2014 state budget draft is scheduled to be adopted by the Albanian Parliament on December 28, 2013.

Poland

EU Court of Justice will rule on the VAT in municipalities

by Agnieszka Binieda (Warsaw)

The Supreme Administrative Court submitted a question to the Court of Justice of the European Union (ref. I FSK 311/12 of 10 December 2013) for a preliminary ruling concerning the legal side of the tax on goods and services (also called Value Added Tax), government budgetary units, as follows:

"In the light of art. 4 paragraph. 2 in relation to Art. 5 paragraphs. 3 of the Treaty on European Union (consolidated version OJ. Gazette. EU C 83 of 30 March 2010, pp. 13 et seq.) can an organizational unit of the municipality (local authority in Poland) be regarded as a VAT taxpayer when performing in a capacity other than a public authority within the meaning of Art. 13 Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ. European Union of 11 December 2006, No. L 347, p 1 et seq., as amended.), although it does not satisfy the condition of independence provided for in Art. 9 paragraph. 1 of the Directive? '

The question to the CJEU has been directed at the subject matter of the resolution of the Supreme Administrative Court of 24 June 2013, (FPS 1/13), in which the Supreme Administrative Court held that, in light of Art. paragraph 15. 1 and 2 of the Act of 11 March 2004 on tax on goods and services (Journal of Laws of 2011 No. 177, item. 1054, as amended) municipal budget units do not pay tax on goods and services due to the fact that they are not carrying on business. Taking into account the practice of interpretation, the importance of the issue for all local government units and the need to guarantee the application of the law, until the judgment of the Court of Justice of the EU, the current position of the Minister of Finance, which recognizes local budget units as separate taxpayers, as expressed in individual interpretations issued, remains valid.
Source: Ministry of Finance (http://www.mf.gov.pl/)

FYR of Macedonia

India-FYR of Macedonia new Income Tax Treaty

by Aleksandra Arsoska (Skopje)

On 17 December 2013, FYR of Macedonia and India have signed an income tax treaty to avoid double taxation. The two parties have agreed to provisions regarding the exchange of banking information for administration purposes.

It should be noted that FYR of Macedonia has numerous agreements with countries worldwide to avoid double taxation. These double taxation agreements stipulate that payable personal income tax in FYR of Macedonia is reduced by the amount of personal income tax paid abroad. Specifically, FYR of Macedonia has signed Double Taxation Avoidance Agreements with 37 more countries: Netherlands, France, Italy, Sweden, Denmark, Finland, Switzerland, Hungary, Croatia, Turkey, Yugoslavia (applicable for Serbia and Montenegro), Poland, People's Republic of China, Taiwan, Russia, Ukraine, Slovenia, Bulgaria, Egypt, Albania, Iran, Romania, Belarus, Spain, Czech Republic, Slovakia, Moldova, United Kingdom of Great Britain and Northern Ireland, Ireland, Qatar, Austria, Latvia, Lithuania, Estonia, Belgium, Morocco and Germany. Six treaties have not entered into force yet (the treaties signed with Egypt, Iran, Latvia, Romania, Morocco and Belgium). As per Belgium, corporate tax payers can benefit from the adopted treaty concluded by Former Yugoslavia.

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