Corporate Tax - Cyprus

Department clarifies application of Income Tax Law to connected companies

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Article 33 of the Income Tax Law 2002 gives the Inland Revenue Department the power to adjust transactions between connected companies, entities and individuals onto an arm's-length basis and to tax the resulting deemed profits, gains or benefits.

In a meeting with the taxation committee of the Cyprus Institute of Certified Public Accountants, the department recently provided guidance on how it will interpret Article 33 in relation to transfers of assets that do not give rise to taxable income, and to contributions by companies to related companies overseas. The guidance applies to tax rulings issued after January 1 2011.

In relation to transfers of assets that do not give rise to taxable income, where assets are disposed of to related parties at a price different from the market price and the disposal creates no taxable income or the transferred asset itself creates no taxable income (as would be the case with the disposal of securities), the department will consider that no deemed receivable amount is created and will raise no assessment in respect of deemed interest.

In relation to non-returnable capital contributions by Cyprus companies to overseas subsidiaries, the department will raise no assessment under Article 33 when a Cyprus company makes a capital contribution to a related foreign company without receiving shares in consideration, provided that it can be demonstrated that the Cyprus company has no right to claim back the amount concerned and this amount can only be returned to the Cyprus company by means of a reduction of capital or the liquidation of the foreign company, unless the contribution is returned (whether by way of reduction of capital or liquidation) within two years.

For the purposes of calculating the allowable interest expense of the Cyprus company, such capital contributions are considered to be part of the company assets that are not used in the business, in accordance with Article 11 of the Income Taxes Law and Circular 2010/8 (dated July 6 2010).

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