



Διάσκεψη Τύπου 13 Σεπτεμβρίου 2011

Εισηγήσεις ΣΕΛΚ για την οικονομία και μέτρων ανάπτυξης

Ο ΣΕΛΚ παραθέτει πιο κάτω τις εισηγήσεις του για μέτρα ανάπτυξης που μπορούν να εφαρμοστούν αμέσως χωρίς απώλειες εσόδων και άλλες εισηγήσεις επίσης αναπτυξιακού τύπου ως μεσοπρόθεσμα μέτρα.

Οι υπηρεσίες που προσφέρονται σε ξένες εταιρείες οι οποίες προσελκύονται και δραστηριοποιούνται στην Κύπρο είναι ο υγιέστερος και αποδοτικότερος τομέας της Κυπριακής οικονομίας. Οι προοπτικές ανάπτυξης του τομέα αυτού όπως και της Κύπρου ως Διεθνούς Επιχειρηματικού Κέντρου (ΔΕΚ) είναι απεριόριστες.

Ο συντελεστής εταιρικού φόρου του 10% είναι ο ακρογωνιαίος λίθος της όποιας αναγνώρισης έχει μέχρι σήμερα επιτύχει η Κύπρος ως ΔΕΚ, γι' αυτό πρέπει να προστατευθεί ως κόρη οφθαλμού.

Ο ανταγωνισμός από άλλα Ευρωπαϊκά επιχειρηματικά κέντρα όπως π.χ. Λουξεμβούργο, Ολλανδία, Ιρλανδία, Μάλτα, κλπ εντείνεται γι' αυτό πρέπει να αποφευχθούν επιπρόσθετες φορολογίες και να ενταθούν οι προσπάθειες βελτίωσης του επιχειρηματικού περιβάλλοντος και προώθησης της Κύπρου ως ΔΕΚ. Επισυνάπτουμε δύο πρόσφατα παραδείγματα που αποδεικνύουν την ένταση του ανταγωνιστικού κλίματος που αφορούν το Λουξεμβούργο και την Ουγγαρία.

Εισηγήσεις για μέτρα ανάπτυξης που μπορούν να εφαρμοστούν αμέσως

- Επαναδιαπραγμάτευση ή επέκταση των Συμφωνιών Αποφυγής Διπλής Φορολογίας (ΣΑΔΦ) με χώρες κλειδιά.
 - Επαναδιαπραγμάτευση: π.χ. Ινδία, Ουκρανία, ΗΠΑ.
 - Νέες συμφωνίες:
 - G20 όπως Βραζιλία, Μεξικό, Αργεντινή, Νότιος Κορέα, Ιαπωνία, Ινδονησία, Σαουδική Αραβία, Αυστραλία.
 - Χόνγκ Κονγκ
 - Χώρες της Αφρικανικής Ηπείρου που θα επιλεγούν με βάση την προοπτική τους να προσελκύσουν ξένες επενδύσεις.

Πιστεύουμε ότι η ομάδα του Υπουργείου Οικονομικών που ασχολείται με την επαναδιαπραγμάτευση ή επέκταση των ΣΑΔΦ πρέπει να ενδυναμωθεί και σε συνεργασία με τον ιδιωτικό τομέα να προωθήσει την υλοποίηση των πιο πάνω στόχων.

- Προώθηση για υιοθέτηση εκκρεμούντων εναρμονιστικών νομοσχεδίων που θα βοηθήσουν στην ανάπτυξη του τομέα των υπηρεσιών όπως:
 - Οργανισμοί Συλλογικών Επενδύσεων σε Κινητές Αξίες και του Διαχειριστών Οργανισμών Εναλλακτικών Επενδύσεων (Funds)
 - Παρόχους Διοικητικών Υπηρεσιών (Fiduciary services).



Πενήντα Χρόνια Προσφοράς στην Κυπριακή Οικονομία | Fifty Years of Contribution to the Cyprus Economy

- Βελτίωση του τρόπου φορολογίας των πνευματικών δικαιωμάτων (intellectual property rights) για προσέλκυση ξένων εταιρειών ώστε να χρησιμοποιήσουν την Κύπρο στη διαχείριση αυτών των δικαιωμάτων.
Δηλαδή:
 - (i) Παραχώρηση αποσβέσεων πάνω στο κεφαλαιουχικό κόστος απόκτησης των πνευματικών δικαιωμάτων π.χ. 25%
 - (ii) Παραχώρηση έκπτωσης από το εισόδημα επί των πνευματικών δικαιωμάτων π.χ. 80% όπως το Λουξεμβούργο.
- Κέρδη από μόνιμη εγκατάσταση εξωτερικού και μερίσματα εξωτερικού να εξαιρούνται **εξολοκλήρου** της φορολογίας.
- Όλος ο τόκος που λαμβάνει εταιρεία να φορολογείται **μόνο** για σκοπούς εταιρικού φόρου.
- Φορολόγηση όλων των ωφελημάτων σε είδος τόσο στον ιδιωτικό όσο και στο δημόσιο τομέα συμπεριλαμβανομένων και των επιδομάτων.

Εισηγήσεις για μεσοπρόθεσμα μέτρα

Για τον εκσυγχρονισμό του φορολογικού συστήματος και την απάλειψη υφιστάμενων στρεβλώσεων που θα βοηθήσουν στη βελτίωση της λειτουργίας της οικονομίας και στην ανταγωνιστικότητα της Κύπρου ως Διεθνούς Επιχειρηματικού Κέντρου εισηγούμαστε να μελετηθούν τα ακόλουθα:

1. Τομέας των ακινήτων:
 - Κατάργηση τέλος χαρτοσήμων για συμβόλαια.
 - Κατάργηση μεταβιβαστικών.
 - Έκπτωση του φόρου ακίνητης ιδιοκτησίας στον υπολογισμό του φορολογητέου εισοδήματος.
2. Μελέτη σχεδιασμού ειδικού φορολογικού καθεστώτος για επαναπατρισμό κεφαλαίων όπως για παράδειγμα μειωμένος συντελεστής άμυνας σε τόκους που προκύπτουν από τέτοιες καταθέσεις σε τράπεζες στην Κύπρο.
3. Κατάργηση ή μείωση ή εισαγωγή πάγιου τέλους εγγραφής εταιρειών λαμβάνοντας υπόψη τα ανταγωνιστικά Ευρωπαϊκά κέντρα π.χ. Λουξεμβούργο Το υφιστάμενο τέλος 0,6% δεν είναι ανταγωνιστικό.
4. Υπηρεσίες υποσχόμενες ανάπτυξης π.χ. ιατρικός τομέας, εκπαίδευση, κλπ μπορούν να τύχουν ειδικών παραχωρήσεων όπως επιταχυνόμενες αποσβέσεις.
5. Εκσυγχρονισμός της φορολογίας του στοιχήματος με τέτοιο τρόπο ώστε να αυξηθούν τα φορολογικά έσοδα και το Κράτος να ασκεί αποτελεσματικό έλεγχο.



UNOFFICIAL / DRAFT TRANSLATION

Materials for meeting of Presidium of Russian Government, 2 August 2011 (press-release)

7. Regarding signing the Protocol introducing the amendments to the Convention between the Grand Duchy of Luxembourg and the Russian Federation for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital ("Russia-Luxembourg DTT").

Draft Order has been submitted by the Russian Ministry of Finance.

Draft Order contains proposal on signing the Protocol to the Russia-Luxembourg DTT, which was signed in Moscow on 28 June 1993.

In the line with recommendations of Organization for Economic Cooperation and Development ("OECD") the Protocol contains new version of the Article 26 of the DTT "Exchange of information", which is aimed at increase of efficiency in exchanging information between Russian and Luxembourg tax authorities, including information which is in possession of banks, credit institutions, nominees, agents or trustees. The exchange of information is to be performed on any taxes. Mechanism of exchanging the information between the competent authorities of the Contracting States is described in the Additional protocol.

In the line with the current requirements of the international taxation, Article 4 was amended, so that it contains more specific definition of the "resident"; new provisions making it possible to tax significant part of income generated on provision of services and activities conducted through dependent agent were added to the Article 5 "Permanent establishment"; Article 10 "Dividends" establishes minimum withholding tax rate for dividend income at 5% instead of 10%. It will put Luxembourg at the equal competitive terms with other European countries, which are the main investors in the Russian economy (Netherlands and Cyprus) and will enable to increase the identified trend of "switching" part of the projects carried out in Russia by large international institutional investors from Cyprus to Luxembourg.

In addition to the above, new provisions were introduced in Article 6 "Income from immovable property" and Article 10 "Dividends", that enable to tax income payable on units in investment funds, including real estate investment funds; Article 13 "Capital gains" was amended in such a way, that it includes provisions making it possible to tax income on sale of shares in companies, capital of which by 50% or more is represented by immovable property.

Provisions broadening the possibility to tax some types of "other income" were added to Article 21 "Other income". Article 23 "Methods for elimination of double taxation" was amended in such a way, that it became more specific with regard to elimination of double taxation in Luxembourg.

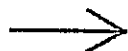
Additionally, new Article was introduced to the DTT - Article 29 "Limitation of benefits".

While preparing the Draft Protocol Russian side was relying on the model convention on the avoidance of double taxation of income and property. In addition, both Contracting States were relying on sample models, recommended by OECD and United Nations organization.

After signing, the Protocol is to be ratified in accordance with sub-clause a) clause 1 of the Article 15 of the Federal Law "On International Treaties of the Russian Federation".

TAX PLANNING OPPORTUNITIES FOR GREEK COMPANIES: BENEFITS OF THE HUNGARIAN TAX SYSTEM

1. PURPOSE OF THIS MEMORANDUM



The purpose of this memorandum is to show that Hungary could successfully replace Cyprus in international tax planning.

As a result of the financial crisis, governments are more concerned about safeguarding state revenues and keeping tax revenues within their borders. The number of 'black-listed' countries is growing and regulators seek to strengthen information exchange systems in order to increase transparency in cross-border businesses. Under these circumstances, formerly popular offshore jurisdictions have become less attractive.

Hungary is a convincing alternative for businesses looking for long-lasting solutions in their international tax structuring. This memorandum aims at summarizing in a nutshell the main advantages of the Hungarian tax and business environment. Please note that the contents of this memorandum are provided for informational purposes only and are not intended to serve as legal or tax advice and cannot substitute for guidance in specific cases. Any specific questions that may arise on this topic should be reviewed with the assistance of legal or tax counsel in order to ensure that any given concern is properly addressed in accordance with legal requirements.

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2. WHY TO USE HUNGARY?

Hungary offers key benefits in international tax structures:

- trading and financing companies are taxed at 10% up to a taxable base of HUF 500 million (approx. EUR 1,850,000), and at 19% above that threshold;
- holding companies are not taxed (dividends received are tax exempt, whereas capital gains tax can be avoided through smart structuring);
- distributions to corporate shareholders (anywhere located, even in offshore jurisdictions) are free from withholding tax.

Please find below a more detailed analysis of the favourable rules.

3. BENEFITS OF THE TAX AND LEGAL ENVIRONMENT

Although Hungary does not operate an offshore tax regime, nor it markets itself as a tax planning jurisdiction, yet the country offers a favourable location in Europe for international tax structuring. Building and protecting Hungary's tax

ALBANIA AUSTRIA BOSNIA & HERZEGOVINA BULGARIA CROATIA CZECH REPUBLIC HUNGARY ICELAND ISRAEL JAPAN KAZAKHSTAN KOSOVO KUWAIT LATVIA LITHUANIA LUXEMBOURG MACEDONIA MALTA MOLDOVA MONTENEGRO NETHERLANDS NORWAY POLAND PORTUGAL ROMANIA RUSSIA SERBIA SLOVAK REPUBLIC SLOVENIA SWEDEN SWITZERLAND

Our operations in the various locations comply with the requirements of local law and local tax rules, including cooperation with independent local attorneys.

and legal system to accommodate capital and knowledge-based industries has played a pivotal role in government policy since the early 1990s, and parallel with that the tax rules and overall business environment have significantly improved. The Hungarian government's commitment to attract foreign investments and high-added-value businesses has resulted in a very attractive tax regime which can successfully replace traditional offshore jurisdictions.

Participation Exemption

Hungary offers a participation exemption for both dividends and capital gains, although the requirements differ. Dividends received by a Hungarian company are exempt from tax without any further requirements; that is, there is no shareholding participation or holding period prescribed, and the residence, business activities, domestic tax attributes, or other circumstances of the subsidiary of the Hungarian company are irrelevant.

However, for capital gains derived by a Hungarian company on the disposal of a qualifying participation to be exempt from corporate income tax, the following requirements must be met:

- the participation represents at least 30 percent in the votes or value of the subsidiary;
- the participation is held for at least one year; and
- the taxpayer applies to the tax authorities for tax exempt status within 30 days of acquiring the participation.

Licensing Regimes

In standard corporate structures, holding companies are frequently used for holding, developing and licensing of IP. Hungarian tax rules provide beneficial IP box regimes that allow for low effective tax rates applicable on the profits of these activities. The IP box regime provides a 50 percent exemption on royalty income and a double deduction for qualifying R&D costs. Amortization of IP is available for tax purposes over the useful life of the IP asset. The combination of the above rules allows for a 0 percent effective tax rate in most cases, but a maximum 5 to 9.5 percent effective tax rate is possible even without R&D costs or amortization.

Beneficial Treaty Network

The availability of a wide-ranging tax treaty network has long been considered indispensable for a favourable holding company jurisdiction. Hungary has an extensive tax treaty network with more than 65 jurisdictions in force. Beneficial withholding tax rates and other provisions are available, in particular, in the treaties with Australia, Brazil, Canada, Israel, Kazakhstan, Norway, Russia, Singapore, South Africa, and South Korea.

Binding Ruling Practice

Even though the tax benefits of Hungarian holding, financing, and licensing structures are based on generally applicable domestic law and tax treaties rather than on discretionary rulings, it is possible to obtain binding rulings on the interpretation of the relevant legislation increasing certainty of the tax position. Binding rulings are issued by the Ministry of National Economic Affairs under a formal administrative procedure, and the interpretation confirmed in the ruling resolution is binding on the Hungarian tax authority provided the underlying fact pattern remains unchanged.

Free Repatriation of Earnings

Earnings of the Hungarian company can be distributed during the financial year (as an interim dividend) or at year-end after the financial statements are approved by the shareholders (as a final dividend). Hungary does not levy withholding tax on distributions to corporate shareholders under its domestic law, regardless of the shareholder's tax status or where it is resident.

Inexpensive, Straightforward Operation

In order to set up a holding company in Hungary no special vehicles or company forms need to be applied, nor special activities, or qualifications are required. A simple limited liability company could be established with a minimum share capital of HUF 500,000 (approx. EUR 1,800) within a couple of days. No capital duty applies on capital contributions. All Hungarian tax resident companies would be subject to the general tax rules, regardless of the shareholder's residence, the location or the nature of the activities, or the business sector involved. Therefore, a company could benefit from the favourable Hungarian regime and still be involved in manufacturing or trading activities, financial services, or other activities, or it may simply act as pure holding company. Hungarian companies are required to prepare, audit, and submit financial statements under Hungarian accounting standards within five months from the financial year-end. The Hungarian holding company must also prepare consolidated financial statements unless it is part of a consolidated group (i.e. if consolidation takes place at a higher-tier group member). Companies are allowed to keep their books and prepare the financial statements in a currency other than the HUF. They can opt for the Euro as functional currency without satisfying any conditions. Another functional currency can be used if at least 25 percent of the company's business (as calculated under a formula based on revenue, costs, financial assets, and long-term liabilities) is conducted in that currency.

4. A POPULAR CHOICE

A number of business operators already have discovered the above benefits and are using their Hungarian trading, manufacturing, and other operating companies to hold their regional, European, or worldwide subsidiaries. Hungarian holding companies also are widely used as regional headquarters, group treasuries, R&D centres, or IP

holding companies, thereby enjoying benefits that can include a 50 percent tax exemption on royalty income, and double deduction for qualifying R&D costs.

Faludi Wolf Theiss, being a full-service law firm featuring a fully integrated highly-qualified tax practise, offers assistance both in legal and tax matters. We have matured significant experience in working with high net worth individuals and advise them hand-in-hand with international financial and insurance service-providers.

Let us know please if you have any questions arising out of the above, or if you would like to learn more about the benefits the Hungarian tax environment offers or the expertise Wolf Theiss can deploy for your business success.

Best regards,

Balázs Békés

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