



FIDUCENTER

Luxembourg, January the 14th 2009

Dear Clients and Contacts

Welcome to our seventh newsletter.

We take the opportunity to wish you a Happy New Year 2009!

We of course remain at your disposal to discuss any of these issues in greater depth upon request.

With best regards

Fiducenter S.A.

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I. SUMMARY:

1) Tax amendments in Luxembourg.

Once again, the end of the year in Luxembourg has seen the publication of a lot of fiscal amendments and reforms in all fiscal matters. These tax reforms for 2009 will prove to create a more favorable tax framework for corporate entities.

A) Abolition of the capital duty as from 1st January 2009.

The 0,5% capital duty and the correspondent Law dated December the 29th 1971 are abolished as from January the 1st 2009. As a consequence, the general regime of registration duty will govern all transactions previously falling within the scope of the cancelled capital duty Law.

Under this general regime and based on the new Law, a fixed registration duty of **EUR 75** will be levied on transactions held before a Notary involving Luxembourg entities (i.e. incorporation, amendments to the articles of association, transfer of legal seat to Luxembourg, etc.).

Contribution of real estate assets situated abroad to a Luxembourg company will also be subject to the fixed registration duty (EUR 75).

B) Exemption of the 15% withholding tax for dividends assigned to companies which are residents of a State with which the Luxembourg has a tax treaty in force.

Dividend distributions made by a Luxembourg Company will no longer suffer any withholding tax as long as the following cumulative conditions are met:

- The parent company is tax resident in a Country with which Luxembourg has a tax treaty for the avoidance of double taxation in force;
- The parent company is subject to a tax comparable to the Luxembourg corporate tax regime;
- The parent company owns or undertakes to own a shareholding of at least 10% (or an acquisition price of EUR 1.2 million) in the capital of the Luxembourg Company for at least 12 months.

C) Decrease of the corporate income tax rate.

The rate of the corporate income tax has been decrease from 22 % to 21 %.



2) Tax amendments in Cyprus.

A) Definition of titles for exemption of gain on their sale from Corporation Tax.

the Cyprus Tax Authorities were expected to issue a circular, significantly widening the definition of securities (or titles as per the Law) to include all major financial instruments currently traded in international financial markets, for the purposes of exemption from Corporation Tax (in general there is no Capital Gain Tax on titles anyway) of any gain on their sale.

This Circular, with the number 2008/13, had indeed been issued on 17/12/2008 and is applicable since the fiscal year 2003.

B) Double Tax Treaty between Cyprus and Qatar.

The Double Tax Treaty between Cyprus and Qatar has been finalized and all that remains now is to be put in to effect. It has passed through the Parliament of Cyprus and now Qatar is expected to announce its enactment in to its local law so that the treaty can be put in to force.



ARTICLES:

II) Tax amendments in Luxembourg.

A) Abolition of the capital duty as from 1st January 2009.

The 0,5% capital duty and the correspondent Law dated December the 29th 1971 are abolished as from January the 1st 2009. As a consequence, the general regime of registration duty will govern all transactions previously falling within the scope of the cancelled capital duty Law.

Under this general regime and based on the new Law, a fixed registration duty of **EUR 75** will be levied on transactions held before a Notary involving Luxembourg entities (i.e. incorporation, amendments to the articles of association, transfer of legal seat to Luxembourg, etc.).

Contributions of real estate assets situated in Luxembourg to a Luxembourg company will be subject to the following regime:

- Contributions remunerated by shares will be subject to a 0,5% registration duty + a 0,5% transcription tax;
- Contributions remunerated by other means than shares will be subject to a 6% registration duty + a 1% transcription tax;
- Transfers made in the context of a corporate restructuring (i.e. contributions of all assets and liabilities in exchange for shares and contributions of one or more branches of activities in exchange for shares) will be exempt under certain conditions.

Contribution of real estate assets situated abroad to a Luxembourg company will be subject to the fixed registration duty (EUR 75)

It has to be underlined that the text of the Law does not contain any reference on the preexisting so called "claw-back" period.

However the commentaries to the law specifies that the five year claw-back period for shares contributed pursuant to a transaction that was exempt from capital duty on the basis of article 4-2* of the cancelled capital duty law (share merger exemption) will no longer apply. Our own understanding as well as the one of most of the recent comments, no claw-back would furthermore apply to transactions based on the said article 4-2, even if the said transactions took place before the abolition of the capital duty and even if the said transactions haven't yet accomplished the 5 years period. It is then implicitly understood that such transactions may not be subject to capital duty anymore.

* Article 4-2 dealt with the so-called share for share merger exemption. Based on this article, a company that received a contribution in kind of shares in another EU company, against the issuance of new shares in its own capital, was exempted from capital duty under certain conditions. One of the conditions was to hold the shares received for at least 5 years. Otherwise the capital duty became due.



The EUR 1.250,- fixed capital duty levied on undertaking for collective investment funds, SIF, SICAR, etc., is also abolished.

B) Exemption of the 15% withholding tax for dividends assigned to companies which are residents of a State with which Luxembourg has a tax treaty in force.

Dividend distributions made by a Luxembourg Company will no longer suffer any withholding tax as long as the following cumulative conditions are met:

- The parent company is tax resident in a Country with which Luxembourg has a tax treaty for the avoidance of double taxation in force;
- The parent company is subject to a tax comparable to the Luxembourg corporate tax regime;
- The parent company owns or undertakes to own a shareholding of at least 10% (or an acquisition price of EUR 1.2 million) in the capital of the Luxembourg Company for at least 12 months.

C) Decrease of the corporate income tax rate.

The rate of the corporate income tax has been decrease from 22 % to 21 %.

As from January the 1st 2009, the aggregate income tax rate (including communal tax and social contribution tax rates) for companies having their legal seat in Luxembourg City is therefore 28,59%.

III) Tax amendments in Cyprus.

A) Definition of titles for capital gain exemption on sale from Corporation Tax.

As mentioned in our new brochures sent to you some months ago (Part 4A7) the Cyprus Tax Authorities were expected to issue a circular, significantly widening the definition of securities (or titles as per the Law) to include all major financial instruments currently traded in international financial markets, for the purposes of exemption from Corporation Tax (in general there is no Capital Gain Tax on titles anyway) of any gain on their sale.

This Circular, with the number 2008/13, had indeed been issued on 17/12/2008 and is applicable since the fiscal year 2003.

As the Circular is only available in Greek for the moment, we are enclosing an exact translation we have prepared in English.

From the Circular it follows that the Cyprus Tax Authorities have decided to adopt a very broad interpretation of the term 'securities'. One of the most important aspects of the Circular is that participations in ICIS, REITS, Mutual Funds and UCITS will now qualify as securities.



B) Double Tax Treaty between Cyprus and Qatar.

The Double Tax Treaty between Cyprus and Qatar has been finalized and all that remains now is to be put in to effect. It has passed through the Parliament of Cyprus and now Qatar is expected to announce its enactment in to its local law so that the treaty can be put in to force.

The withholding taxes as per the treaty are:

- Dividends: 0%
- Interest: 0%
- Royalties: 5%

The above rates are only relevant for payments made from Qatar to Cyprus since, as per Cyprus' legislation royalties paid out of Cyprus to any destination are not subject to Withholding Tax.

IV. Annexe: Cyprus Circular 2008/13, List of investment products considered as titles

Inland Revenue Department 17 December 2008

Circular 2008/13 List of investment products considered as titles

In accordance with article 8(22) of the Income Tax Law N118 (I)/2002, as amended, any gain from disposal of titles (*Fiducienter note: titles = securities*) is exempted. For the purpose of defining the term "titles" as per article 2 of the aforementioned Law, the list below includes the investment products the Inland Revenue Department considers as falling in to such term:

1. Ordinary Shares*
2. Founder's Shares *
3. Preference Shares*
4. Options on titles*
5. Debentures*
6. Bonds*
7. Short positions on titles
8. Futures/Forwards on titles
9. Swaps on titles
10. Depositary receipts on titles (like ADRs and GDRs)



11. Rights of claim on bonds and debentures, which however do not include rights on interest on these products
12. Index participations only if they result in titles
13. Repurchase agreements or Repos on titles
14. Participations in companies*
15. Units in open-end or closed-end collective investment schemes, which have been constituted, registered and are operating in accordance with the provisions of a specific and relevant legislation of the country in which they have been constituted. Examples of such collective investment schemes are:
 - Investment Trusts, Investment Funds, Mutual Funds, Unit Trusts, Real Estate Investment Trusts
 - International Collective Investment Schemes - ICISs
 - Undertakings for Collective Investments in Transferable Securities - UCITSs
 - Other similar investment organizations

* (*Fiducienter note: Already covered by the previous interpretation of the definition of titles*).

Where it is not clear whether a particular investment product falls in any of the above categories, guidance from the Inland Revenue Department should be sought.

The circular is applied from tax year 2003 onwards. It is stressed that under no circumstances will any settled cases be re-examined nor will there be any revision of the tax treatment of gain from disposal of such products in tax returns which have already been submitted before the date of issue of this circular and for which there is no pending appeal for the particular matter.

It is stressed that the gain from disposal of titles, as defined above, included in tax returns already submitted in which exemption is claimed or which will be included after the issue of this circular, is exempt from tax.