TAX update 01/12

NEW TAX MEASURES VOTED IN DECEMBER 2011 BY THE HOUSE OF REPRESENTATIVES OF CYPRUS

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A. INTRODUCTION

In December 2011, the House of Representatives voted new amendments to various laws aiming to increase public revenues and decrease public spending. Most of the amendments affect residents of Cyprus and were designed in such a way so not to affect Cyprus' position as an international business centre. The amendments that may be of interest for the international investor are analysed below.

B. INCOME TAX LAW

Loans to shareholders and directors

Prior to the amendment, loans to the company's individual shareholders or directors were subject to the provisions of section 39 of the Income Tax law that provided that loans to individual shareholders or directors were subject to a deemed interest of 9% per year which was taxable as an income for the company that provided the loan.

With the new amendment, section 39 is now abolished and such loans will be regarded as a monthly benefit in kind for the individual shareholder or director (and not the company). This benefit in kind will be equal to a yearly rate of 9% on the outstanding loan amount will be regarded as part of the taxable income of the individual shareholder or director and the company must withhold this amount on their behalf.

It must be noted though that loans to legal persons (i.e. companies) acting as shareholders or directors will continue to be subject to the provisions of section 33 of the Income Tax law which provides for loans between related parties to carry an interest based on the prevailing market rates.

The above new amendment will be effective from the 1st of January 2012.

C. SPECIAL CONTRIBUTION TO THE DEFENCE LAW

Dividend Income

Generally, dividend income is exempt from Income Tax and is usually also exempt from Special Defence Contribution Tax due to the very wide exemption criteria. For those situations where the exemption criteria are not met, the rate of taxation on dividend income under Special Defence Contribution Tax, was increased from 15% to 17% in August 2011. In December 2011 the House of Representatives voted for a further increase from 17% to 20% and this increased rate will be applicable for dividend income liable for taxation, received or credited or deemed to be received or credited during the period of the 1st of January 2012 and the 31st of December 2013.

Further, any divided paid from a Cyprus company to another Cyprus company indirectly after four years from the end of the financial year in which the profits that generate the relevant dividend were recognised, will not be, after the amendments, liable for exemption from Special Defence Tax. It should be noted that this change will not apply in cases where the shareholders of the company paying the dividends are directly or indirectly non-residents of Cyprus.

D. VAT LAW

The new legislation provided for an increase in the standard rate of VAT from 15% to 17%. It also made the issue of receipts for the provision of goods and services compulsory and clarified the compulsory information that should be included in the receipts.

E. LAW FOR SPECIAL CONTRIBUTION BY THE EMPLOYEES OF THE PRIVATE SECTOR

Under this new legislation all private sector employees must pay a special contribution to the Republic on their salaries.

This special contribution will be considered as tax deductible for both the employee and the employer and it will be applicable for a period of two years from January 2012 until December 2013.

The rate of this contribution will depend on the amount of monthly salary as indicated below and this will be covered in equal proportions by both the employee and the employer:

Gross Monthly Salary	Total Special Contribution
€	%
Up to 2.500	0
2.501-3.500	2,5% (min €10)
3.500-4.500	3
4.500 and above	3,5

F. SPECIAL ARRANGEMENT FOR SETTLEMENT OF OVERDUE TAX LIABILITIES

According to the above mentioned law, any payments to the tax authorities for the fiscal years up to 2008, which will be made before the 30th March 2012 will be subject to a 5% flat penalty only. All penalties over and above the 5% (including interest for late payments) will be written off.

This new law will therefore apply mainly to:

- Taxes arising in accordance with Tax Returns submitted up to the 30th March 2012 that relate for any tax year up to 2008.
- Taxes that were or should have been withheld at source by the 30th March 2012.
- Taxes assessed up to the 30th March 2012.

However, no refund will be granted for penalty payments which exceeded 5% which were made before the implementation of the new legislation.

In case a company makes use of the provisions of the law mentioned above but the Commissioner of Income tax reviews and assesses taxation after the 30th March 2012, the provisions of this law will not apply and normal penalties will be applicable.

We believe that all companies that can benefit from this legislation should take this opportunity and bring their tax obligations up to date. The penalties for non-payment of taxes where recently significantly increased, so those who will make use of this new temporary benefit can enjoy tax savings

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Kinanis LLC continues the business of Kinanis & Co established in 1983. The firm started its operation as a traditional law firm. Experience and practice over the years brought forward the need for transformation from a traditional law firm to a more innovative multidisciplinary firm providing a full range of services combining law and accounting with the extensive expertise in corporate and tax advice to ensure that our clients will obtain the best possible spherical advice.

Our involvement and participation in international transactions over the years, have established our firm as one of the key players in the field.

The firm is staffed with over 80 young, energetic and ambitious professionals, including lawyers, accountants and administrators who provide prompt, efficient and high quality services and who are capable of meeting the current demanding challenges of the local and international business environment.

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