Tax alert

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AS PricewaterhouseCoopers in Estonia helps clients in finding tax efficient business solutions and managing tax risks.

We work together with our colleagues in other PricewaterhouseCoopers' offices world-wide and use our access to international know-how and long-term experience to quickly and efficiently solve tax issues that arise both locally and in foreign jurisdictions. For more information, please see our contact details below.

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Legal acts

New income tax return forms and expiration of certain tax attributes

As from 1 January 2015, a number of changes in Income Tax Act as well as in corporate tax return forms and reporting principles will come to force. This issue of the newsletter focuses on certain tax attributes that will expire by the beginning of the coming year, and on the changes in the Annex 7 of the corporate tax return Form TSD.

A number of corporate tax deductions set to expire

As from 1 January 2015, §§-s 60 and 61(27)-(28) of Income Tax Act ('ITA') will be abolished. These provisions allow to use certain specific corporate tax deductions, the expiration of which only concern the companies that are eligible for the deduction(s) but have not yet, partially or fully, exercised their right. In broad terms, the eligibility should have arisen in the past in the following cases:

1. Before year 2000, Estonia used so called classical corporate income tax system applying annual income tax on company profits. As from 1 January 2000, the profits are taxed only upon distribution (such as payment of a dividend, payments from share capital in excess of paid in capital, etc.). In order to avoid double taxation, the ITA was complemented with § 60, according to which income tax paid on corporate profits under the old tax system could be credited against the income tax liabilities arising under the new system. The rights for such deductions may have been passed on as a result of a corporate restructuring.

2. In 2005, the credit method was replaced by the exemption method to eliminate double taxation of dividends that were originally received from a local or a foreign subsidiary. As transitional provisions, the § 60 (27), (28) were included in ITA allowing companies (subject to certain conditions) to make certain tax deductions from their tax liability.

If a company is eligible for a tax deduction under the above paragraphs and wishes to use the benefit before its expiration, a hard copy corporate tax return form must be filed before year end.

Follow the link for further information (in Estonian) on how to file and which TSD forms must be used: http://www.emta.ee/index.php?id=35024

Changes in the Form TSD Annex 7

As from 1 January 2015, the structure of the Annex 7 will significantly change. The renewed form will include six parts: I, Ia, Ib, II, III and IV.

In **Part I**, a taxpayer has to outline the taxable dividend payments as well as payments from the equity made during a calendar month.

The payments from the equity can be made in connection with the share capital reduction, share repurchase or liquidation of the company. Income tax is applied on the share of the payment exceeding the paid in capital. The respective calculation is currently presented in the Table 1 of Annex 7. As from 1 January 2015, the balance will be tracked in **Part Ia** of Annex 7. Most importantly - the overall balance of the movements in equity as at 31 December2014 must be reported by 10th February 2015 on the basis of the history of the company (i.e. going back to the day the company was established).

Calculating the balance might be complicated if a company has been subject to a corporate merger in the past in which case certain specific rules will apply.

As from 1 January 2015, all payments made by a shareholder in the equity upon foundation or capital increase must be reported for the month the payment was made (Part Ia of the Annex 7).

If an Estonian company receives foreign income on which the foreign taxes have been paid and which can be credited against Estonian tax liability upon further distribution, then such income must be reported in the **Part Ib** of Annex 7. If, as of 31 December 2014, a company has this type of unreported income then this must be reported in January 2015 TSD, in Annex 7, Part Ib due by 10th February 2015.

The income that a company receives and which can be further distributed tax exempt, must be reported in the **Part II** of Annex 7. If, as of 31 December 2014, a company has this type of unreported income (currently reported in the Form INF 11), then such income must be reported in January 2015 TSD, in Annex 7, Part II which is due by 10th February 2015. Part II will replace the Form INF 11 and the latter will no longer be in use as from 1 January 2015.

The **Part III** will be used to report the rights that reduce tax liability (‘rights’) and which are transferred to another Estonian company as a result of a corporate merger or division. As an example, such right may be an unexercised tax exemption or a balance of the payments in and out of the share capital. Each type of a right has a specific code allocated to it. The company receiving respective rights must fill in the Part IV of the renewed Annex 7. Upon recipient’s request, the company transferring the rights must issue the certificate Form TD on the details of the rights.