

Tax Flash

Tax treatment of a foreign trust and a foreign foundation

July 2017

On July 24, 2017 Circular No. 1114/2017 (the “Circular”) was issued, providing for interpretative guidelines with respect to the tax treatment of the foreign trusts and foundations

Main remarks

- The Circular intends to provide for a wide definition for both “trusts” and “foundations” and provide clear interpretative guidelines in relation to the tax treatment of various transactions and cases within the framework of both income and gift and inheritance tax legislation.

Income Taxation

- Indicatively, specific reference is made with regard to the tax treatment from an income tax perspective:
 - of a foreign trust and foundation which acquires income in Greece;
 - of the income acquired by the the settlor/founder under his/her capacity as beneficiary of the foreign trust and foundation;
 - of the proceeds arising from the dissolution of the foreign trust and foundation.
- The general principle underpinning the approach of the Circular is that based on current tax law distribution of profits from either foundations or trusts to their founder/settlor are treated as dividend distribution subject to the Greek dividend tax of 15% (plus solidarity contribution where applicable). Trusts and foundations are also captured by Greek CFC rules.
- To be noted, in order to facilitate the participation of the taxpayers to the Voluntary Disclosure Programme for Undeclared Income (effective until 30/9/2017), the Circular clarifies the tax treatment of various cases both under the application of the previously applicable Income Tax Code (Law 2238/1994) and under the currently applicable Income Tax Code (Law 4172/2013, effective as from 1/1/2014).

Gift and Inheritance Taxation

- Further to the above, reference is also made from a gift and inheritance tax perspective of the trusts established through a testamentary disposition or during the lifetime of the settlor (*inter vivos trusts*) owning Greek or foreign assets, thus capturing cases that are not covered by the explicit provision of article 17 par. 4 of the Greek Inheritance and Donation tax code.
- Although it is clarified that each case must be considered on its own merits, the Circular seems in principle to adopt a look-through approach whereby beneficiaries are taxed as heirs/donees of the founder/settlor based on their relationship with the settlor.

The above long awaited Circular clarifies several issues which had not been encountered by the tax authorities up to date and provides sufficient

guidelines with respect to the tax treatment of the various transactions in connection with foreign trusts and foundations.

It is important to note that each individual case needs to be examined based on its specific circumstances, and that the above mentioned general principles would not necessarily capture all possible eventualities. Our tax expert consultants are in a position to advise you on the tax implications arising from a Greek tax perspective in relation to your specific case.

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This information is intended only as a general update for interested persons and should not be used as a basis for decision making. For further details please contact PwC:

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