



Foreign Permanent Establishment tax provisions amended

8 November 2016 - The Cyprus Parliament voted on 14 October 2016 amendments to the Cyprus Income Tax Law 118(I)/2002, as amended, relating to foreign Permanent Establishments (PEs).

More specifically as from 1 July 2016, Cyprus taxpayers have the option to elect to tax profits of foreign PEs and also be able to claim as credit any foreign taxes imposed on the foreign PE's profits. If this option is not elected, the exemption method will remain at the default position.

Prior to the above mentioned amendment, profits from a PE abroad of a Cyprus tax resident person were exempt from corporation tax in Cyprus unless both of the below applied:

- the foreign PE was engaged, directly or indirectly, in more than 50% in activities that lead to investment income; and
- the foreign tax burden on the profits of the PE was substantially lower than the Cyprus tax burden (in practice lower than 6,25%).

Losses incurred by a PE situated outside Cyprus, could be allowed as a deduction from the head office's income from other sources of the same year and subsequent years. However, there was a recapture clause under which, where deductions for losses which had been allowed in previous years, an amount of profit up to the amount of losses so allowed shall be included in the chargeable income of the company and taxed accordingly as and when the PE subsequently realises profits.

The amendment provides taxpayers with the option to elect to tax the profits of a foreign PE.

In such a case tax credit for foreign taxes incurred on the foreign PE profits will be available, without the need for a double tax treaty to be in place, provided that proper documentation is in place for the foreign taxes incurred.

Transitional rules also apply for the claiming of foreign tax credits for those taxpayers that previously had utilized foreign PE tax losses.

As always, the Department of Taxation of Costas Tsielepis & Co Ltd is at your disposal should you require any further information or clarifications.