



Tax payers given rights to claim deemed deductions on Article 33

20 December 2016 – Recently issued Circular 2016/15 now allows for tax payers to adjust their tax computations by including notional revenue and the corresponding notional expense on transactions that were not executed at market values and on normal commercial terms.

The tax payers' right to do so, is outlined in Circular 2016/15, which was issued by the Cyprus Commissioner of Taxation on 24 November 2016, and provides a clarification on the application of the amended Article 33 of the Income Tax Law 118 (I)/2002, as amended in December 2015.

Circular 2016/5 confirms that the arm's length tax adjustments may also be applied by the concerned taxpayers, instead by the Commissioner of Taxation, as was the case when Article 33 was amended.

In such a case, the Commissioner of Taxation will accept the said tax adjustments for inclusion of the notional revenue and the corresponding notional expense on the tax computations of the involved Cyprus tax resident taxpayers, provided that those adjustments were made based on market values and on normal commercial terms.

Article 33, which was first introduced on 1 January 2003 gave the Commissioner of Taxation the powers to intervene and challenge transactions between related parties if such transactions were not executed at market values and on normal commercial terms by increasing only the income of the said transaction.

The amended Article 33 which went into effect on 1 January 2015 provides that where the Commissioner of Taxation intervenes and challenges a transaction by increasing the income of the said transaction, carried out between two Cyprus tax resident persons, because the transaction was not carried out at arm's length, a deem deduction will also be provided to the other person being equal to the increase of the income or benefit. Where such adjustment relates to a loan, financial assistance or a debit balance, the resulting deduction afforded to the other person is deemed to be 'interest' in nature, and the provisions concerning restriction of interest will also apply.

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