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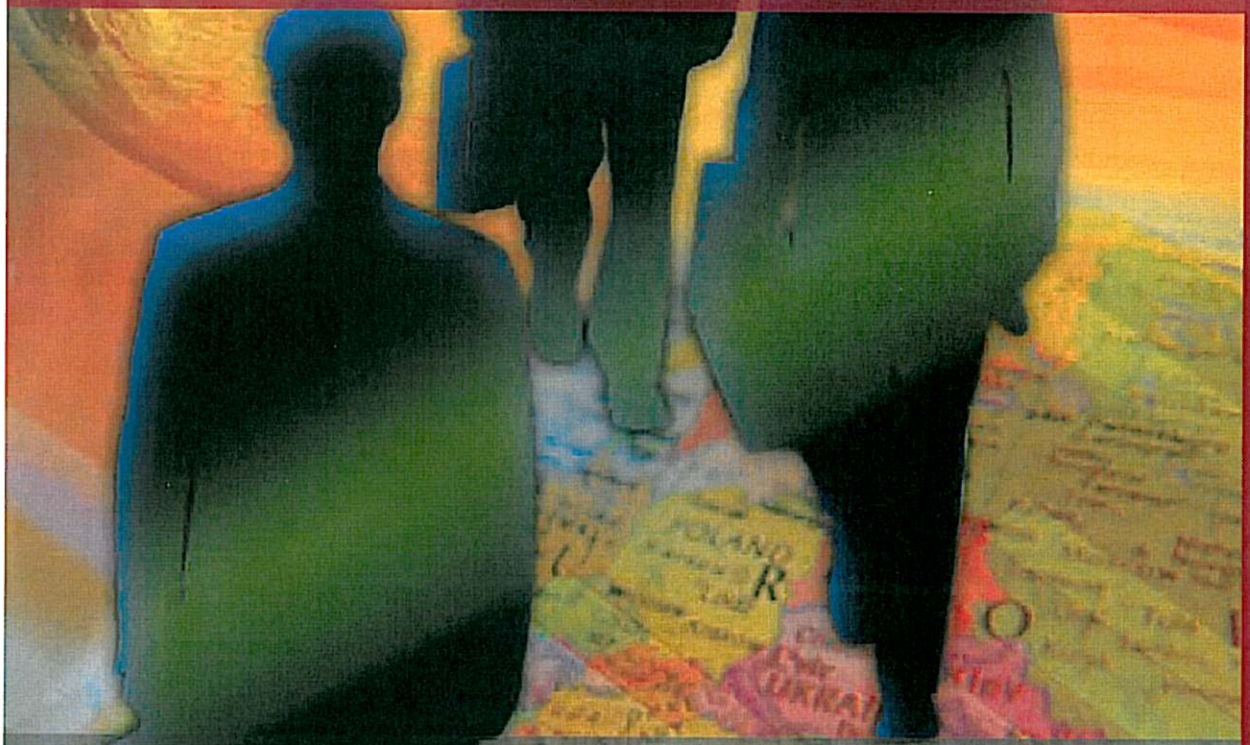

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the micro-enterprise status and who, under the law, may make only one tax payment.

The payment includes:

- State social insurance mandatory contributions, personal income tax and entrepreneur risk state fee for employees of the micro-enterprise;
- Enterprise income tax if the micro-enterprise conforms to features of enterprise income tax payer; and
- Personal income tax of owner of the micro-enterprise for earnings of micro-enterprise economic activity.

In order to qualify as a micro-enterprise, a company cannot have more than five employees on its payroll and the turnover, during a 12-month period, cannot exceed the limit provided as under.

In order to qualify as a micro-enterprise, the following conditions must be satisfied:

- The members of the enterprise may only be natural persons,
- The turnover of such enterprise within a calendar year shall not exceed USD 121,440.
- The total number of employees on the payroll of such enterprise shall not exceed five; and
- The income of any given employee shall not exceed USD 870 per month.

An enterprise that meets these conditions must submit an application to the State Revenue Service until December 15 of the pre-taxation year, and it becomes a micro-enterprise tax payer from January 1 of the following year. A micro-enterprise tax payer may not change the tax regime before the respective taxation period is over. Moreover, a micro-enterprise that after exercising its choice to pay a micro-enterprise tax has reverted back to its original the tax regime, may re-choose the micro-enterprise tax regime no earlier than five years after changing its tax regime.

Under the draft law, the flat tax rate is 20 percent of the micro-enterprise's annual turnover. However, there are proposals in the pipeline, from the Ministry of Economics to reduce the rate to 12 percent. For each additional employee over and above the maximum prescribed number of five employees, two additional percentage points shall be added to the tax rate.

Besides, in cases of micro enterprises, whose turnover exceeds the maximum eligible turnover of USD 1,21,440 USD a tax rate of 30 percent tax rate shall be applied.

If the income of any employee exceeds the maximum eligible salary amount of USD 870, an increased tax rate of an amount of 50 percent on the excess amount shall be applied additionally over and above the tax rate of 20 percent or 12 percent, depending on what rate goes through when the bill is adopted.

It shall be noted that the tax is paid four times a year on the turnover of each quarter.

Considering the mentioned several different situations may arise. If a micro-enterprise has five employees whose income is USD 870 per month and the enterprise's turnover within a calendar year is USD 1,21,440, the enterprise shall pay 20 percent tax of the total turnover, i.e. USD 24,280 (USD 2,023 per month); whereas if the same micro-enterprise has six employees, the tax rate will be 22 percent and a total sum of USD 26,710 shall be paid (USD 2,226 per month).

Further, if the turnover per calendar year is USD 1,38,778, a sum of USD 17,338 is the excess turnover and hence, a tax rate of 20 percent is applicable to the amount of USD 138 778, but a 30 percent tax rate is applicable to the excess turnover of USD 17,338. Hence, USD 24,280 + USD 5,201 is the total tax liability in this situation, i.e. a sum of USD 2,457 per month.

However, if any employee receives a salary of USD 1,216 a month, the excess amount is USD 346 on which an additional USD 173 per month shall be payable by way of tax.

At the end an employment issue shall be noted. Spouses and relatives in first degree of the owner of a micro-enterprise may be employed without establishing labour relations; however, they are still eligible to join the state social insurance.

The adoption of the micro-enterprise status under the draft bill is optional, and companies will be free to decide their choice of tax system. The draft bill may be adopted with some changes by the Parliament. One of the crucial changes is expected to be on the rate of tax as the Economy Minister of Latvia, Artis Kampars (New Era) hopes for a compromise to be reached and a fixed tax rate to be set for microenterprises at the rate of 12 percent of the total turnover

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SWITZERLAND

Swiss Parliament rejects UBS deal

A major tax agreement between the US and Switzerland, which would have paved the way for UBS to disclose bank account details to US tax authorities has been rejected by Switzerland's lower house of parliament

The UBS case is actually an issue which runs apart from the general exchange of information policy of Switzerland. The co-operation of Switzerland in the UBS case is absolutely unique. It is due to the fact that UBS violated US law. In order to prevent further sanctions against UBS, Swiss government made an agreement with the US in August 2009. This agreement is not in line with the existing Swiss-US Double Taxation Treaty (DTT) as has been confirmed by the Swiss Federal Administrative Court. The agreement is not in line as well with the new Swiss OECD standard DTTs which prohibit retroactivity and fishing expeditions.

The situation is paradox: Under the new DTT with the US which has been signed on 23 September 2009, exchange of information would basically not be granted in the UBS case. This is namely due to the fact that the US are not in the position to indicate the names of the taxpayers. If the agreement of August 2009 should not be approved, it would seem to be unfair to blame UBS for that and to continue the proceedings in the US. This seems true all the more when

one considers, as some Swiss commentators have pointed out, that the whole incident has already persuaded more than 15,000 people to make voluntary disclosure; thus giving the IRS to a substantial degree what it wanted

It has to be stressed that the Swiss bank secrecy has not been changed by the UBS case. Generally, only information which concern years following the entry into force of the amended DTTs will be exchanged. Therefore, retroactivity should be, on the whole, avoided. However, it should be mentioned that under some treaties (e.g. US, France, Germany) the exchange of information will be applied retrospectively

The new DTTs also determine that administrative assistance procedures shall be respected. This means from a Swiss point of view that client data information would be only transmitted to the requesting Contracting State if the tax payer has exhausted all administrative procedural rules.

It will be possible to appeal against the decision of the Swiss Federal Tax Administration as to whether or not the information sought should be transmitted abroad. Only if this appeal were rejected by the Federal Administrative Court, could information pass the Swiss frontier. The first new DTTs could enter into force in the course of 2010 at the earliest. This would mean that the first requests for an exchange of information could possibly be made in the year 2011 relating to years 2011 and onwards.

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UKRAINE

Ukraine: Taxation of dividends improved

The Ukrainian Parliament has amended the Corporate Income Tax (CIT) Law regarding the taxation of dividends. These amendments are favourable for taxpayers and are aimed at solving certain long-standing problems that were faced, particularly, by Ukrainian holding companies.

In particular, the amendments:

- Abolish taxation of dividends at the level of Ukrainian holding companies on dividends distributed by their controlled foreign subsidiaries (except for subsidiaries in off-shore jurisdictions). A foreign subsidiary qualifies as controlled if a Ukrainian holding company holds directly or indirectly the major stake or controls the majority of votes in the board or holds at least 20 percent of the shares in the charter capital of such subsidiary. To compare, the previous version of the CIT Law provided that dividends received by a Ukrainian holding company from non-resident subsidiaries were taxable, whilst any dividends received from a Ukrainian source were exempt.
- Release Ukrainian holding companies from an obligation to pay an advance CIT on distributions of dividends in the amount corresponding to the amount of dividends received from its controlled subsidiaries. According to the previous version of the CIT Law, Ukrainian holding companies were relieved from the advance CIT only when their income derived mainly from dividends (at least 90 percent) received from controlled subsidiaries. By way of a reminder, a tax payer must pay an advance CIT to the Treasury before or simultaneously with the distribution of dividends in an amount of 25 percent of the gross amount of dividends on top of such dividends. Failure to comply with this requirement may result in a fine equal to 200 percent of the paid out dividends.

The amendments to CIT Law became effective on May 19, 2010.

Law On amendments to CIT Law regarding taxation of dividends, No. 2156-VI, dated April 27, 2010.

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UNITED KINGDOM

United Kingdom: In for a long night on Budget day

Following the publication of the British Government document *"The Coalition: our programme for government"*; what more do we know?

UK's Emergency Budget: What lies in store?

In terms of the British Government's key pledge on business tax - to reduce the headline rate of corporation tax - it's encouraging that there is a pledge to protect manufacturing which could potentially be hit hard if capital allowances are removed. But there are many other sectors that could also feel a negative impact by this or other ways to fund the reduced rate and we would hope that they too are considered.

Tax professionals are gearing up for a long night on June 22 - budget day. The government document repeated a lot of previously mentioned commitments on business tax but as expected there is still little detail. Indeed, some of the measures highlighted in George Osborne's speech to the CBI such as the reform of the controlled foreign companies law - which he quite rightly said was a key issue for business - were not mentioned at all.

What the document does suggest is that no fixed decisions have yet been made on corporate tax other than the desire to reduce the rate by some means. That's a good thing since this is a complex area with no one solution that will work for all.The coalition document implies that the new government may be taking time to consider its options and to consult on business tax issues. Given that there is a proposal for a five-year road map for a big reform of corporation tax, it will be crucial that business makes its voice heard.

It's a bit of a cliché but where tax is concerned, the devil really is in the detail. There are lots of issues raised here that are potentially huge, where we really do need to see the legislation to understand the implications. A great example of this for business generally

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