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TaxAlert

Changing rules in respect of assets transferred without charge

In this tax newsletter, we draw your attention to the mid-year changes in corporate tax law regarding the transfer of assets without charge

According to the corporate tax law effective from 1 January 2010, expenditure arising from transferring assets without charge may not be deductible for taxation purposes if:

- the transfer is to a foreign person resident in a country with which Hungary does not have a double tax treaty, or
- the transfer is to a controlled foreign company, or
- the taxpayer has not received a statement from the beneficiary confirming that its profits would be positive without the income accounted for as a result of receiving the assets in the particular tax year.

The latest amendment rewrites the conditions for transfer of assets without charge effective as of 15 May 2010. The above-mentioned statement from the beneficiary will still be necessary. However, there will be no need to check the existence of a double tax treaty or the 'controlled foreign company' status of the foreign person from 15 May 2010 as expenditure arising on transfers to foreign persons will not be tax deductible.

The new amendment, contrary to the general rules mentioned above, defines the support for motion pictures and theaters as specifically accepted expenses for tax purposes. Moreover, this can be applicable for tax years beginning in 2010. Since the part of corporate tax law requiring the beneficiary to issue a statement confirming that its profits would be positive remains unchanged, it is still uncertain in practice how the rules should be applied in case of assets transferred without charge to foundations and other non-profit organizations.

Should you have any questions regarding the above, please do not hesitate to contact Mihály Gerhát (tel: 887-7180, mihaly.gerhat@kpmg.hu) at the tax department of KPMG Advisory Ltd. or your regular tax advisor.

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