



Deemed dividend distribution rules are no longer applicable to the profits of Cypriot tax resident companies that are attributable to non-residents that hold shares in these companies indirectly

On 13 September 2011 the Cyprus Income Tax Office ('*ITO*') issued Circular No. 2011/10 signifying that the Cypriot deemed dividend distribution ('*DDD*') rules are not applicable to the profits of Cypriot tax resident companies, to the extent that these profits are attributable to non-residents that hold shares in these companies indirectly at the end of the second tax year from the end of the tax year to which the profits relate.

I. Background of the DDD rules

If a Cypriot tax resident company does not distribute within 2 years from the end of the tax year at least 70% of its after tax accounting profits (excluding revaluations and fair value adjustments), then there is a deemed distribution on 70% of such profits (reduced by any actual distributions made). Special Contribution for the Defence Fund of the Republic ('*SDC*') at 17% (as from 31 August 2011, previously at 15%) shall be payable to the ITO on such deemed dividend distribution.

A non-resident (indirect) shareholder who received dividends from a Cypriot tax resident company paid out of profits which at any stage were subject to DDD rules is entitled to refund of the SDC paid on his share of profit. With the issue of the above mentioned Circular the profits attributable to such indirect non-resident shareholder will no longer be subject to 17% SDC and, thus, there is no longer a need to go through the refund procedure.

II. Contents of the Circular

When non-residents (legal entities / individuals) constitute 100% of the indirect shareholders (at any level on top of the Cypriot tax resident company), such company is not obliged to submit Form I.R.623 (the DDD declaration).

Instead such company will have to submit the following to the ITO:

- ▶ Declaration by the Director/Secretary of the Company that the shareholder(s) of the Company are directly or indirectly non-Cyprus tax residents and that the Director/Secretary possesses adequate evidence to support the declaration and that he/she undertakes the responsibility upon ITO's request to submit the above evidence;
- ▶ Confirmation by the Company's auditor/lawyer for the correctness of the above Company's declaration.

If non-residents (legal entities / individuals) constitute less than 100% of indirect shareholders, then the Company is obliged to submit the Form I.R.623 to the ITO. However, the profits attributable to the non-resident indirect shareholder(s) will be excluded from the computation of profits subject to the DDD rules and, thus, will not be subject to 17% SDC.

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