Underlying tax credit on foreign source dividends

According to a recent Circular (E.2018/28.01.2019), the Independent Authority of Public Revenues ("IAPR") has taken the position that Greek tax residents, be it individuals or legal entities, who earn foreign source dividends may be entitled to credit, against their Greek income tax liability, not only the amount of tax withheld on the dividend, but also the underlying tax paid on the corresponding profits at the source state.

According to the Circular, the underlying tax credit is allowed only with respect to dividends sourced from countries with which Greece has concluded a Double Taxation Treaty ("DTT") that allows for such a credit mechanism, namely: Albania, Armenia, Georgia, Estonia, the United Kingdom, China, Cyprus, Latvia, Lithuania, Uzbekistan, Slovenia ("qualified countries").

In order to claim the underlying tax credit, the Greek tax resident shareholder should obtain a certificate from the dividend source state tax authorities or other public authority including the following:

- The distributing company's details
- Confirmation that the Company is a tax resident of that country under the DTT
- The amount of corporate income tax paid
- The shareholding percentage of the specific shareholder
- The amount of dividend distributed to the shareholder and the amount of corporate income tax corresponding to such dividend.

Certificates issued by the distributing company or third party professionals shall not be accepted by the Greek tax authorities.

Example

A Greek tax resident individual holds 20% of the share capital of a company resident in a qualified source country (Company S in Country S). Company S generates taxable profits of Euro 100,000 and pays corporate income tax in Country S of Euro 12,000 (12% corporate income tax rate).

The total dividends to be distributed amount to Euro 88,000 (100,000-12,000). No dividend withholding tax is imposed in Country S upon distribution. The Greek tax resident shareholder earns a dividend of Euro 17,600 (88,000 * 20%).

The 15% income tax due on the dividend is Euro 2,640 (17,600 * 15%). The amount of underlying tax corresponding to the dividend is Euro 2,400 (12,000 * 20%). The latter amount will be deducted from the 15% income tax thus reducing the overall income tax liability of the Greek tax resident shareholder to Euro 240 (15% nominal income tax of Euro 2,640 minus underlying tax of Euro 2,400).

The Circular does not refer to the impact of the underlying tax credit mechanism on the Special Solidarity Contribution liability of individuals. This may be a point of interest, taking also into account that the IAPR has recently acknowledged that said contribution qualifies as income tax for DTT application purposes.

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