



Cyprus Tax News

Tax law amendments regarding loan restructurings

On 16 December 2015, the House of Representatives enacted into laws a number of significant tax law amendments regarding loan restructurings, which were published in the Official Cyprus Government Gazette on 31 December 2015.

The amendments facilitate tax free loan restructurings and aim to encourage the restructuring of non-performing loans (NPLs).

We summarise below the amendments to the following tax laws:

1. Income Tax Law
2. Capital Gains Tax Law
3. Special Defence Contribution Law
4. Stamp Duty Law
5. VAT Law
6. Collection of Taxes Law
7. Department of Land and Surveys Law

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Definition of “Restructuring”

Introduction/amendment of the definition of “restructuring” in the relevant tax laws

The definition of “restructuring” has been amended to include a wider number of persons that are affected. Under the new definition, “**restructuring**” means *“the direct or indirect sale and transfer of immovable property and transfer of rights under a sale contract deposited with the Department of Lands and Surveys, between one or more borrowers and/or debtors and/or guarantors regarding the same credit facility or grant or debt and one or more creditors made within two (2) years from the entry into force of this Law, which aims to reduce or repay credit facilities or loans or debts granted to borrowers with one or more lenders.”*

“**Lender**” means *“licenced credit institution as defined in article 2 of the Business of Credit Institutions Law and includes credit and financial institutions operating in the Republic in accordance with article 10A of the same law, as well as subsidiary companies of such institutions.”*

Income Tax (IT) Law & Capital Gains Tax (CGT) Law

The amended IT Law provides that any benefit, profit or gain arising in the context of restructuring is exempt from IT. The CGT Law as amended continues to provide for a CGT exemption on gains arising from the disposal of property under restructuring.

Both Laws have been amended to provide that in the case of a property disposal, or possession of a property for own use by the lender, which was acquired in the context of a restructuring, for purposes of taxation of the lender, the **(tax) acquisition cost** (for the lender) is considered the restructuring price and the **disposal value** is reduced by any amount returned to the borrower.

Furthermore, amendments to both Laws provide that upon a restructuring, in the case where any part of the disposal value is refunded to the borrower, then the tax that was exempt for the borrower is payable up to the amount refunded. The tax incurred is borne by the borrower and withheld and paid to the tax authorities by the lender.

Special Contribution for Defence (SDC) Law

In accordance with the amendment to the SDC Law, no SDC is paid for deemed distribution purposes on accounting profits arising in the context of restructuring.

Similarly to the IT Law and CGT Law, the SDC Law has been amended to provide that in the case of a property disposal, or possession of a property for own use by the lender, which was acquired in the context of a restructuring, for purposes of taxation of the lender, the **(tax) acquisition cost** (for the lender) is considered the restructuring price and the **disposal value** is reduced by any amount returned to the borrower.

It is further provided that upon a restructuring, in the case where any part of the disposal value is refunded to the borrower, then this amount is included in the accounting profit of the borrower in the tax year in which the amount was refunded and is subject to deemed distribution.

Stamp Duty (SD) Law

According to the amended SD Law, contracts, mortgages or other documents drafted within the restructuring framework are exempt from SD.

VAT Law & Collection of Taxes (CT) Law

Both Laws have been amended to provide that in the case where a property is acquired by the lender under a restructuring, any encumbrance on this property, is carried on the property during the transfer from the borrower to the lender.

Furthermore, amendments to both Laws provide that the Commissioner of Taxation may request for the encumbrance to be transferred on another property belonging to the borrower.

It is further provided by the amendments that the Commissioner may at his discretion make an agreement with the borrower to settle any outstanding taxes, in order to allow the discharge of the property from encumbrance.

Department of Lands and Surveys (DLS) Law

The DLS Law has been amended to replace the definition of the term “restructuring” with the new definition outlined above.

It should be noted that the DLS Law already provides that no levy or duties are imposed or levied, in the case of transfer or registration of immovable property under restructuring.

Effective Date

All of the above amendments are effective from 31 December 2015, the date of their publication in the Government Gazette.

We are at your disposal to discuss the above developments with you.



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