

Global Tax Update

India

Deloitte Tohmatsu Tax Co.

January 2017

Subvention received by Indian subsidiary from its parent company towards recoupment of losses is a non-taxable capital receipt¹

Taxpayer was incurring losses and had received subvention from its German parent company towards recoupment of losses.

Tax authorities treated the aforesaid receipts as taxable revenue receipts. Such treatment was also upheld by the jurisdictional High Court.

On further appeal, Supreme Court held that voluntary payments made by the parent company to its loss making Indian company should be treated as payments made to protect capital investment in the Indian company. Such a sum cannot be treated as a revenue receipt and should not be taxed².

1 Siemens Public Communication Networks Pvt. Ltd case (Supreme Court)

2 The Supreme Court noted that similar view was taken in a recent pronouncement by the Delhi High Court in the case of CIT v. Handicrafts and Handlooms Export Corporation of India Ltd. (360 ITR130) [2014] with which they are in agreement.

Newsletter Archives

To see past newsletters, please visit our website.

www.deloitte.com/jp/tax/nl/ao

Contacts

Deloitte Tohmatsu Tax Co.

India Practice

Hiroyuki Hayashi, Partner

hiroyuki.hayashi@tohmatsu.co.jp

Pawankumar Kulkarni, Manager

pawankumar.kulkarni@tohmatsu.co.jp

Issued by

Deloitte Tohmatsu Tax Co.

Tokyo Office

Shin-Tokyo Building 5F, 3-3-1 Marunouchi, Chiyodaku, Tokyo 100-8305, Japan

Tel : +81 3 6213 3800

email : tax.cs@tohmatsu.co.jp

Corporate Info. : www.deloitte.com/jp/en/tax

Tax Services : www.deloitte.com/jp/tax/s/en

Deloitte Tohmatsu Group (Deloitte Japan) is the name of the Japan member firm group of Deloitte Touche Tohmatsu Limited (DTTL), a UK private company limited by guarantee, which includes Deloitte Touche Tohmatsu LLC, Deloitte Tohmatsu Consulting LLC, Deloitte Tohmatsu Financial Advisory LLC, Deloitte Tohmatsu Tax Co., DT Legal Japan, and all of their respective subsidiaries and affiliates. Deloitte Tohmatsu Group (Deloitte Japan) is among the nation's leading professional services firms and each entity in Deloitte Tohmatsu Group (Deloitte Japan) provides services in accordance with applicable laws and regulations. The services include audit, tax, legal, consulting, and financial advisory services which are delivered to many clients including multinational enterprises and major Japanese business entities through over 8,700 professionals in nearly 40 cities throughout Japan. For more information, please visit the Deloitte Tohmatsu Group (Deloitte Japan)'s website at www.deloitte.com/jp/en.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 225,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.

All of the contents of these materials are copyrighted by Deloitte Touche Tohmatsu Limited, its member firms, or their related entities including, but not limited to, Deloitte Tohmatsu Tax Co. (collectively, the "Deloitte Network") and may not be reprinted, duplicated, etc., without the prior written permission of the Deloitte Network under relevant copyright laws.

These materials describe only our general and current observations about a sample case in accordance with relevant tax laws and other effective authorities, and none of Deloitte Network is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. The opinions expressed in the materials represent the personal views of individual writers and do not represent the official views of Deloitte Network. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Member of
Deloitte Touche Tohmatsu Limited

© 2017. For information, contact Deloitte Tohmatsu Tax Co.