

EXEMPTION OF EU FUNDS FROM CORPORATE INCOME TAX IN POLAND

Important changes to the Polish Corporate Income (CIT) Tax Act were introduced at the beginning of 2011, exempting EU funds from income tax.

Up to the end of 2010, the CIT Act extended a general CIT exemption to investment funds operating under Polish regulations. This exemption offered investors, who had established closed – end investment funds (FIZ) in Poland, tax optimisation opportunities. The European Commission took the position that restricting the above exemption to Polish investment funds was contrary to EU law, as it discriminated against investment funds from other EU members.

At the beginning of 2011, the CIT exemption was broadened to cover investment funds from the EU provided they meet certain conditions. The exemption covers **EU funds** registered in EU and meet jointly the following conditions:

- The fund is a tax resident in the country which it is seated
- The exclusive objective of the fund's activities is the collective investing of money, raised by way of issuing units through public offering or private placement, in securities, financial market instruments and other property rights
- The fund operates on the basis of a permit from the relevant authorities of the country in which is seated
- The fund's operations are supervised by the relevant authority of the country in which the fund is seated
- The fund uses a depositary which holds its assets
- The above exemption will apply, provided that there is a legal basis for the exchange of information (international agreement) between Poland and the country in which the fund is seated

The change in the legislation in Poland leads to new possibilities for tax planning and tax structuring of investments in Poland. **Cypriot ICIS** funds could be used as a vehicle for investing in Poland directly from abroad or perform business in Poland through Polish companies without their income being taxed in Poland. Moreover, exiting from the investment will not suffer any tax burden in Poland.

How can we help?

Ekkeshis + Ierodiakonou has extensive expertise in the formation, administration and audit of ICIS structures. More specifically we can assist with:

- Formation of Cyprus company which will apply for fund license
- Compliance services including bookkeeping, fund valuations, internal audit and due diligence (Fund Administration)
- Ongoing management and operation of a Cyprus fund
- Perform annual audit of the financial statements in accordance with IFRS
- Preparation and submission of tax reports to the relevant Tax Authorities

For more information please also refer to the relevant section on our website www.eicyprus.com