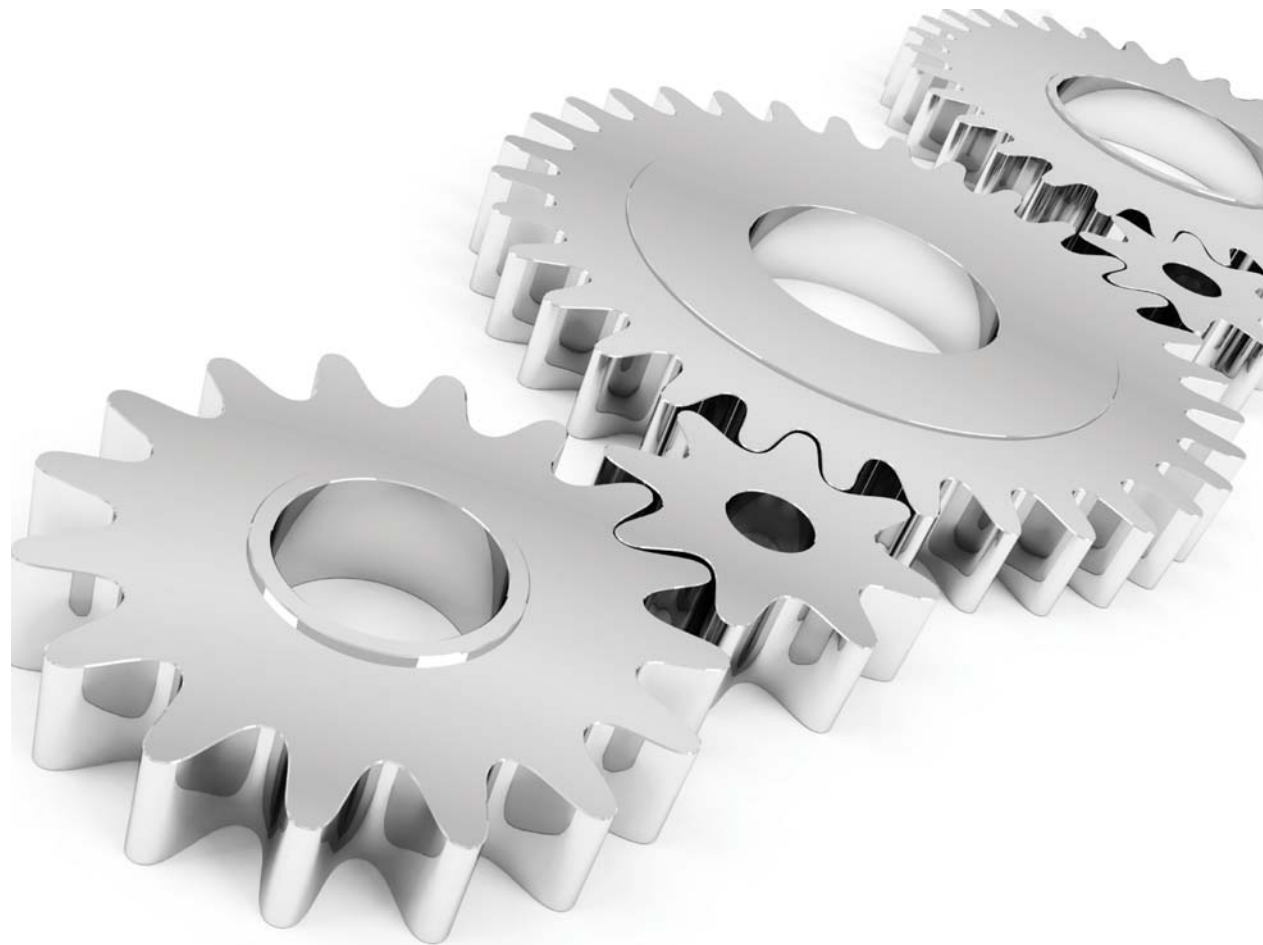




Corporate

Jersey Tax Update – Zero/10: Code Compliant



Executive Summary

Jersey's Zero/10 tax regime was approved by the Council of Ministers of the European Union in Brussels on 19 December 2011. The Council accepted that the Island's tax regime no longer had harmful effects. The result of this decision is that the tax neutrality offered by the tax regime in Jersey has been confirmed as being compliant with European Union code of conduct principles. Tax neutrality is crucial to the continued success of Jersey's finance industry and the certainty that this decision provides to the Island and its clients is seen as an extremely positive development.

Background – Zero/10

"Zero/10" is the tax regime that applies to the income, profits and gains (except so far as they relate to real property in Jersey) of all companies in Jersey. Pursuant to Zero/10, income tax is charged at a rate of 10 per cent in respect of a restricted sector of local finance companies and at a rate of zero per cent for all other companies other than local utility companies. The Zero/10 regime was introduced to comply with Jersey's voluntary commitment to abide by the EU Code of Conduct for Business Taxation (the "**Code**").

Deemed Distributions and Full Attribution

At the same time that the Zero/10 regime was introduced, Jersey also introduced personal taxation measures which taxed Jersey resident individual shareholders of Jersey companies personally on income arising at the level of the company. These provisions operated by deeming distributions to have been made to the individual or by fully attributing profits to the individual in accordance with his or her proportion of the ordinary share capital (together, the "**Deemed Distribution Provisions**"). On the basis that the Deemed Distribution Provisions were considered to be a personal tax measure, Jersey's view was that such provisions were outside the scope of the Code. This view was supported by the UK at the time the Deemed Distribution Provisions were introduced.

Taxation Review

Following concerns raised by some EU Member States regarding whether the Zero/10 regime could be interpreted as being outside the "spirit" of the Code, the EU Code of Conduct Group (the "**Code Group**") were asked to consider whether certain aspects of Jersey's tax regime complied with the Code. It was understood that the concerns raised centred on the Deemed Distribution Provisions. At its meeting in November 2010, the Code Group recommended to ECOFIN that the Council of the European Union (the "**Council**") should review Jersey's tax regime. For the purposes of this review, the Council's High Level Working Party for Tax Issues (the "**HLWP**") was asked to consider the scope of the Code and, in particular, whether the Deemed Distribution Provisions fell within that scope.

While Jersey maintained that the Deemed Distribution Provisions were outside the scope of the Code, being personal rather than business tax measures, the HLWP concluded on 31 January 2011 that, broadly, the Deemed Distribution Provisions were an alternative method of taxing domestic business profits and not a personal taxation anti-avoidance measure and, consequently, fell within the scope of the Code.

Jersey's Response

Notwithstanding that Jersey disagreed with the findings of the HLWP, Jersey's Chief Minister announced on 15 February 2011 that the Council of Ministers in Jersey had decided to abolish the Deemed Distribution Provisions from 1 January 2012 in the interests of maintaining Jersey's voluntary participation in the work of the Code Group as part of Jersey's "good neighbour" policy with EU Member States. The necessary legislation was subsequently approved by the States of Jersey.

Code Compliant

Following the announcement of the amendments to abolish the Deemed Distribution Provisions, the Code Group confirmed that Jersey's Zero/10 regime is Code compliant on the basis of the abolition of the Deemed Distribution Provisions.

The Code Group's confirmation was endorsed by the Council of Ministers of the European Union in Brussels on 19 December 2011 who approved Jersey's corporate tax regime as being Code compliant.

Contact us

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Please note that this briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such.

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