Consolidated Group Income tax webinar

On the 29th of May 2020 the Malta institute of Accountants (MIA) together with the Institute of Financial Services Practitioners (IFSP) and the Malta Institute of Taxation (MIT) held a joint webinar on the online application for the registration of a Fiscal Unit in terms of the Consolidated Group (Income Tax) Rules. This is a new concept issued by the CfR on the 18th of May 2020. The webinar was well attended with over 370 professionals joining in for the 1-hour long session.

The webinar first covered the process of registering a fiscal unit, then the presenters explained the new system known as 'My balances' used to keep track of tax balances which includes Income tax, VAT and FSS, and finally the webinar explained the consequences of registering a fiscal unit. This then left some time for questions from the attendees.

The presenters explained the income tax consolidation, the eligibility criteria to form or join a fiscal unit, and how to register a fiscal unit online. The objective of tax consolidation is to enable companies as a group to be treated as single taxpayers. The ultimate parent and its transparent subsidiaries are referred to as a 'fiscal unit'. To qualify for such treatment, the parent must have a direct holding of at least 95% of the subsidiary, this is a based on two of three conditions; 95% of rights to vote, 95% of profits available on distribution or 95% of profits available upon a winding up. The eligibility criteria also include that companies cannot form part of more that one fiscal unit at any one time, tax practitioners must have ITA1 authority for all members wishing to form part of the fiscal unit. Also, the companies that form part of the fiscal unit must not have any outstanding balances due nor any outstanding filing requirements in terms of the Income tax Acts, VAT Act and the FSS rules. Furthermore, the parent company, and its subsidiaries must have the same accounting periods.

The presenters walked the attendees through the process of registering a fiscal unit online, this may be done on the CfR website by logging in to the portal, accessing the page of the principal tax payer and going on the 'consolidated tab'. Other criteria that must be met to form a fiscal unit are that the parent company must make an election in order for itself and its qualifying subsidiaries to form a fiscal unit and where the subsidiary is not a 100% subsidiary the election must include the approval of all minority shareholders. Unless the parent company has 100% owned subsidiaries, applicants must tick such boxes on the online system to show that they have the approval of all minority shareholders. Companies must make sure that the proper resolutions supporting the above criteria are available on file as the CfR may ask for such documents. In the case that a company has up to two subsidiaries, the system will check that they are compliant to the rules in real time. Upon submission one will receive a real time notification message on the web site stating whether this is compliant or not. Apart from this the tax practitioner will also receive an automated e-mail from the CfR. If it is the case that a company has more than two subsidiaries, then the system will process the checks offline and once done the CfR will send an e-mail stating that this has been processed.

The CfR representative went on to explain the new CfR service 'My Balances', this system allows one to see the pending balances for Income tax, VAT and FSS and download a revenue compliance certificate through this system – this would confirm that all the returns have been submitted and that there are no pending liabilities. Furthermore, one may see the details of their account and such details may be updated. The 'My Balances' system allows for companies and individuals to settle pending tax payments and individual taxpayers may also opt for an instalment plan to settle dues.

The presenters explained that the process of registering a fiscal unit is a one-time process that will not have to be done on an annual basis. What will be done on an annual basis is the annual confirmation, whereby the registered tax representative must confirm the composition of the fiscal unit and notify the CfR on any changes thereto.

Next year the process of leaving a fiscal unit will become more relevant, this must be done on a bottom up-approach whereby first the subsidiaries must be removed, and only then may the parent company be terminated from the fiscal unit. The purpose of this, is to ensure that parent companies are not removed prior to the removal of subsidiary companies.

The CfR representative mentioned that the guidance on the registration process of a fiscal unit has already been published as per **link**, however they are now working on more detailed guidelines on technical issues covering the Consolidated Group (Income Tax) rules. The CfR encourages practitioners, companies or individuals who require any further clarification to get in touch.

If companies need support in relation to CfR matters they may contact 144 and individuals may contact 153. The CfR is also currently working on having the tax return adaptable to the fiscal unit which will allow only one version of the tax return to be used. The presenters explained that one should exercise caution and fully understand the compliance obligations before registering for a fiscal unit especially if this is done prior to the issuance of the guidelines and the consolidated income tax return.

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