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*News in the area of tax law*

Ladies and Gentlemen

With this newsletter we would like to inform you about the following news:

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## 1. Intra-Group Services: New OECD "Benefit Test"

The OECD has published a discussion draft proposing revisions to the OECD Transfer Pricing Guidelines, placing particular emphasis on a clear distinction between the arm's length principle and the so-called Benefit Test.

While the arm's length principle addresses whether the remuneration for an intra-group transaction is appropriate, the Benefit Test is a separate, preliminary assessment of whether the recipient entity derives an economic benefit from the intra-group service. Only where such a benefit exists, or could reasonably have been expected ex ante, does a chargeable intra-group service exist. These two analyses are conceptually distinct and must be assessed independently.

This distinction is particularly relevant in Italy due to the different tax consequences associated with each test. Transfer pricing adjustments may be mitigated through the penalty protection regime, provided that appropriate transfer pricing documentation is in place, and, where applicable, through the Mutual Agreement Procedure (MAP). By contrast, the Benefit Test concerns the tax deductibility of expenses under the Italian concept of business relevance. Where no economic benefit can be demonstrated, the related costs may be entirely disallowed for tax purposes, without the protection afforded by transfer pricing documentation or other procedural safeguards.

The OECD also calls for a substantially more evidence-based approach to documentation. Contracts and invoices alone will no longer be sufficient. Taxpayers should be able to demonstrate the expected economic benefit, the actual performance of the services, and the outcomes achieved. This approach is consistent with recent case law in Italy.

Businesses should therefore anticipate the need for a dedicated documentation framework addressing the Benefit Test, in addition to the traditional transfer pricing documentation.

We would be pleased to assist you in preparing the necessary documentation and recommend contacting us at an early stage to ensure timely compliance with the evolving requirements.

Please do not hesitate to contact us for further information.

Yours sincerely

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