Antea
ALLIANCE OF INDEPENDENT FIRMS

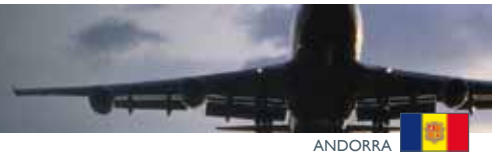
INTERNATIONAL NEWSLETTER

JULY 2013

Andorra, Argentine, Austria, Brazil, Bulgaria, Colombia, Costa Rica, Cyprus, Chile, China, Ecuador, El Salvador, France, Germany, Greece, Guatemala, Honduras, India, Israel, Luxembourg, Malta, Mexico, Netherlands, Pakistan, Panama, Peru, Poland, Portugal, Republica Dominicana, Romania, Serbia, Spain, Switzerland, Tunisia, Turkey, United kingdom, Uruguay, Usa, Venezuela.

INDEX

Special regime in Corporate Income Tax applicable for international trading



ANDORRA

Since the fiscal year 2011, the Andorran Government has initiated an internationalization process. During the last few years, the Andorran Government's aim is Andorra to take part in signing Tax Treaties to avoid double taxation with other countries where Andorran companies usually perform their commercial activities.

In this regard, once Andorra has started signing such Tax Treaties, Andorra will become a country where it is possible to settle international structures with certain benefits, since a tax point of view. Nevertheless, in order this internationalization process can work, it is necessary that Andorra has a tax system which could be qualified as comparable to other tax systems.

This process began with the introduction of the Non Resident Income Tax Law followed by the entry into force of Corporate Income Tax and the Professional Income Tax Laws. Through this procedure, the Andorran Government wants to achieve a tax system which levies the same nature of income as the tax systems of the European countries do.

These both objectives should be easily achieved due to the fact the abovementioned taxes are based on the systems in force in those European countries that are more influent in Andorra.

In order to promote the international transactions made by the Andorran entities, the Corporate Income Tax Law foreseen by the Andorran Government states a special regime for those Andorran entities which mainly carry out their activity beyond the Andorran borders.

This special regime is applicable when an Andorran entity is able to carry out one of these two kind of activities. On one hand, this special regime can be applied if the Andorran entity develops intangible goods, from an international point of view. And on the other hand, this special regime would be also applicable in those cases when the Andorran entities perform the international trading.

The Andorran legislation, in its article 23 of the Corporate Income Tax Law, specifies which kind of activities are suitable to be included in this special regime. Please bear in mind that the requirements established by the Andorran legislation must be fulfilled at all in order to could apply such special regime.

Which kind of activities can develop the Andorran entities in order to apply the special regime?

The answer to the abovementioned question is given by the article 23 of the Andorran Corporate Income Tax Law, in its first paragraph. In depth, they are entitled to request the application of this special regime, those entities which carry out one of the following activities:

a. Income received for the use or the right to use any copyright of patents, designs, mo-

dels, trademarks and other distinguishing signs of the Company as well as other rights concerning the industrial experience.

b. Income derived from the consideration of the use or the right to use of plans, secret formula or process, or for information concerning industrial, commercial or scientific experience.
c. Income received form the use or the right to use the copyright of literary, artistic or scientific work, including the cinematographic films, the programs, applications and software as well as others rights related to the copyright.
d. Income derived from the transfer of the goods and rights indicated above.
e. Income from the international sale of goods, jointly with those services related to it like the agent's services or other kind of intermediaries services.

What does the special regime consist?

This special regime consists in a reduction of the Corporate Income Tax basis amounting to 80%. Afterwards, this reduced tax basis will be taxes at the general tax rate foreseen for the Corporate Income Tax in Andorra which is 10%. Please note that this reduction is just applicable to those incomes which actually derive from the activities abovementioned.

In this regard, it is important to bear in mind that they are allowed to apply this special regime those entities that carry out the activities abovementioned although they are not developed in an exclusive way.

In case the tax payer develops other kind of activities additional to those granted with the special tax regime, the Andorran entity should split its tax basis depending on the nature of its income in order to apply correctly the reduction of the tax basis.

How to apply this special tax regime?

Lastly, it is important to take into consideration that the entities that pretend to apply this special tax regime should request its application before the Andorran Tax Authorities. To these effects, the Company should file the corresponding Form jointly with a description of the activities performed in order to prove that they fulfill with the requirements foreseen by the Andorran Corporate Income Tax Law.

The Company would not be allowed to apply this special tax regime until the Andorran Tax Authorities issues a resolution granting such tax regime.

Cathy Oliver Arbós
coliver@alfacapital.ad
Andorra

Brazil: blood in the streets, yet a good time for investments

BRAZIL

Brazil had one of the most broken constitutional histories of Latin America, and maybe of the world. In total, eight different documents have tried to regulate and compose a civil system, whose government has also passed through the most extreme political oscillations.

As for the 21st century, the Brazilian state is still fighting against its legal incongruities and frozen bureaucratic system. In September, 2012, the Brazilian senate has summed up costs with regards to the infrastructure, sanitation and education programs in Brazil to more than U$ 1,2 billion.

In order for managing such costs in a sustainable manner, national capitals, such as Rio de Janeiro and Recife, where Monteiro&Monteiro Associate Lawyers are headquartered, have negotiated international loans respectively with the French Development Agency – FDA and the Interamerican Bank for Reconstruction and Development – IBRD.

The prospects of the two major sport events - 2014 FIFA World Cup and the 2016 Olympic Games – have propelled much more Brazilian cities and capitals to look for legal advise when starting the process of applying to international loans.

Besides the low interest rates, in comparison to the National banks, Brazilian cities also profit from such transaction by having to use the borrowed amounts for specific governmental purposes, usually linked to the three abovementioned sectors, which prevent the population from rising against public decisions, such as the last political strikes against the increase of 0.20 R$ in the bus tickets.

The application process takes around four to five months, and requires networking with international institutions interested on offering such loans within the limitations imposed by the senate. Monteiro has succeeded from assisting smaller cities at the project level, that are now emerging to the stage of finding international partners interested on closing the deal.

When times of political changes spill civilian blood on the streets, it is time for action, both in the public and in the private sectors. Yet, Brazilian is still the land of opportunities, be sure about that.

Ana Sofia Cardoso Monteiro
anasofiac.monteiro@gmail.com
Brazil

Taxation of online betting in Bulgaria

BULGARIA

From this year, the final tax rate on online bets, which the State Commission on Gambling in Bulgaria legalised in late 2012, is 15%. Originally the cabinet proposed a much lower rate, 7% for the online gambling operators with the assumption to attract major international bookmakers to the Bulgarian market, but finally adopted the same 15% tax rate for both traditional and online gambling which will come into effect in 2013.The licensing of the organisers of gambling is now mandatory, and those who do not have the license will be black-listed, the Bulgarian players will not be allowed access to their sites, as the access will be governed by the internet service providers (ISP).

This amendment expected to legalise the activity of the online gambling games organisers. Thus, this environment will contribute to the development of long term activities in the Bulgarian market on behalf of the operators, and on the other hand the consumers will have the guarantee that the sites in which they deposit their money will not speculate with them, will not prove to be phantom-sites as their activity will have the regulative law frame.

According to the new law for the gambling, part of the preconditions for license acquiring for organising online gambling games will be: Investments not less than BGN600,000.00 and funds for the organisation of the game itself not less than BGN1 million, the location of the central computer system to be on the territory of the country or the territory of another EU or EEA state member.

How will this affect the casino sector? The legalisation of the online casinos would affect the situation with the traditional casinos that face more expenses – for the venue, staff and the equipment. They pay quarterly a tax fee at the amount of approx EUR250 on every gambling machine and, again on a quarterly basis, a tax fee of approx EUR11,000 for every gambling table with roulette installed in a casino. Another fact besides the cozy homey atmosphere that the online casino gives, another law in Bulgaria, voted this year, gives advantage to gambling online; the prohibiting of smoking in public places. This obviously leads to a shrinking of the business of the traditional casinos and many users would prefer the online option since this is officially regulated by the state.

The situation with the online sports betting is different as they are in the most unfavorable position. Not only do they have to give up part of their gains, but in practice they might even have to operate at loss, and this arises from the fact that here everything is based on mathematical calculations and according to the coefficients the bookmakers pay off the gains to the winning bets. Despite the unfavorable situation the sports betting section is only one of the online products that the big operators in the gambling business include in their portfolio. So in this way the biggest bookmaker companies will most probably prefer to gain advantage from the possibilities that the legalisation of the Bulgarian market offers them such as attracting of more users via the sports betting will prove to be a successful marketing tool to attract them to other products.

It is probably a bit early to formulate conclusions about if the legalisation of the organisers of online gambling will lead to more revenues in the state treasury or this tax will discourage many of those operating on the Bulgarian market. But for sure the representatives of the largest networks will benefit from the opportunities that the amendments to the law for gambling offer them.

Eurofast
Taxand

Donka Pechilkova
donka.pechilkova@eurofast.eu
Eurofast Global, Sofia Office
Bulgaria

Proposed changes to income tax legislation

SERBIA

At the beginning of May, Mladjan Dinkic, the Serbian Minister of Economy has announced that the government will announce the following changes in the area of income taxation:

- Decrease of payroll taxes from 12% to 10%;
- Increase of pension contributions from 22% to 24%; and
- Increase the limit of flat tax from 3-6 million dinars.

The above changes are designed to benefit crafters and small and medium enterprises by increasing the limit for taxation.

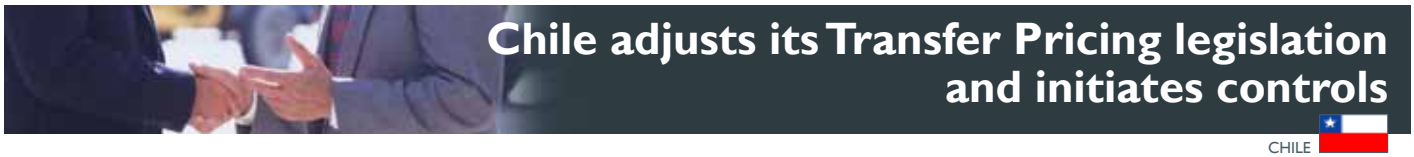
Furthermore, the employers will be significantly relieved by reduction of payroll tax rate from 12% to 10% which on an annual level equals to approximately RSD 2 billion, while the tax free income would be increased from RSD 8.700 to RSD 11.000.

On the other hand the tax rate for pension insurance contributions would be increased from 22% to 24%, which would be a great benefit for the pension fund.

Mr. Dinkic has also announced that there will be more changes in tax laws, which would bring about RSD 30 billion savings by the end of the year. Some of the areas that will have most benefits from those changes are agriculture and software engineering.

Eurofast
Taxand

Gordana Vucenovic
gordana.vucenovic@eurofast.eu
Eurofast Global, Belgrade Office
Serbia



Chile adjusts its Transfer Pricing legislation and initiates controls

CHILE

Since joining the OECD, Chile has intensified activities to modify its legislation, provide greater legal assurance and deliver the tools and monitoring powers to the Treasury on Transfer Pricing issues. That is why new rules and guidelines came into effect in the last quarter of 2012, more in line with the guidelines suggested by the OECD on these matters.

The Servicio de Impuestos Internos (SII - Chilean Treasury) has the power to challenge the transfer prices arising from the values set between related parties for goods exchange operations and for international or cross-border services. This is an issue that allows regulatory authorities to control that the prices traded between related parties --or linked to the ownership or management-- have been set at market values, as if it were between independent parties, and that this does not constitute a tool for transferring results between subsidiaries and parent companies of multinational groups.

In this respect, in January of this year the SII issued a resolution requiring taxpayers considered as large, to electronically inform about the various transactions with related parties not domiciled or residing in Chile, and extended this requirement to all taxpayers, (not just mid- or large-sized) that entered into transactions of any amount, with parties domiciled in countries classified as "tax havens" and to all other taxpayers with operations over 500 million Chilean pesos (USD 1 million), or its equivalent in local currency for operations made in foreign currency.

Due to the lack of experience in Chile on these matters, the information to be provided is so complex that it is advisable to seek advice from experienced professionals to perform "pricing studies" to explain or justify the bases, methods and criteria for setting these prices and at the same time completing the sworn statement that falls due on the last business day of June of each year, for transactions performed during the previous business year.

Mario Cayupán Epul
Mario.cayupan@slc.auren.com
AUREN Santiago de Chile
Chile

Property Tax Bill Approved by Parliament

CYPRUS

The Property Tax Bill has been approved by Parliament, and increases property tax rates under the new Government.

The Immovable Property Tax (IPT) is calculated on the Land Registry's assessment on the value of the property as at January 1 1980. The new tax bands as follows:

Your Property Value by Year 1980, €	New Tax Rates
Up to12.500	0,6% (€ 75 min)
12.400-40.000	0,6%
40.000 – 120.000	0,8%
120.000 – 170.000	0,9%
170.000 – 300.000	1,10%
300.000 – 500.000	1,30%
500.000 – 800.000	1,50%
800.000 – 3.000.000	1,70%
3.000.000 +	1,90%

Taxpayers should be aware that the due date for payment of the property tax is by September 30 of each year. A penalty of 10% is applicable on the tax due for late payment. In the case the tax is paid 30 or more days before the deadline, and then a discount of 10% of the tax owed is provided.

Zoe Kokoni
Zoe.kokoni@eurofast.eu
Cyprus

Recent Developments in the Field of International Taxation in India

INDIA

INTRODUCTION

In this article we shall discuss about the new Tax Residency Certificate (TRC) norms for Non-Residents, tax rates on royalty and applicability of PAN Card to Non-Residents.

CHANGES IN TAX RESIDENCY CERTIFICATE ("TRC") PROVISIONS TO AVAIL TAX TREATY BENEFITS

By virtue of an amendment introduced by the Finance Act, 2012, in section 90 of the Income Tax Act, 1961 ("Act"), it is mandatory for a non-resident taxpayer to obtain a TRC containing the 'prescribed particulars' to avail the benefits under a Tax Treaty. In this regard, Notification No 39 dated September 17, 2012, issued by the Central Board of Direct Taxes, prescribed the specific particulars that are mandatorily required to be mentioned/ contained in a TRC.

The Finance Bill, 2013 further proposed a stipulation that submission of TRC by a non-resident would be a "necessary but not sufficient" condition for claiming Tax Treaty benefits. This was in line with the clarification articulated in the Memorandum to Finance Bill, 2012. The aforementioned stipulation of TRC being a necessary but not sufficient condition, as introduced in the original Bill, has been deleted in the revised Bill.

The revised Bill has also deleted the requirement of TRC to contain the prescribed particulars, as introduced by the Finance Act, 2012. However, a new provision has been inserted which provides that the non-resident taxpayer claiming Treaty relief shall be required to provide such other documents and information, 'as may be prescribed'. Similar amendments have been introduced in the provisions of section 90A of the Act as well.

TAXATION OF INCOME BY WAY OF ROYALTY OR FEES FOR TECHNICAL SERVICES

Section 115A of the Income-tax Act provides for determination of tax in case of a non-resident taxpayer where the total income includes any income by way of Royalty and Fees for technical services (FTS) received under an agreement entered after 31.03.1976 and which are not effectively connected with permanent establishment, if any, of the non-resident in India. The tax is payable on the gross amount of income at the rate of:

(i) 30% if income by way of royalty or FTS is received in pursuance of an agreement entered on or before 31.05.1997;

(ii) 20% if income by way of royalty or FTS is received in pursuance of an agreement entered after 31.05.1997 but before 01.06.2005; and

(iii) 10% if income by way of royalty or FTS is received in pursuance of an agreement entered on or after 01.06.2005.

India has tax treaties with 84 countries, majority of tax treaties allow India to levy tax on gross amount of royalty at rates ranging from 10% to 25%, whereas the tax rate as per section 115A is 10%. In some cases, this has resulted in taxation at a lower rate of 10% even if the treaty allows the income to be taxed at a higher rate.

In order to correct this anomaly, the tax rate in case of non-resident taxpayer, in respect of income by way of royalty and fees for technical services as provided under section 115A, is proposed to be increased from 10% to 25%. This rate of 25% shall be applicable to any income by way of royalty and fees for technical services received by a non-resident, under an agreement entered after 31.03.1976, which is taxable under section 115A.

This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to the assessment year 2014-15 and subsequent assessment years.

PAN CARD APPLICABILITY TO NON RESIDENTS

As per Section 206AA of The Income Tax Act, 1961, every assessee (including Non Resident) has to obtain PAN Card. Not Quoting the PAN can attract tax at a higher rate of 20%.

SITUATION AFTER FINANCE ACT, 2013

Under the amended provisions of Section 206AA of The Income Tax Act, 1961, in respect of payment of interest on long-term infrastructure bonds to a non-resident (as referred to in Section 194LC), tax will be deducted at the normal rate of 5%, even if the non-resident-recipient does not have PAN.

Kanu Doshi Group
KNOWLEDGE DEDICATION ASSURED

Arati Jayesh Parmar
aratip@kdg.co.in
India

Mandatory E-Tax filings for quarterly VAT taxpayers

MACEDONIA

The mandatory use of the Public Revenue Office's E-Tax system has begun to be implemented in FYR Macedonia as of the beginning of 2013. From January 1 2013, monthly VAT taxpayers (large-sized companies) are obliged to file their VAT returns using the online system of the PRO. The introduction of the system was met with mixed reception from the public; although it generally simplifies matters for taxpayers, companies have frequently commented about the technical issues the application has been creating, especially around the 25th of each month when monthly VAT returns are due.

It remains to be seen how the system will handle the additional load when the quarterly taxpayers (which are considered to be the majority of VAT registered taxpayers in the country) will be obliged to use it starting from July 1 2013. In addition to the mandatory electronic filing of VAT returns, companies are also required to file the Corporate Income Tax returns using the system.

In order to be able to use the E-tax application of the PRO, legal entities need to register themselves in the system, a fact which requires that two additional procedures have already been completed: 1) a digital certificate has been obtained from an authorised digital certificate institution; and 2) a valid email address has been registered in the company records in the Central Registry. Eurofast advises its clients and associates to check whether the correct official email address has been recorded by the Central Registry during the company registration or subsequent statutory changes as practice shows that email records have not always been updated on time.

Another aspect worth noting is the fact that legal entities that had been registered on the old E-Tax system (prior to 2013) must migrate towards the new system, a procedure explained on the website of the PRO's e-filings system, available at *https://etax-fl.ujp.gov.mk/*.

Eurofast Taxand

Elena Kostovska
elena.kostovska@eurofast.eu
Eurofast Global, Skopje Office
FYR Macedonia

Tax Treatment of Purchase of Antivirus Software Licenses from Foreign Company

MONTENEGRO

Production of antivirus software systems and other services related to software products are defined as special way of providing intellectual services in area of complex science projects, especially programming, projecting and realisation.

The Montenegrin VAT Law prescribes for that the purchase of antivirus system software and other products related to software products that are produced in a foreign country for a Montenegrin company is subject of Value Added Tax (VAT) at the rate of 17% in Montenegro (country of origin of customer). The tax base is the purchase price.

In addition, according to the corporate income tax law (CIT), the tax payer is obliged to calculate, withhold and pay withholding tax (WHT) at the rate of 9% on payments made to non-residents in respect of interest, royalties and other **intellectual property rights**, capital gains, lease of immovable and movable property, the fees based on consulting services, market research services and audit services.

Since the local legislation recognises computer software as special way of intellectual services, WHT is payable in the case of the transfer of antivirus software copyrights for using antivirus systems for resale or in case of its further development.

In case of the procurement of antivirus system for company's internal usage, there is no obligation of WHT payment.

Eurofast Taxand

Jelena Zivkovic
jelena.zivkovic@eurofast.eu
Eurofast Global, Podgorica Office
Montenegro

Will the Netherlands remain an attractive location for multinationals?

THE NETHERLANDS

INTRODUCTION

The Netherlands is renowned globally for being one of the premier locations for international business operations.In addition, the Dutch government has created a competitive tax regime that stimulates entrepreneurship and foreign investment in the Netherlands. Not only the corporate tax rates are lower in relation to most of its European neighbours, there are also numerous features that make it attractive for foreign companies to locate operations in the Netherlands.

ATTRACTIVE FEATURES OF THE DUTCH TAX REGIME

- Relatively low statutory corporate income tax rate of 25% (20% for first € 200,000);
- Participation exemption for corporate income tax regarding dividend and capital gains from qualifying subsidiaries;
- Fiscal unity regime which provides for a tax consolidation of companies within a corporate group, which freely offsets profits and losses among group members;
- Carry forward of losses for nine years and to carry them backward for one year;
- Absence of statutory withholding taxes on outgoing interest and royalty payments;
- Extensive treaty network to avoid double taxation (90+ treaties) with relatively low (inbound/outbound) dividend- and (inbound) interest/royalty withholding tax rates;
- Advance Tax Ruling policy (offering certainty on future tax positions);
- Transfer pricing practice in accordance with OECD Transfer Pricing Guidelines and the possibility to obtain an Advance Pricing Agreement (APA);
- VAT deferment upon import: no upfront payment of VAT;
- Tax incentives for Research & Development (Innovationbox) and tax relief for environmentally friendly investments and sustainable energy;
- Absence of capital tax.

This tax regime has resulted in a situation that many multinationals use the Netherlands for their international tax planning, resulting in a situation that these multinationals pay only a small amount of tax worldwide. Mid-2012, the Dutch parliament has expressed its interest in the use of the Netherlands in international tax planning structures and is moving towards measures against so-called letterbox companies.Will the Netherlands remain an attractive location for multinationals?

RECENT DEVELOPMENTS

Dutch parliament is concerned about the development that the Netherlands acts as some kind of tax haven in international tax saving structures. Therefore it has been announced that further investigation is required to consider measures against so-called letterbox companies.

The Dutch government, however, indicated that many countries have favourable tax regimes and is therefore not in favour of unilateral measures. Most importantly, many headquarters of internationally active companies are located in the Netherlands and provide a positive impact on the development of economic growth and employment.

It is expected that the coming weeks, the Dutch government will provide a further insight into its approach towards limiting the use of letterbox companies.

MOVING TOWARDS ECONOMIC SUBSTANCE

Both the OECD and the European Union plead for a taxation of companies on the basis of economic substance.This means that if a company performs activities in a certain country, it should also pay tax locally on these activities.This could have an impact on the current use of letterbox companies and it is to be expected that in due time letterbox companies will not remain in the Netherlands (or other countries). It can be expected that in that case letterbox companies will no longer be used.

THE NETHERLANDS REMAIN ATTRACTIVE

The Dutch tax regime is compliant with international standards set by the European Union and OECD. Even if taxation of companies who are internationally active is moving towards more economic substance, the Netherlands will remain an attractive location for multinationals, because:

Economic substance for all

Specific requirements imposed by the European Union or OECD will imply that this would not only apply to the Netherlands. This would affect many countries and would result in a change in the international tax treaty regime in general and therefore not only with respect to the Netherlands;

Open economy with focus on knowledge

The Netherlands provides multinationals with a highly-skilled work force, a stable economic and corporate legal climate and investment protection treaties. This will enable multinationals to expand their activities in the Netherlands towards a fully-fledged headquarter location;

Superior logistics and technology infrastructure

The Netherlands offers an ideal location from which to penetrate markets in Europe, the Middle East, the Far East, Africa and beyond. One of the largest seaports in the world (The Port of Rotterdam) as well as Schiphol Airport are regarded as major business hubs in Europe.

CONCLUSION

It may be true that specific requirements imposed by the European Union or OECD may change the current tax landscape with respect to letterbox companies. However, the question is whether these changes would affect the Netherlands as an attractive location for multinationals.

Considering the beneficial Dutch tax regime with participation exemption, cooperative Dutch Tax Authorities and no withholding taxes on interest / royalties alongside the extensive tax treaty network, will ensure that the Netherlands will still play its role in international tax planning.

VAN ZWOL WIJNTJES
ACCOUNTANTS & BELASTINGADVISEURS

Frans Tempel
FTempel@vanzwolwijntjes.nl
The Netherlands

The Ministry of finance amends the Rulebook on the Informative Tax Application

SERBIA

The amendments suggested by the Tax Administration and adopted by the Ministry of Finance, have resulted with the amended Rulebook on Informative Tax Application published in the Official Gazette of the Republic of Serbia nr 16/13 and 28/13.

One of the main changes refers to the deadline for submission of the tax application. Namely, having in mind the fact that not all the taxpayers with the property whose value on the day January 1st 2013 exceeds 35 million RSD have managed to submit the Informative Tax Application on time, the deadline for submission has been extended from March 31st to June 30th 2013.

The taxpayers with an exclusive citizenship of another country sent to work in the Republic of Serbia, is excluded from this obligation.

The regulation contains another important change that is to raise the threshold of the value of the individual moveable taxable property from RSD 100.000 to RSD 550.000.

The suggestion of the Tax Administration to include a penal provision of 3% of the total property value for failure to submit the application has not been published in the amended rulebook.

Eurofast
Taxand

Gordana Vucenovic
gordana.vucenovic@eurofast.eu
Eurofast Global, Belgrade Office
Serbia

Unprecedented opportunity, new tax money laundering, without fiscal costs

ARGENTINA

The Argentine Government, as measured of fiscal policy to offset the slowdown in the economy, the very growing divide of the value of the dollar in the marginal market with respect to official listing, and the retraction of the real estate market, both new units as used, has put hand a few days ago by a package of exceptional measures.In fact the purpose of these lines is to comment these tools that may be of interest to those who have investments in the country, especially those productive, consistent in primary, industrial, commercial activities or services.

Law 26.860

Through this Congress law, enacted on May 31 provides a new regime ofmoney laundering, aimed at natural and legal entities. It will be applicable from the next 1 of July (during June it was ruled by the AFIP and the Central Bank) and until September 30th.

We remind that a few years ago the Government made use of this exceptional tool, placing a money laundering along with a tax moratorium on late 2008 wide that were in force during 2009, until August 31 of that year, but on that occasion the money laundering was subject to an excise tax, with rates that, depending on the type of bleached well and the fate of the investment funds ranged between 8 and 1%. Howeverthe new is that this time the money laundering has no fiscal costs.

The aim is to achieve that tipping to the formal circuit of economic activity, by subscribing to any of the instruments which will then mention, funds in U$S treasured either at the country or abroad that are not declared by the taxpayers or businesses.The Government manages statistics showing that such undeclared funds would amount approximately U$$ 120 billion, of which the aim would be to attract at least U$S 4 billion with this money-laundering so that they returned in the formal circuit, and boost the economy, lowering the pressure of demand on the marginal dollar market.

Conditions for the externalisation of undeclared funds.

Holdings in foreign currency in the country and abroad can be bleached up to 30 of April 2013, as well as foreign exchange resulting from the proceeds of the sale of goods that existed from April 30, 2013.

The way to externalize the holdings is, in the case of funds in the country, through their deposit in a Bank, and if it is money abroad, by a bank transfer to the country.

Foreign currency funds externalizing have to necessarily be applied to the subscription of any of the following financial instruments:

A) Certificates of deposit for investment "CEDIN"
B) Argentine Bonus Savings for Economic Development (BAADE'S) and Bill savings for economic development.

A) CEDIN

It is an instrument issued by the Central Bank of the Argentine Republic (BCRA), nominated in us dollars, nominative and endorsable, without limit of endorsements that is by itself a suitable means to cancel obligations in dollars.

When the subject (normal or legal persons) deposit their dollars in a bank, will receive this title, which will be issued in sheets with values between U$S 100.- and U$S 100,000 . -, and must provide their personal data to the bank and N° of CUIT. These data of the origi-

nal subscriber CEDIN shall be informed to the BCRA by the institution issuing the CEDIN and recipient of the laundered funds. The subject can endorse the certificate to a third part; it only requires the signature of the endorser, a clarification, address and CUIT, or CUIL.

Finally when you use this title to cancel the amount of any of the following operations, the bank where it was present and certifying this operation with the supporting documentation, will be given to the holder of the CEDIN, final beneficiary, the amount of U$S certificate, cancelling the same.

Operations that the CEDIN must be applied to enable the payment in U$S

- Purchase of land, lots, whether urban or rural, sheds, premises, offices, garages and homes already built;
- Construction of new homes.
- Remodeling, upgrading or expanding real estate, including purchase of building materials.

B) Argentine Bonus Savings for Economic Development (BAADE'S) and Bill savings for the economic development.

Government securities are nominees in us dollars, which may subscribe who recall foreign currency in this money-laundering, with the following features:

They are issued, for a period of 3 years with effect from 17 July 2013. The destination of the funds with which to subscribe is the financing of public investment. Amortization is integrated at maturity. Pay an interest rate of 4% on a biannual basis.

The BAADE'S may be recordable or to the carrier at the option of the investor. The bearer bond will have sheets of nominal value U$S 100. -, U$S 1000.- and U$S 10,000 . -, and will be negotiated through its simple delivery, they will not have in stock quote. The bond will be registrable stock quote. It is not clear from the regulatory standard Resolution (GFSM) 256/2013 if Promissory Notes of savings would be negotiable, in principle does not seem to.

The promissory notes may beonly enrolled by legal persons.

The big difference in the case of bonds with regard to money-laundering above, is that, in the current regime is not required to the subject to foreign currency and whitens the endorses, minimum period of tenure in their heritage before they are sold, in the above was required at least 2 years to remain in their heritage, from the subscription in order to sell it.

Benefits

Recall that the foreign currency in the conditions mentioned in the preceding paragraphs, will be released on the laundered funds of any civil and commercialaction, criminal and criminal tax exchange.

The presumption of the enrichment does not apply to them in relation to the laundered funds. There are also released to capital gains tax on the transfer of real estate, value-added tax, internal taxes, tax to the minimum presumed income tax on personal property and the special contribution on the capital of cooperatives, always in relation to the taxable that derives from the laundered funds.

They do not have to inform to the AFIP the date of theholdings, nor the source of the funds that acquired them.

Objective exclusions

Fall outside the scope of this law of laundering the amounts of money from any of the offenses set forth in article 6 of Law 25,246 of laundering of assets, with the exception of the crime of tax evasion. In the latter case, the subject will be excluded only if it is already accused in a criminal process.

This will require the submission of an affidavit of the subject that externalizes the funds.

In summary it can be seen that we are in the presence in this opportunity for an exceptional regime of money laundering, that not only condones taxes, fines and criminal sanctions, but does so without any fiscal cost, with formal requirements extremely simple to implement and even with the payment of interest to the subject that whitens, if you subscribe certain instruments. For this reason we advise you not to miss this opportunity if you are covered in this situation. Those who would like to say that we are at your disposal to provide in detail the necessary advice to implement the adherence to the regime from 1 July and up to the September 30.

Víctor Hernández
vhernandez@bue.auren.com
AUREN Buenos Aires
Argentina

Being a foreigner and work in Uruguay

URUGUAY

It is increasingly common that Uruguayan companies count on their staff with personnel that come from other countries.

Decree 108/007 establishes that "companies will not be able to hire or register in the Control of Labour Form foreigners that do not probe to be duly authorized to work legally in the country, either permanently or temporarily."

What are the steps to follow to be "duly authorized"?

The first thing is to obtain the residence, which in first instance will be temporary, to then proceed to transact the final residence. The beginning of the process needs to be personally carried out at the National Migration Directorate. The required documentation for the processing is the following:

- two updated photos
- Health Card
- date of entry into the country
- criminal background paper
- identity document
- birth certificate
- document proving the activity

After the residence is transacted, the Uruguayan identity card should be requested, which enables to work in the national territory.

While required paperwork is being completed, the company may make entries before the appropriate bodies, but the worker will not have mutual health coverage until he/she has the corresponding identity document.

Regime of temporary transfer.

It is possible to hire foreign personnel on a temporary basis.

One of the main points to bear in mind is that Uruguay counts on several international social security agreements, this means among other things, that workers who are temporarily moved (maximum 2 years) are able to continue with their contributions in the country of origin.

The agreements apply only to aspects concerning social security contributions. Therefore, the employee must pay income tax or in the case that it develops its activity in a Zona Franca user, choose IRNR. If the company is a Zona Franca user and complies with certain conditions laid down in the law 15.291 (have at least 75% of personnel consisting of legal or natural Uruguayan citizens), it is not necessary that there is a bilateral agreement on social security so that expatriates can opt for the realization of social security contributions in his country of origin.

This possibility to avail itself of the social security agreement, exempts the contracting company from employer social security contributions.

It is important to highlight that, as long as no contributions are done to social security in Uruguay, the foreign worker under this regime does not have mutual coverage by the Integrated National Health System.

The time worked in Uruguayan territory will be computable for his / her future retirement.

This does not exempt the worker from carrying out the procedure for temporary residence, since it is the main requirement to develop tasks in our country.

Ximena González
ximena.gonzalez@mvd.auren.com
AUREN Uruguay

How do non-resident companies with no permanent establishment pay tax in Spain for income on real estate located in Spain?

SPAIN

- In the case of leased property, the taxable base is determined by the total income (without deducting expenses) (see table):

Year income accrued	2007-2011	2012-2013
Tax rate	24%	24,75%

Nevertheless, as we are dealing with taxpayers resident in another European Union Member State, with regard to income earned from 1-1-2010, the expenses described in the Personal Income Tax (IRPF) Law can be deducted when calculating the taxable base, provided that proof is provided that these expenses are directly related to the income.

- In general, non-resident organizations who are owners or are title holders of real estate assets in Spain or have rights in rem over their use for enjoyment or leisure are subject to a Special Tax. The taxable base will be the rateable value and if no such value is available, the value taken will be that resulting from applying the provisions of Spanish Wealth Tax. The tax rate is 3%.

However, the Special Tax will not be required of:

- Foreign States, foreign public institutions and international organizations.
- Organizations entitled to apply an agreement to avoid double taxation which contains an information exchange clause, in the terms and fulfilling the requirements of article 42 of the revised text of the Non-resident Income Tax Law.
- Organizations which carry out in Spain, in a continuous or habitual way, economic operations other than simple tenancy or renting of buildings in the terms of section 20.2 of the Non-resident Income Tax Regulation.
- Companies listed in the officially recognized secondary securities markets. This clause will also apply when the property is held indirectly through an organization with the right to apply an Agreement to avoid double taxation with an information exchange clause.
- Not-for-profit charity or cultural organizations, in the terms of article 42 of the revised text of the Non-resident Income Tax Law.
- This does not overrule the application of International Treaties and Conventions.

José Luis Galipienso
Jl.galipienso@bcn.auren.es
AUREN Barcelona
Spain

VAT Groups – the UK perspective

UNITED KINGDOM

VAT groups allow entities that are connected legally and economically to form a single VAT entity covered by one VAT registration. This provides not only a simplification in administration, but can also have the consequence of providing an overall VAT saving, especially where one or more group members would not normally be entitled to reclaim all their input VAT. This is because transactions between group members are generally disregarded, so preventing the build up of additional irrecoverable VAT relating to the provision of staff and other overhead costs.

At present, 15 member states operate legal provisions permitting a VAT group structure. Until recently, the European Commission viewed several of these (including the UK, but also the Czech Republic, Denmark, Finland, The Netherlands and The Republic of Ireland) as having legislation which gave too wide an interpretation of VAT grouping, but in April 2013 the Commission lost a legal challenge against each of those states to limit group membership to 'taxable persons' (i.e. entities making supplies of goods and services that are chargeable to VAT). In its analysis, the European Court found that EU VAT legislation did not impose such a restriction. Accordingly, it should remain possible for entities which meet the connection or 'control' conditions in their member state to be accepted into VAT groups even if they make only VAT exempt supplies, or are not regarded as trading at all for VAT purposes (e.g. dormant companies, or non-trading holding companies).

Notwithstanding the court ruling above, each EU member state still imposes its own requirements for VAT group membership.

The UK VAT Act 1994, section 43A provides that only corporate bodies, which are either headquartered or maintain a fixed establishment in the UK, are entitled to be members of a UK VAT group. They must also be deemed to be controlled either by another group member, or by an individual, partnership of individuals or corporate body outside the group. In addition, there are important consequences of VAT grouping which must be considered before seeking inclusion of a corporate body in a group. Most importantly, the imposition of joint and several liability of each member to each other's VAT and duty obligations, and the sharing of a single VAT registration number (this can cause complication in instances where individual registrations previously existed, especially when those numbers were used for import VAT and duty deferral arrangements).

So what is the entitlement for overseas companies to join a UK VAT group?

An overseas company which is entitled to register for VAT in the UK in its own right under any of the registration provisions of the VAT Act 1994 (Schedules 1 to 3B) is not, simply by virtue of that fact, established in the UK. Following the same principle, a company which belongs in the UK within the meaning of VAT Act 1994, section 9 (place of supply of services) on grounds of its usual place of residence is not, as a result of that fact, automatically considered to have met the established or fixed establishment conditions, although the UK tax authority HM Revenue & Customs ("HMRC") generally accepts this to be the case. However, HMRC do impose tighter establishment conditions when considering applications for VAT group membership than they do for individual VAT registrations. There are several reasons for this, in particular -

- The legal principle for VAT grouping in EC legislation actually requires that all group members must be "established" in the UK.
- The VAT grouping provision is primarily an administrative facilitation measure and it was intended that it should be "exclusive" rather than "inclusive".
- Whilst HMRC have no apparent concern (bearing in mind the joint and several liability requirement) in allowing one overseas company which has no real physical presence in the UK to join a VAT group of UK companies, their opinion is different when few, or none, of the companies in a group have a physical presence in the UK (and are therefore unlikely to hold any assets here against which HMRC might seek to seize in lieu of a debt).

For VAT grouping purposes, a company may generally be considered to have a "fixed establishment" in the UK if it has a real trading presence in the UK, that is to say, if it has a permanent place of business in the UK, and that place of business comprises sufficient human and technical resources for it to carry on its business activities.

Conversely, a company is not considered to have a "fixed establishment" in the UK for grouping purposes merely as a result of the fact that it is administratively registered here with Companies House, or if its business is handled by a UK agent, or it has a UK subsidiary.

When an overseas company is included in a UK VAT group, it is that company in its entirety which is included in the group; not just the UK branch or establishment. This means that, subject to UK-specific anti-avoidance rules (which, if triggered, generate a requirement to account for UK VAT under the reverse charge procedure), any supplies of goods or services between any of the branches or establishments of the overseas company anywhere in the world and UK based members of the same group fall to be disregarded for UK VAT. It also means that if any of the world-wide branches or establishments of that company make any supplies of goods or services in the UK that are liable to UK VAT, any VAT due on those supplies must be accounted for by the representative member of the group.

In summary, it can be appreciated that there are various issues to consider when evaluating incorporating an overseas company in a UK VAT group (for example, as a result of a new acquisition, or part of a worldwide corporate restructure), and that it is important to obtain VAT specialist advice before executing any critical decision in this area.

HW Chartered Accountants
Local Matters. National Strength.

Jeff Gambold
jgambold@hwca.com
United Kingdom

Antea
ALLIANCE OF INDEPENDENT FIRMS

ANDORRA
ARGENTINE
AUSTRIA
BRAZIL
BULGARIA
COLOMBIA
COSTA RICA
CYPRUS
CHILE
CHINA
ECUADOR
EL SALVADOR
FRANCE
GERMANY
GREECE
GUATEMALA
HONDURAS
INDIA
ISRAEL
LUXEMBOURG
MALTA
MEXICO
NETHERLANDS
PAKISTAN
PANAMA
PERU
POLAND
PORTUGAL
REPUBLICA DOMINICANA
ROMANIA
SERBIA
SPAIN
SWITZERLAND
TUNISIA
TURKEY
UNITED KINGDOM
URUGUAY
USA
VENEZUELA