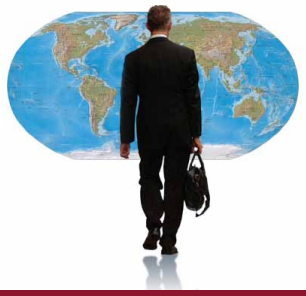
Antea
ALLIANCE OF INDEPENDENT FIRMS



INTERNATIONAL NEWSLETTER

MARCH 2014

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INDEX

International control

COLOMBIA

Auditing is intended to control public funds effectively, efficiently, economically and according to the principles of legality and regularity. Auditing standards are what determine how to develop quality audits based on competition, integrity, objectivity and independence, which are stipulated in the international standards of supreme audit institutions (ISSAI).

"ISSAI contains the fundamental principles for the functioning of Supreme Audit Institutions and prerequisites audits of public entities." [1] ISSAIs are divided into four levels:

1. The Lime Statement: defined as an essential reference for all goals and problems related to the control and guarantees required for the Supreme Audit Institutions. [2]
2. The declaration of Mexico: presents the prerequisites for the functioning of Supreme Audit Institutions.
3. The Auditing Basic Principles are classified into four groups: the basic tenets of public oversight, the standards for the preparation of audit reports issued, the procedural rules in public auditing and the general auditing standards. These principles are incorporated in the control rules of International Organization of Supreme Audit Institutions (INTOSAI).

The last level is the guidelines of the audit, namely, fundamental auditing principles to more specific guidelines. These guidelines are divided into two types of audit criteria, the application of generals auditing standards (financial audit, performance and compliance) and another more specific issue (performance audit international institutions, environmental, privatization and Public Debt). [3]

The development of these levels contribute to the objective of ISSAI, to support INTOSAI members in the process of professional approach, and to protect the independence and effectiveness of audit activities.

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[1] *International standards of supreme audit institutions, [Online] available in: http://www.intosai.org/es/acerca-de-nosotros/issai.html, recovered: Feb 23/2014*

[2] *International Standards of Supreme Audit Institutions, [Online] available in: http://es.issai.org/media/14482/issai_1s.pdf, recovered: Feb 23/2014*

[3] *International standards of supreme audit institutions, [Online] available in: http://www.intosai.org/, recovered: Feb 23/2014*

Special Defence Contribution on Dividends received in Cyprus

CYPRUS

Special Defence Contribution was introduced in 1984 as part of Cyprus's efforts to receive additional funds for its military service spending. Over the years and after careful planning, SDC is generally not applicable to non-Cyprus residents; however, a careful review of a recent specific case needs to be conducted.

As per Article 3 of the Special Contribution for the Defence of the Republic Law No. 117(I)/2002, Cyprus tax resident individuals are liable to Special Defence Contribution ("SDC") on income derived from dividends distributed by Companies which are tax resident in the Republic or elsewhere.

Under the SDC legislation, tax resident Companies are not subject to SDC on dividends distributed by other resident Companies. However, SDC may be imposed in the case where dividends were indirectly distributed between Cypriot companies after the lapse of 4 years from the end of the year in which the relevant profits had arisen. It should be noted that in the case where the ultimate shareholder in the structure is a non-Cypriot tax resident person, no SDC will apply on the dividends declared in the structure.

Additionally, under the deemed distribution provisions, a Cyprus company should distribute as dividends at least 70% of its accounting profits (after tax) within two years from the end of the year in which the relevant profits were generated. If the above dividend distribution provisions are not satisfied, then the Cyprus company will be considered to have declared such dividends, and SDC at the rate of 17% will be imposed to such dividends, reduced by any payments of actual dividends. It shall further be noted that the deemed dividend distribution provisions are not applicable when the direct shareholder of the Cypriot company is a non-Cyprus tax resident physical or legal person or when the ultimate shareholder, who indirectly owns the shares through other Cyprus tax resident companies, is not a Cypriot tax resident.

It is important to comment on Cyprus's advantageous participation exemption provisions in respect to foreign dividends. According to the SDC legislation, dividends received by a resident company or a non-resident company that has a permanent establishment in the Republic from a non-resident company are exempt from SDC payment. The SDC legislation further provides that this exemption does not apply only in the case where the paying company's majority of activities (over 50%) are related to producing investment income and in the occasion where the foreign tax burden of the paying company is significantly lower than that in Cyprus (less than 50% of the corporate tax rate in Cyprus which is 12.5%) -an unlikely scenario which verifies that the participation exemption conditions are very easy to meet.

The good news is that as from 1 January 2014, the rate of SDC on the distribution of dividends stipulated above is reverted to its regular 17% after it had been temporarily increased to 20% in the year 2012-2013 as a result of the measures taken to address the international crisis. This reduction constitutes a major step forward for Cypriot investors since it may significantly boost their interest in re-investing in companies, abetting in this way the better circulation of funds.

CONCLUSION

The aforementioned changes in the SDC legislation in relation to investment income do not affect foreign investors, which essentially and most importantly means that foreign investors may enjoy the proceeds of their shareholding in Cyprus Companies relatively intact and free of any distribution taxation. It is evident that Cyprus aims to preserve its well established and reputable name as an ideal destination for foreign investment by preserving the tax benefits for foreign investors. As such, the various tax benefits offered in Cyprus coupled with the country's extensive network of Double Tax Treaties ensure that the Cypriot tax system maintains its position as one of the most beneficial in Europe and renders Cyprus a primary location for holding companies.

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Being an expat in the Netherlands: even very attractive from a tax point of view

THE NETHERLANDS

It is not a secret that for tax purposes The Netherlands is often chosen my multinationals to locate its (regional) headquarters or subsidiaries. As a result of this, many foreigners move to the Netherlands to work for these companies. For these employees a very favorable tax regime applies in the Netherlands: the 30% ruling. What is this 30%-ruling and how does it work?

1. What is the 30% ruling?

The 30% reimbursement ruling (better known as the 30% ruling) is a favorable tax regime for highly skilled migrants (hired from abroad) moving to The Netherlands for a specific employment role. When a number of conditions are met, the employer is allowed to grant a tax free allowance of 30% of the gross salary. This ruling results in a maximum (effective) tax rate of approximately 36.4%. The tax free allowance is considered a compensation for the expenses that foreign employees have by working outside their home country.

The maximum duration of the 30% ruling is eight years. Any period spent in the Netherlands over the last 25 years will be used to reduce the maximum duration of the 30%-ruling.

As from 2012, the conditions for eligibility have changed. We will take you through the new rules step by step.

2. Conditions of the 30% ruling

To be eligible for the 30% ruling the following conditions have to be met:

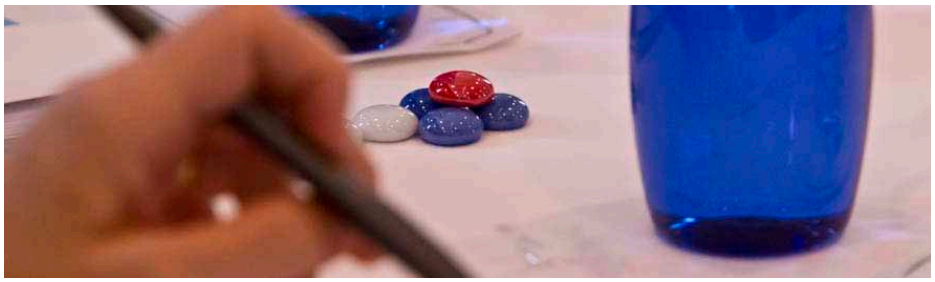
1. The employee works for an employer liable to withhold Dutch payroll tax

If someone is self-employed it will not be possible to claim the 30% ruling. However, if he or she incorporates a Dutch B.V. and becomes an employee of that company, it is considered to be an employment situation and consequently the 30% ruling may be applicable.

Changing jobs does not have to affect the ruling, provided that the employee still meets the conditions and the new employment contract is signed within three months after termination of the previous one.

2. Employer and employee have to agree in writing that the 30% ruling is applicable

As a result of the 30% ruling, the gross salary of the employee will be reduced by 30%. This may have implications for potential unemployment



or disability benefits, since these benefits are based on taxable salary. Therefore, the Dutch tax authorities require that both employer and employee are aware of these consequences.

The 30%-ruling will become effective retroactively if the application is submitted within four months after the first day of employment. If the application is submitted after four months, it will become effective as of the first day of the month following the month of application.

3. The employee has to be transferred from abroad to a Dutch employer or has to be recruited from abroad by a Dutch employer

The Dutch tax authorities can require a statement of the employer about the need to hire the employee from abroad instead of hiring a Dutch employee.

4. The employee did not reside within 150 kilometers from the Dutch border for the last 16 out of 24 months at the time of hiring

As a result employees who lived in Belgium, western Germany, parts of Northern France and Luxemburg can be excluded from the benefit.

5. The employee's taxable salary (roughly the gross salary reduced with the tax free reimbursement under the 30% ruling) is at least € 36,378 per year

However, a lower salary of € 27,653 is sufficient for those who have completed a PhD or Masters degree and are younger than 30 years to obtain the 30% ruling. If the PhD was completed in The Netherlands, the requirement of "being recruited from abroad" does not have to be met if the candidate is hired within a year of completing his or her studies.

Furthermore, for scientific researchers, employees working in scientific education or medical doctors in training, no minimum salary is required. Please note that the restriction for this group of employees is that the university or the research institute is subsidized by the government.

6. The employee needs to have expertise which is scarcely available in the Netherlands.

The requirement regarding scarcity on the labor market will be deemed to be met if the minimum salary requirement is met. The Ministry of Finance indicated however that for sectors where every candidate meets the minimum salary requirement, the scarcity test will still be applied.

3. The salary

Of course, the gross salary is considered to be salary, but what about a bonus, holiday allowance, company car, redundancy settlement or any other benefits in kind? Basically, the 'regular employment income' is the basis for calculating the 30% tax-free reimbursement. There are regulations regarding pension premiums, but a bonus, holiday allowance, benefits in kind and company car all qualify for the ruling.

Severance payments specifically do not fall under the scope of the ruling. Under the new legislation, only payments made before the end of the employment relationship (thus the end of the ruling) fall under the 30%-ruling. If an employee is made redundant, it is important that a breakdown of the redundancy package

is made, so it can be determined which part regards a payment of bonuses and outstanding holiday allowance and which part is the actual severance payment.

4. Financial consequences

What does it actually mean if an employee is eligible for the 30%-ruling?

The salary agreed upon will be reduced by a maximum of 30%. In return the employee will receive this percentage as a reimbursement for expenses. This is the most common way, as it will not have an impact on the salary costs of the employer. However, the employer is not obliged to pass on the advantage of the ruling to the employee. In practice it is possible for the employer to partially or fully take the benefits.

CONCLUSION

Basically under the 30% ruling employees receive 30% of their salary tax free, without increasing the costs for the employer. The 30% ruling therefore offers certain foreigners who are hired abroad to come to work in the Netherlands an attractive tax regime. The regime enhances the investment climate in the Netherlands and offers employers an attractive tool to hire skilled employees from abroad.

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A paradigm change in international fiscal transparency

ARGENTINA

With the issuance of the Decree No. 589/2013 (O.S.B. 30/05/2013) and the General Resolution (AFIP) No.3576 (O.S.B. 31/12/2013), Argentina changes its International Fiscal Transparency paradigm, as explained below.

Historical antecedents

It is understood by "Tax Haven" a country where certain income tax categories are levied at a low rate or not at all and where a degree of bank or commercial secrecy is offered. However, nowadays this expression is being replaced by 'International Financial Centers' or 'Offshore Centers'.

There is a wide range of reasons for working with financial entities in tax havens. These go from assets protection and the benefits of bank secrecy to the canalization of illicit activities' funds and the intention to conceal income and/or worth from tax effects. Therefore, it is usual to become suspicious of the entities located in these countries.

As for the Argentinian Income Tax regulations, the law No. 25.239, as it will be explained below, has added a series of restrictions aimed to discourage using these countries as a way to conceal income and/or worth or simply diminish the tax burden.

The article 15 of the Income Tax Law (ITL), along with the modifications introduced by the previously mentioned law No. 25.239, delegates to the Executive Power (EP) a specific listing of countries, territories or tax regimes considered to be tax havens, naming them 'Countries or regimes of low or no taxation rate'.

The Decree No. 1037/2000 (B.O. 14/11/2000), allows the EP to establish a list of 88 countries, domains, jurisdictions or territories, associated States or special tax regimes which, for the ITL purposes, will be considered of low or no taxation rate.

The Decree No. 589/2013 amendment

The issuance of the Decree No. 589/2013 changes substantially the conceptualization of "Tax Haven", or "Countries of low or no taxation rate" for the ITL purposes, reckoning as such those countries not considered to be **"Cooperative regarding fiscal transparency"**, being the latter determined indirectly.

Thus, the regulation considers *"countries, domains, jurisdictions, territories, associated states or special tax regimes to be* ***cooperative regarding fiscal transparency*** *when the Argentine Republic and they sign a tax information exchange agreement or an international double taxation treaty including an information exchange clause, provided that the information exchange is effectively done."*

A country will also be considered to be cooperative regarding fiscal transparency insofar as its government and the Argentine Republic has started negotiations to sign a tax information exchange agreement or an international double taxation treaty including an information exchange clause.

As it can be noticed, the new regulation leaves aside a "Tax Haven" feature, possibly the most important one, which is those countries where the foreign subject's foreign income tax are levied at a low rate or not at all.

Consequently, those jurisdictions considered to be tax havens as a result of operating under tax regimes with tax rates lower than the international standards, are now, after the issuance of the Decree No. 589/2013, "cooperative regarding fiscal transparency".

On the other hand, said Decree empowers the Fiscal Authorities (AFIP) to assess the compliance of the information exchange agreements and to provide a listing of the countries, domains, jurisdictions, territories, associated states and special tax regimes which are cooperative regarding fiscal transparency.

It also authorizes AFIP to update said listing by adding new cooperative countries, or exclude others which already are but are not expected to comply with the information exchange agreement in the future.

This institution made use of its faculty with the issuance of the General Resolution 3576/2013, establishing the list of jurisdictions considered to be cooperative, and made available for consultation on 1 January 2014 on its website "www.afip.gov.ar ". In relation to "Transfer

Pricing" the regulation will be effectively implemented for fiscal years beginning on 01.01.2014 and regarding "Fiscal Transparency" from 01.01.2014. It is worth mentioning that until the dates indicated, the list of the 88 jurisdictions incorporated by Decree No. 1037/2000 is applicable.

As of this amendment, every reference made in the ITL or its regulatory decree to "countries of low or no taxation rate" should be now understood as "not cooperative regarding fiscal transparency countries". Those are all the countries NOT included in the attached listing.

EFFECTS ON A JURISDICTION EXCLUSION OF THE COOPERATIVE REGARDING FISCAL TRANSPARENCY LISTING

The tax and non-tax effects on the exclusion of a jurisdiction from the cooperative countries listing entail severe penalties and obligations for companies operating with subjects domiciled in such jurisdiction, impacting in these companies' tax obligations (determination of the taxable income, allocations, foreign payments withholding rate, etc.), as shown below:

INCOME TAX

Transfer Pricing. Article No. 15.1, Income Tax Law (ITL)

All transactions between local companies and subjects domiciled, established or located in jurisdictions with low or no taxation rate are not considered to follow the common market practices between independent parties (Arm's length principle), even if there is no economic, legal or functional link between the parties.

Such transactions remain subject to the Transfer Pricing regulations (articles 14, 15, 15.1, ITL, ITL Regulatory Decree, General Resolution (AFIP) 1122 and its amendments). Each transaction must be justified according to the methods prescribed by such regulations and subject to the respective formal duties compliance.

Transfer Pricing. Article 21, ITL regulatory Decree.

All import and export transactions conducted between independent parties when performed with subjects domiciled, established or located in jurisdictions with low or no taxation rate remain subject to the Transfer Pricing regulations (Article 15 ITL), instead of the pricing methodology provided by the ITL for unrelated parties.

Expenses allocation. Article 18, last paragraph, ITL.

According to the article 18, last paragraph of the ITL, all expenditures made by local companies for subjects domiciled, established or located in jurisdictions with low or no taxation rate resulting in income of Argentinian source for the latter, will be allocated by the accrual method in the tax balance sheet. This procedure will be followed providing the payment is made within the due date of the tax return where such expenditure was accrued. Otherwise, the expense must be deducted in the year it is paid.

Argentinian source presumed income for foreign subjects. Article 93, section c.1), ITL – Interests.

Article 93, section c.1), ITL, determines a 100% Argentinian source net income presumption regarding interests paid on loans, as long as the borrower is not a financial entity under Law No. 21.526 and the lender is a banking or financial entity (subject to the Central Bank or similar organism regulations) based in jurisdictions with low or no taxation rate. This presumption will not apply when said jurisdictions and the Argentine Republic have previously signed an information exchange agreement and when bank secrecy cannot be invoked should the Fiscal Authorities require information.

International Fiscal Transparency. Article 133, section a), ITL.

In accordance with article 133, section a) ITL, the tax result from stock companies established or located in countries with low or no taxation rate which come from interests, dividends, royalties, leases or other similar passive income mentioned in the regulation, will be automatically allocated to the local shareholders' tax year in which the stock companies' financial year ends, even though dividends are not in fact distributed. This criterion will not be applicable when companies based in countries with low or no taxation rate also yield income from activities other than those which bring in passive income and represent at least 50% of those companies total income.

TAX PROCEDURE LAW

Net worth unjustified increase presumption. Article 18.1, Law No. 11.683.

Incoming funds from countries with low or no taxation rate, whichever its nature, concept or kind of transaction, will be considered to be a net worth unjustified increase for the local holder.

Said funds plus a 10% increase for non-deductible expenses, represent the net income for the year in which those are yield for the income tax determination. It is also the calculation basis to estimate the omitted transactions subject to taxation in VAT and Excise Taxes.

Such presumption will not be applicable if the funds' local recipient produces irrefutable proof that those funds come from real activities engaged by the tax payer or by a third party from countries with low or no taxation rate, or from previously declared fund placements.

EXCHANGE REGULATIONS

Communication A (Central Bank of Argentina) 5295

According to Communication A 5295, item 3.2, access to the local exchange market for certain payments is subject to the Central Bank's approval when the beneficiary is either a natural person or a legal entity established or domiciled in domains, jurisdictions, territories or associated States included in the previously mentioned ITL Regulatory Decree, or when the payment is made to a foreign account from such jurisdictions. Such requirement is only verified for countries not included in the "cooperative countries" listing.

OTHER REGULATIONS

A series of regulations issued by the Financial Intelligence Unit provide special procedures for prevention, detection and reporting of suspicious money laundering transactions when countries of low or no taxation rate are involved.

ATTACHMENT – LISTING OF COOPERATIVE COUNTRIES ACCORDING TO GENERAL RESOLUTION (AFIP) 3576/2013

Cooperative countries	Included in Decree 1037/2000
Albania	X
Andorra	X
Angola	X
Anguilla	X
Armenia	
Aruba	X
Australia	
Austria	
Azerbaijan	
Bahamas	X
Belgium	
Belize	X
Bermuda	X
Bolivia	
Brazil	
British Virgin Islands	X
Canada	
Cayman Islands	X
Chile	
China	
Colombia	
Costa Rica	
Croatia	
Cuba	
Curaçao	
Czech Republic	
Denmark	
Dominican Republic	
Ecuador	
El Salvador	
Estonia	
Faroe Islands	
Finland	
France	
Georgia	
Germany	
Ghana	
Greece	
Greenland	X
Guatemala	
Guernsey	X
Haití	
Honduras	
Hungary	
Iceland	
India	
Indonesia	
Ireland	
Isle of Man	X
Israel	
Italy	
Jamaica	
Japan	
Jersey	X
Kazakhstan	
Kenya	
Kuwait	X
Latvia	
Liechtenstein	X
Lithuania	
Luxembourg	X
Macau	X
Macedonia	
Malta	
Mauritius	
Mexico	
Moldova	
Monaco	X
Montenegro	
Montserrat	X
Morocco	
Netherlands	
New Zealand	
Nicaragua	
Nigeria	
Norway	
Panama	X
Paraguay	
Peru	
Philippines	
Poland	
Portugal	
Qatar	X
Romania	
Russia	
Saint Martin	
San Marino	X
Saudi Arabia	
Singapore	
Slovakia	
Slovenia	
South Africa	
South Korea	
Spain	
Sweden	
Switzerland	
Tunisia	
Turkey	
Turkmenistan	
Turks and Caicos Islands	X
Ukraine	
United Arab Emirates	X
United Kingdom	
United States	
Uruguay	
Vatican City	
Venezuela	
Vietnam	

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Taxation and market restrictions for the establishment of transnational companies and the foreign investor activities

BRAZIL

"A foreign group will set-up a new operational entity in your country through a local subsidiary. It will be a tax resident in your country and the employees will also be based in your country."

1. Are there any (legal) restrictions on foreign investment / foreign ownership? If so, please specify.

Back in the 1990s, the Brazilian legislation would benefit Brazilian over transnational companies when the national ones were responsible for strategic activities of national defense or when they were linked to important public services.

However, in August/1995, any favored treatment offered to national over foreigner companies was repealed, through the constitutional amendment 6/1995, that transformed the whole article 171/88, also adding to its original text the sub-clause 246 (from art 171 of the Brazilian Constitution), prohibiting any future provisional measure that strives to regulate the content of article 171, by giving monopolies or limiting the entrance of international investors.

Although this was a big advance, protectionism still exists in cases the foreigner decides to (i) investment in financial institutions; (ii) acquire or lease rural property; (iii) own or manage any forms of printed or virtual media; and (iv) get involved in the health services field.

Also, it is important to mention that each of these restrictions has specific nuances, prescribed by law, that could either be found in the National Constitution or other ordinary parallel laws.

2. What is the preferred legal form for the new entity?

Generally, when the new entity is linked to a rooted central firm abroad, we advise that the Brazilian branch gets in the market as a "permanent establishment", status that permits special tax treatments, as regulated under Double Taxation Treaties.

Other option is to start as a commercial representation or commercial distributor. In both cases, there are interesting tax incentives and little initial compromise to continue in the national market.

3. If the company initially suffers start-up losses, is there compensation relief available (carry back or forward-rules)? Please indicate any expiry deadlines, anti-avoidance rules, etc.

The only way a foreign investor would be able to compensate significant losses is if he is investing through investment funds. In this cases, and as regulated through the normative instruction no. 19/Receita Federal, he would have discounts on the income tax declared over alternate funds, which are administrated through the same financial institution of the initial fund.

4. If the company makes an annual profit of EUR 100,000, how much corporate tax will be due? If the profit is EUR 500,000 or EUR 1 million, what is the tax liability now?

In either situations, the company would still qualify as a "lucro presumido" one, tax regime which permits the previous establishment of a determined percentage of profit to be used as a "presumed profit", from which taxes will be deduced. Alternatively, when making over than 48 million reais (which would be approximately equivalent to EUR 14 million), the companies have to choose for a "lucro real" regime, whose taxes are deduced from the actual final corporate profit. It is impossible to predict the total amount of corporate tax a company would have from only knowing the magnitude of its profits. Brazil has plenty of exemptions and incentives applying to specific sectors of the economy. Therefore, the corporate main activity has to be taken into account before giving a true prediction. The percentage of taxation from the country's actual GDP is of 35,3%.

5. Are there likely to be any restrictions in bringing parent company workers into your country to work for the new entity (e.g. visa / work permit issues)? Please detail.

Yes. The system of permissions for this kind of worker exchange passes through the MTE – Labor & Employment Ministry, and it works based on demand. According to the national legislation, Brazilians have priority on working opportunities and, therefore, companies will have to justify the necessity of contracting a foreign worker instead of a Brazilian one. The working visas are temporary, and divided into four different categories based on the permanency of the foreigner in Brazil and the existence of a national working contract – 90 days, one year or two years with contract, or up to two years, without a previously established contract. The process of getting working visas takes around 30 days, has to be initiated by the company, and can be processed online.

6. What taxes are due on employees with annual earnings of EUR 30,000, EUR 50,000 and EUR 100,000? Please show separately their own net salary and charges borne by the company in below schedule.

Gross salary	Employer costs	Net salary
EU 30,000	R$430,78 INSS/per month (EU 1,651) + 27,5% of Income Tax (EU 8,250)	20,099
EU 50,000	R$430,78 INSS/per month (EU 1,651) + 27,5% of Income Tax (EU 13,750)	34,599
EU 100,000	R$430,78 INSS/per month (EU 1,651) + 27,5% of Income Tax (EU 27,500)	70,849

7. Are grants and incentives available for new companies and / or new jobs created in your country? If so please indicate the main rules.

Yes, in the form of tax incentives, especially for companies involved in research.

8. 'Sell your country' in two sentences - i.e. what are the main benefits for a foreign parent company in setting up its operations in your country?

From the emerging markets, is one of the most stable environments; it has tax incentives and still good opportunities of tax exemptions depending on which kind of product/service you are willing to offer. Its giant population is willing to spend and the government supports consumption by offering great credit, and when we talk about land property and local working force, the costs are low. Corruption is better regulated now, especially if we consider the new compliance standards demanded from the firms, by national regulatory agencies. There are no cultural divisions or conflicts amongst different backgrounds, and actually, assimilation occurs easily in most of the cases. There you have: market, space, fiscal incentives, security, regulation and socio-political stability.

9. What are the two worst things?

Bureaucracy and lack of assistance – when not supervised by a specialized consultant.

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Granting residence permits to non-EU citizens in Greece

GREECE

A new provision, article 36A in relation to granting of residence permits to non-EU citizens in Greece, has been added to the Law 3386/2005 on "Entrance accommodation and social integration of non-EU citizens in Greece".

Under the new provisions of the Law, a residence permit may be granted for five years to non-EU citizens upon acquiring a visa that was issued by the consulate in the country of origin of the non-EU citizen, as long as:

(A) They hold personally, or through a legal entity, shares that are entirely related to a real estate situated in Greece worth at least € 250,000.00; or

(B) They have a contract of at least ten years according to the Law 1652/1986, the value of which is at least €250,000.00; or

(C) They have concluded a 10-year lease of hotel accommodations or furnished tourist accommodation (houses) in tourist accommodation complexes according to A'180 of Law 4002/2011, with a value of at least €250,000.00

The permit may be renewed for another five years as long as the individual continues to hold the property acquired or if the contracts mentioned above are still active.

The new regulation also includes family members of non-EU citizens. Specifically, a residence permit may be granted to the family members of the individual, upon request, which will be renewed or terminated simultaneously with the sponsor's residence permit.

The new provision for granting of a residence permit does not presume the right to access to any form of work. Additionally, the relevant period (five years) will not be taken into consideration for the purpose of granting citizenship.

Additional information:

In order to obtain a residence permit the submission of two copies of the application document and a valid passport or other travel documentation recognised by international conventions is mandatory. The residence permit is issued by the decision of the General Secretary of the Region.

Conclusion:

The new provisions are aimed to attract and provide facilities to foreign investors and to support the Greek economy.

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Case law: Interdependence amongst various group entities - basis for Indian group entity being held as a PE of the offshore group companies

INDIA

Tax payers shall review their existing business models in the light of the AAR ruling given in case of Booz Group and evaluate whether or not there exists a PE.

The AAR, in case of Booz Group Company, in February 2014, established that interdependence of group companies for servicing clients shall be basis for establishing an Indian company as a PE of offshore group company.

This AAR Ruling was given in the light of the following facts:-

1. Interdependence amongst the various group companies,

2. Nature of services rendered and exchanged amongst the companies

3. Location of Booz India's office in India

Features of the business model of the Booz Group that indicated that Booz India can be a service PE or an agency PE or also a fixed place PE:-

1. Optimizing the benefits of the Group's global business network and expertise to avail services from each other.

2. The group is catered by approximately 2200 technically and professionally qualified personnel who are utilized for executing any project won by the group and its affiliates.

3. Booz India would execute the client's project using its own employees and if required procure services of professionals from the Applicants and other affiliates. These combined professionals would work together as one team to execute projects.

4. The professionals of the applicants will
   I) Work under the supervision of Booz India for concerned projects
   II) Be under the overall control of the Applicants
   III) Abide by the employment agreement entered into with the Applicants

5. Power to recall its professionals and replace them with other professionals lie with the Applicants.

6. Any financial and other responsibilities in respect of claim made by the third party on Booz India, in respect of usage of technical information, data etc. made available by the Applicants to Booz India, will be borne by the Applicants.

7. On- the- job training to the employees of Booz India ia imparted by the Applicants.

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Important 2014 amendments to the Mexican Income Tax Law to be considered by foreign investors

MEXICO

On December 2013 a new Mexican Income Tax Law was enacted, this new law is fully applicable in 2014 and among several changes contained in such law one of the most important ones that affects to foreign investors Is the new tax treatment for dividends:

As a general background is important to mention that till 2013 there was not withholding tax on dividends paid by a Mexican entity, that was always the case regardless of the tax residence of the recipient of the dividend and if it was an entity or an individual.

Till 2013 if there was tax imposed on the payment of a dividend that tax was due and paid by the Mexican company that was paying the dividend.

To determine if the Mexican company that was paying the dividend had to pay tax on it there was (and still there is for 2014) a special computation to be applied for that purposes.

The change that affects the foreign shareholders (individuals or entities) that are recipients of a dividend paid by a Mexican entity is that starting 2014 there is a 10% income tax withholding tax. The 10% withholding tax is definite and there is not a possibility of a total or partial refund.

There is a mechanism applicable to determine the base of that 10% withholding tax, such mechanism is complicated and requires the involvement of a tax specialist.

It is important to remember that Mexico has an ample tax teatries agreements network with several countries that may reduce the income tax withholding imposed on dividends. Finally it is advisable that before a dividend payment takes place to get advice from a tax specialist to know the tax consequences of such payment and avoid adverse effects and to detect opportunities.

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The Canary Island Special Zone (ZEC)

SPAIN

1. Introduction: Why the ZEC special tax regime

1.1. The Canary Islands is an archipelago of islands located in the Atlantic Ocean next to the north-western coast of Africa. The Canary Islands is an Autonomous Community of Spain and is fully integrated within the European Union (EU)

1.2. The ZEC special tax regime may be useful for multinational groups that have or will have operations in Africa

1.3. The ZEC special tax regime is applicable to entities located in the Canary Islands which perform certain permitted activities and if certain requirements are met. Among other tax benefits, ZEC entities are taxed at 4% rate for Spanish Corporate Income Tax (CIT) purposes

1.4. Taking into consideration the location, the legal system and the economic, educational and social figures of the Canary Islands, this location may be of interest for multinational companies that would like to establish regional headquarters/principal for the African operations and subsidiaries

1.5. In the following slides the ZEC regime will be described and potential tax efficient alternatives for the African operations will be outlined

2. The ZEC regime

2.1. General requirements

A. The special ZEC regime may be applicable to newly incorporated legal persons which meet the following requirements:

a. The entities should have their corporate seat and their effective place of management within the geographical limits of ZEC. The geographical limits should be consider the territory of the Canary Islands with the exception for the case of companies which carry out manufacturing, handling or commercialization of goods that should be located in certain areas previously determined by Spanish Government

b. At least one of the directors should be resident in the Canary Islands

c. Their corporate purpose should be included in the list of permitted activities outlined in the Royal Decree with develops this special tax regime. A non exhaustive list of the permitted activities is included in annex of this document

d. Perform investments in tangible and intangible assets within the first two years following the authorization issued by the ZEC Committee. Such assets should be located or received within the geographical limits of the ZEC and should be used within such limits and necessary for the business activity carried out by the taxpayer in the ZEC. In Gran Canaria and Tenerife (main islands of the archipelago) such investments should amount to 100,000 euro

The fixed assets acquired through transactions performed under the Spanish tax roll-over relief regime should not be taken into consideration in relation to the minimum investment amount required

In addition, the investments performed should meet the following requirements:

- The fixed assets acquired should be owned by the ZEC entity during all the period in which this regime will be applicable, or during their useful life in case this is shorter, without being transferred. These assets should neither be rented or licensed, unless it is the authorized corporate purpose of the ZEC entity, and the tenant/licensee is not a related party. Notwithstanding the foregoing, the holding period required is deemed to be met when the assets are transferred and the amount obtained in such transfer is reinvested in new fixed assets, meeting the conditions outlined above, in one year period
- In the case of used fixed assets, such assets cannot have been used for the purpose of the investment requirement of the ZEC regime before

e. Create jobs within the geographical limits of the ZEC within the first six months following the authorization of the ZEC Committee and to keep a minimum number of five jobs (limit applicable in Gran Canaria and Tenerife)

f. File before the ZEC Committee a descriptive report of the business activities to develop

B. The special ZEC regime will be in force until December 31, 2019. However, it may be extendable through the authorization of the European Commission. Notwithstanding the foregoing, the authorization for the register in the ZEC regime should be performed before December 31, 2013

2.2. Tax treatment

A. Spanish Corporate Income Tax:

The entities subject to the ZEC special tax regime will be subject to the Spanish Corporate Income Tax (CIT) with the following particular features:

a. In principle, the tax rate applicable to these entities should be 4% (30% is the general tax rate of Spanish CIT)

b. This reduced tax rate should be applicable to taxable income linked to the transactions effectively performed within the geographical limits of the ZEC

c. The taxable income entitled to be taxed at the reduced tax rate (i.e., 4%) should be determined applying the following rules:

- The taxable base should be determine following the provisions stated in the Spanish CIT Act
- In addition, a percentage, that should be applicable to a so-called "previous taxable income", should be calculated through the following fraction:
  The mechanics of the above-depicted formula are quite complex and should be analyzed on a case by case basis in order to ensure its correct application.

d. The taxable base entitled to be taxed at the reduced tax rate (i.e., 4%) should be determined applying the following rules (Cont.):

- In addition to the limit on the taxable income determined through the formula depicted in the previous slide, there is an additional limit based on the net creation of jobs and the business activity performed. Please find below the table where this limit is outlined:

Employees	Manufacturing Activities	Service Activities	Other Service Activities
Between 5 (*) and 8 employees	1.800.000 €	1.500.000 €	1.125.000 €
Between 9 and 12 employees	2.400.000 €	2.000.000 €	1.500.000 €
Between 13 and 20 employees	3.600.000 €	3.000.000 €	2.250.000 €
Between 21 and 50 employees	9.200.000 €	8.000.000 €	6.000.000 €
Between 51 and 100 employees	21.600.000 €	18.000.000 €	13.500.000 €
More than 100 employees	120.000.000 €	100.000.000 €	75.000.000 €

The taxable base entitled to be taxed at the reduced tax rate (i.e., 4%) should be the one equal to the lower of the two aforementioned limits (i.e., "formula limit" and "job creation and business activity limit"). The taxable base which exceeds such limits should be taxed, in principle, at the general CIT rate on the amount exceeding those limits.

B. Spanish Non Resident Income Tax (NRIT):

a. The interest payments performed by ZEC entities to non resident taxpayers should not be subject to withholding tax (WHT) in Spain as long as such interest income is not obtained through a black listed jurisdiction for Spanish tax purposes

b. The dividend payments performed by ZEC entities to their parent entities, even if such parent entities are not residents in EU member States, should not be subject to WHT if the following requirements are met:

- Parent and subsidiary must be subject to and not exempt from one of the relevant income tax in each of their jurisdictions

c. The dividend payments performed by ZEC entities to their parent entities, even if such parent entities are not residents in EU member States, should not be subject to WHT if the following requirements are met:

- The withholding exemption applies to dividend distributions and/or shares in profits of the subsidiary, but not to distributions derived from the liquidation of the subsidiary
- Parent and subsidiary must take one of the legal forms provided for in the Annex to the P/S Directive
- The parent company must hold, directly or indirectly, at least 5% of the Spanish company's shares. This minimum shareholding must have been held uninterruptedly during the year prior to the day the dividend becomes receivable or, if this is not the case, must be held for the time necessary to complete such minimum holding period
- The parent entity should not be tax resident in a black listed jurisdiction from a Spanish tax viewpoint

C. Transfer Tax, Capital Duty and Stamp Duty:

a. The acquisition of rights and goods should not trigger transfer tax, as long as, the taxpayer assigns them to its business activity and when such goods and rights are located or can be executed within the geographical limits of the ZEC

b. Only the dissolution of ZEC entities should trigger capital duty at 1% rate over the fair market value of the goods and rights received by the shareholders

c. No stamp duty should be levied, although in some cases this duty should be levied (i.e., letters of exchange, etc.) on the transactions performed by ZEC entities within the geographical limits of the ZEC

D. IGIC (Canarian VAT):

a. The supply of goods and the provision of services performed by ZEC entities to other ZEC entities should be exempt from IGIC

b. The importation of goods carried out by ZEC entities should be exempt from IGIC

c. The aforementioned exemptions should not affect the ability of deducting other input IGIC by the ZEC entities

E. EU Directives and Double Tax Treaties:

a. The ZEC entities are entitled to apply all the double tax treaties (DTT) concluded by Spain and all the EU Directives (i.e., Parent-Subsidiary Directive, Interest & Royalties Directive, etc.)

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Implementation of the turkish australian tax treaty begins from january 1, 2014

TURKEY

The Turkish Australian Tax Treaty has entered into force on June 5, 2013 as to be implemented from January 1, 2014. A summary of the major provisions of the Treaty has been presented below.

Persons Covered (Article 1)

The treaty will apply to persons who are residing at least one of the Contracting States. The persons that may enjoy the treaty are individuals, companies, and any other body of persons.

Taxes Covered (Article 2)

Turkish personal and company income taxes, and Australian income tax, including the resource rent tax in respect of offshore projects relating to exploration for or exploitation of petroleum resources are covered with the Treaty.

Resident (Article 4)

A Turkish company, or any other person (except a company) who, under the law of Turkey relating to Turkish tax, would be considered as residing in Turkey.

An Australian company, or any other person (except a company) who, under the law of Australia relating to Australian tax would be considered as residing in Australia.

The residents of a Contracting State also include that State and any political subdivision or local authority of that State.

Permanent Establishment (Article 5)

The definition of permanent establishment in the Treaty, in general, follows the same line with the OECD Model.

However, a building site or construction, installation, or assembly project which exists for more than 6 months in the host country will be considered as a permanent establishment.

An enterprise that carries on supervisory activities for more than 6 months in connection with a building site, or a construction, installation or assembly project in the host country will also be considered as a permanent establishment of the enterprise.

Operating substantial equipment in the host country by an enterprise for more than 6 months in any 12 months period will be considered as a permanent establishment of the enterprise.

In professional services where an enterprise of a Contracting State performs these services for a period or periods exceeding 183 days in any 12 month period, and these services are performed through one or more individuals who are present and performing such services in that other State, means that a permanent establishment (a fixed base) exists.

Business Profits (Article 7)

Unless an enterprise of a Contracting State has a permanent establishment situated in the other State, the business profits of that enterprise may not be taxed by that other State. If such an enterprise carries on business in the other State through a permanent establishment situated there, only the profits that are attributable to the permanent establishment may be taxed by the other State.

Shipping and Aircraft Operations (Article 8)

Profits from an enterprise of a Contracting State derived from the operation of ships or aircraft shall be taxable only in home State. In order for the profits raised to be taxable in the host country, the profits to be derived directly or indirectly from ship or aircraft operations confined solely to places in the host country.

Dividends (Article 10)

Normally dividends are subject to income tax in the State of residence of the beneficial owner of the dividend income. However, source country will also have a limited right of taxation. In general, source country taxation will be limited with the maximum amount of 15% of the gross amount of the dividend. But the dividends paid by a subsidiary to the parent company will be subject to lower tax rates in order not to cause an economic double taxation. This has been explained below:

Dividends paid by a company which is a resident of Australia to a resident of Turkey may be subject to an income tax in Australia of not exceeding 5% of the gross amount of dividends, if the dividends are paid to a company (other than a partnership) which

holds directly at least 10% of the voting power in the company paying the dividends.

Dividends paid by a company which is a resident of Turkey to a resident of Australia may be subject to an income tax in Turkey of not exceeding 5% of the gross amount of dividends, if the dividends are paid to a company (other than a partnership) which holds directly at least 25% of the voting power in the company paying the dividends.

Interest (Article 11)

Like dividends, interest income is also subject to income tax in the State of residence of the beneficial owner of the interest income and in limited scale in the source country as well. The limited taxation right of the source country in this case will not exceed 10% of the gross amount of the interest.

Royalties (Article 12)

Royalties are subject to limited taxation in source country as well. The source country taxation is limited with the 10% of the gross amount of the royalties at most.

Alienation of Property (Capital Gains) (Article 13)

Capital gains derived from immovable property may be taxed in the country that the immovable property is situated.

Capital gains derived from the alienation of any shares or comparable interests deriving more than 50% of the value directly or indirectly from immovable property may be taxed in the country that the immovable property is situated. In other cases, capital gains from the alienation of shares or similar rights shall be taxable only in the Contracting State of which the alienator is a resident.

Capital gains derived by a resident of Australia from the alienation of shares or similar rights in a Turkish company or bonds issued by a resident of Turkey may be taxed in Turkey, if the period between acquisition and alienation of such shares, rights, or bonds does not exceed 2 years.

Independent Personal Services (Article 14)

Income from professional services is subject to income tax in the source country if the services or activities being performed in a fixed base situated in the source country; or otherwise the individual is present in the source country for the performing those services or activities for a period or periods exceeding in the aggregate 183 days in any 12 month period commencing or ending in the year of income of the source country.

Dependent Personal Services (Income from Employment) (Article 15)

The rules for taxation of income from employment are the same as those of OECD Model Tax Convention.

Methods for Elimination of Double Taxation (Article 23)

Both countries will use credit method to eliminate the double taxation which may be caused by source country taxation.

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Tax Implications of a Non-UK Resident Buying Property in UK

It is very important that when a non-UK resident considers buying property in the UK that they understand the tax implications of doing so and whether it should be acquired personally or through a non-UK resident company. I have set out below the tax implications of the non-resident acquiring property under both of these options.

Income Tax

If a non-UK resident buys property in the UK, which is let, then the income after deduction of expenses attributable to the letting will be liable to income tax. If the recipient is an individual, then the income will be liable to income tax at rates of up to 45%. If the recipient is a company, then the income will be liable to income tax at a rate of 20%.

Capital Gains Tax

In general non-residents are currently not subject to UK tax in respect of capital gains realised on the disposal of UK property. This exemption also applies to property donated by the non-resident. There are, however, four exceptions to this general rule:

a. A non-resident individual or trust trading in the UK through a branch or agency is chargeable in respect of UK assets used or held for the purposes of the trade of the branch or agency. The same applies to companies trading in the UK through a permanent establishment.

b. Certain anti-avoidance legislation deems capital gains to be income and as such are taxable even if accruing to a non-resident. For example a capital gain realised on the sale of land is deemed to be income if the land was acquired or developed with a view to realising a gain.

c. An individual who is non-resident for less than five complete tax years is assessed in the year of his return on gains realised during his absence. This does not apply to those individuals who were resident in the UK in less than four of the seven tax years preceding the year of departure.

d. A capital gain made by a non-resident company in respect of high value residential property (i.e. in excess of £2 million) is charged to capital gains tax.

VAT

The UK VAT rules applicable to land and property transactions are complex. It is essential to establish the correct VAT liability of any transactions as this can range from being exempt, zero rated or standard rated (20%).

There are many exceptions and special rules but in the main the following UK VAT treatment occurs:

Selling, buying and letting of residential property is exempt (however the UK VAT treatment for the sale/long lease of a new build residential property differs and may qualify for zero rating)

Selling, buying and leasing of commercial property under 3 years old is standard rated, (20%). Selling, buying and leasing of commercial property more than 3 years old is exempt subject to an option to tax. The option to tax allows the landlord/owner to choose to charge VAT. This allows VAT incurred on business costs in respect of the opted property to be recovered through a UK VAT return.

Where the land is physically situated determines the UK VAT treatment for many services supplied in connection with land/property and therefore an overseas landlord should expect to incur UK VAT.

From December 2012 any trading activity commenced in the UK by non established taxable persons leads to an automatic requirement to register for UK VAT.

Stamp Duty

Stamp duty land tax will be due on any land, which includes property, acquired in the UK.

The amount due will be a percentage of the chargeable consideration for the transaction.

That percentage is determined by reference to whether the relevant land consists entirely of residential (Table A) or consists of or includes land that is not residential property (Table B).

Relevant consideration *Relevant consideration*	*Percentage generally*	*Percentage for first-time buyers*
Not more than £125,000	0%	0%
More than £125,000* but not more than £250,000	1%	0%
More than £250,000 but not more than £500,000	3%	3%
More than £500,000 but not more than £1m	4%	4%
More than £1m but not more than £2m	5%	5%
More than £2m	7%	

There is also a 15% charge on the purchase of an interest in a single dwelling where the chargeable consideration is more than £2m and the purchaser is either a company, a partnership one of whose members is a company, or a collective investment scheme.

There is a narrowly drawn exception for bona fide property development companies who purchase property for the 'sole purpose of developing and reselling the land'. In particular, in order to qualify as a property development company, the business must have been carried on for at least two years.

In addition there will be an annual charge on a company, or a partnership one of whose members is a company, or a collective investment scheme, which holds residential property worth more than £2m. These annual charges depend on the value of the property and are as follows:

Annual Charges

Property value	£2m to £5m	£5m to £10m	£10m to £20m	Greater than £20m
Annual charge	£15,000	£35,000	£70,000	£140,000

There are reliefs and exemptions for certain businesses, such as property rental businesses.

As can be seen from the above, acquiring property in the UK can result in unforeseen tax liabilities and therefore I would recommend that if a non-UK resident is considering buying property in the UK, they seek professional tax advice at an early stage so as to mitigate any tax liabilities.

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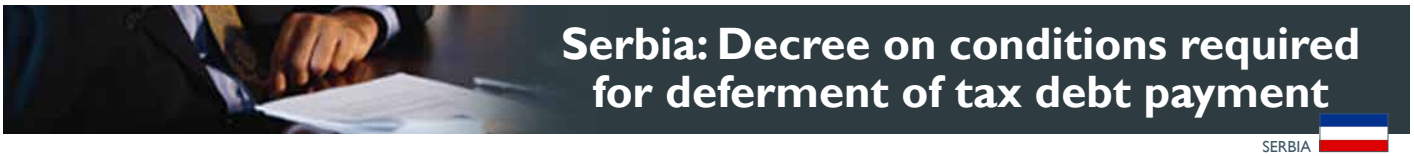

Serbia: Decree on conditions required for deferment of tax debt payment

SERBIA

The Government of Republic of Serbia has issued a decree detailing the conditions under which a deferment of tax debt payment may be requested by taxpayers. The Decree has been published in Official Gazette no.183 on 6 December 2013 and is effective as of 14 December 2013.

The decree prescribes detailed conditions as related to article 73, paragraph 1 of the Law on Tax Procedure and Tax Administration, which stipulates the conditions under which a taxpayer can delay the payment of tax debt.

The payment of debt towards the tax authorities can be delayed by the taxpayer if the debt amount is lower than:

1. For physical persons – 10% of the tax revenue for the year preceding the year when the taxpayer submits a request for deferment;
2. For entrepreneurs and small entities - 5% of the total annual income reported in the last financial statement;
3. For medium and large enterprises – 5% of the working capital reported in the last financial statement.

The request to delay tax payment has to be submitted by the taxpayer to the competent tax office. In addition to the request for deferment of tax payment, the taxpayer is also liable to submitting proof of fulfilling the conditions required to delay payment (defined above) and collaterals.

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Industrial property rights

GERMANY

Industrial property legislation is part of the wider body of law known as intellectual property law.The term intellectual property refers broadly to the creations of the human mind, such as inventions, literary and artistic works, designs, images and names used in commerce. Intellectual property rights protect the interests of creators by giving them property rights over their creations which enable them to earn recognition and – of course – financial benefit from what they invent or create.

In Germany there are five types of protection for a new product: Patent protection, utility model protection, trademark protection, design protection and copyright protection.

As in other countries there are a number of laws in Germany governing intellectual property rights, but two laws in particular are not well known: the German utility model law and the law on employees' inventions. For people doing business in Germany, these laws can provide both valuable opportunities and unforeseen traps.

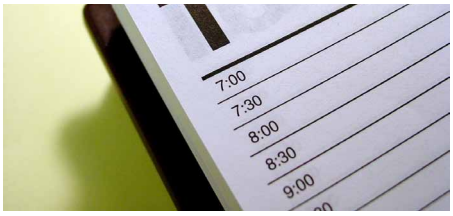
Utility model law is a German peculiarity. Utility models are often called "small patents". The registration provides fast and low-cost protection of technical inventions, basically the same technical inventions as with patents with the exception of methods and processes. Whereas it frequently takes several years to obtain a patent, a utility model may be registered within a few weeks after filing the application, because the substantive requirements for protection: novelty, inventive achievement and industrial application are not examined within the scope of the registration procedure. Therefore, filing a utility model is a fast way to get a fully-fledged enforceable IP-right.

Utility model protections can last for up to 10 years. Double protection (that is, protection by both a patent and a utility model) is permissible.

Concerning the German law on employees' inventions applies the following: The author´s moral rights have a special significance in the German copyright, as the "special connection"

between the author and his work is ultimately the basis of copyright protection. Therefore, the copyright is in essence non-transferable, even if rights of utilization or licenses can be granted. Moreover, the author is always an individual, namely the actual creator of the work. This applies even if the work was created within the framework of an employment relationship. If an employer wants to exploit works created by employees, corresponding rights of utilization (licenses) must be granted to him. The employee is generally obligated to grand such rights on the basis of the employment contract. Therefore, if it is foreseeable that copyrighted works will be created within the framework of an employment relationship, the employment contract should contain explicit provisions in respect of licenses for the avoidance of later disputes.

Special provisions apply for software. The employer is entitled by law to the exclusive exercising of all economic rights to the software, provided that a different agreement was not explicitly concluded.



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Liability for defects

GERMANY

Germany has implemented all Directives of the European Union concerning product liability law. Thus, German legislation has the same basis as other European countries regarding product liability.

In terms of § 433 of the German Civil Code (BGB), the vendor generally has the duty to provide the product without defect. If this is not the case, the purchaser´s liability rights apply.

The German legal system recognizes two different grounds for compensatory liability: The one is liability resulting from a contract (contractual liability-warranty); the other is liability that is provided for by law (statutory liability-tort law).

Under German law, the basis for warranty is a contract between a seller and a purchaser. Pursuant to the German Civil Code, generally a seller is liable for a breach of duty – such as a product being defective at the time of the transfer of risk (most likely the handover of the product) – unless he can prove that he is not responsible for it. The claimer generally has to prove that the product is defective and that there is a damage which is the result of the defectiveness. In favor of a consumer it is suspected in the first 6 months after delivery that the product was defective at the time of the handover, unless the seller can prove that the defect did not exist at that time. A purchaser suing for breach of warranty rights has several remedies. He or she can exchange or demand repairs for the defective products. Failing that, the purchaser can demand cure/ supplementary performance, demand a reduction in the purchase price, rescind the contract or demand damages. The liability rights prescribe 2 years after the handover of the product.

Under general tort law, the central provision for liability is § 823 of the German Civil Code. Regarding a possible defect of a product, it has to be proved that the injuring act was the introduction of the product into circulation, the product was defective, the manufacturer is culpable and the negligence caused harm to a person´s life, health or property (other than the defective product itself or its distinctly separate parts). The manufacturer was negligent if he violated one of the duties established by case law, which are: Organizational duty of care, duty to instruct, product-monitoring duty and duty to avert danger. Case law has allocated the burden of proof, which largely favors the claimant.

In addition to the general tort law provisions, there a strict liability provisions for damage caused by defective products based on the European Product Liability Directive, as implemented in Germany by the German Product Liability Act (Produkthaftungsgesetz – ProdHaftG). The German Product Liability Act sets forth three core requirements to prove strict liability: Product defect (Design Defect, Manufacturing Defect, Instruction Defect), injury, and causal link between the two. That is all the claimant has to prove, culpability of the producer is not needed.

Of course producers and importers not only have to think about liability because of the German Civil Code, but also about criminal liability in accordance to the German Criminal Code (StGB) and the Product Safety Act (ProdSG). Anyone who introduces products to the market or continues to circulate products that do not conform to the Product Safety Act standards despite knowing of the nonconformity, as well as anyone who interferes or does not comply with measures undertaken by the authorities to protect product safety, commits a crime.

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Antea
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