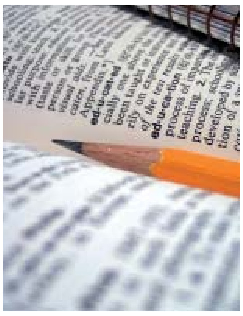
Antea
ALLIANCE OF INDEPENDENT FIRMS

INTERNATIONAL NEWSLETTER

NOVEMBER 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



"The content of this newsletter has been written or gathered by ANTEA and its representatives, for informational purposes only. It is not intended to be and is not considered to be legal advice, nor as a proposal for any type of legal transaction. Legal advice of any nature should be sought from legal counsel. For further advice please contact local office."

Fiscal policy in Colombian´s economic development

COLOMBIA

The principal objective of the public sector in all nations is to improve the economic welfare of its population, welfare that can be inferredand measured in the increase or decrease of different macroeconomic variables such as poverty indicators, Gini coefficient for inequality, unemployment, GDP and index pricesamong others.

Furthermore, the purpose goes over in order to assure sustainable growth in the long term which depends on the government programs and expenditure (Fiscal policy) and, in this way, on the national budget. Regarding sustainability and current decisions on Fiscal policy in Colombia, several factors have to be considered. One of them is the historical factor and the different crises that have shaken this country especially in the 90´s when the government, pretending an economical freedom of its international markets and a stronger government protection, increased the fiscal deficit with the result of a large expansion of public debt. . (paperSalomonKalmanovitzLa Política Fiscal Colombiana en un contexto histórico). However, these problems have been overcome, and in the last years the fiscal policy in Colombia has been well managed without the government protectionism and with the establishment of specific targets concerning inflation. These elements have worked asa solid base to a sustainable and stable economy and have lead the Investment Grade for the public debt in Colombia.

Managing the public debt and its sustainability is crucial for the future of a country. Increasing public debt may lead to crisis in the perceptions of the market agents and thus in the financial sector and the economy. As a reference regarding international crises, Colombian´s economy has remained stable, in part due to the regulation system but also due to the lately Fiscal Policy performed by the government that has been a basis for the creation of better institutions and for the needed stimulus to assure growth. It is important to keep in mind that some of these crises have been caused by fiscal issues. For example, the United States necessity to increase the budget and public debt to higherlevels than those seen before,created some rumors about the historical debt default, hyperinflation and economical crisis. Another example of fiscal crisis is Greece because of its government default on debt consequencesIn Colombia, the fiscal policy is encouraging-As the models of other developed countries, Central Bank deals independently with the monetary policy looking for positive result in the long term, reaching a non contra cyclic behavior and finally watching for an economic stability, which hasbeen perceived in the last years. Moreover, it is important to highlight the positive and stable results not only of the Central Bank but also of the government´s treasury department, the efforts and latest tax reform, the improvements in tax collection and the public expenses reduction among others.Nevertheless, there are several factors that can´t be measured and affect this economy and its development in a considerable way. There is still a high corruption perception that causes a waste of resources, a high tax avoidance and anon necessary investment in useful projects.

In conclusion, Colombia´s fiscal policy is doing its work and is having a positive effect as has been perceived by the public. By now the country does not have thehyperinflation issues it was used to in the last century, and also it has been conducting its budget to neuralgic issues for the economy such as infrastructure, education, health and poverty. Nowadays Colombia has a non cyclic growth and the economy is not affected by world crisis. Those elements make Colombia an attractive country for investment and categorize it as an emergent country. There is not any doubt that if the fiscal policy in Colombia keeps well managed, the competitiveness and welfare will increase.

References

LA POLITICA FISCAL COLOMBIANA EN UN CONTEXTO HISTÓRICO

Recoverd: 26-10-13

http://www.banrep.gov.co/sites/default/files/publicaciones/pdfs/borra112.pdf
Salomón Kalmanovitz

Caracterización de la Política Fiscal en Colombia y Análisis de su Postura Frente a la Crisis Internacional

Recoverd: 26-10-13
http://www.banrep.gov.co/sites/default/files/publicaciones/pdfs/borra566.pdf
Ignacio Lozano

Manuela Salazar Villegas
manuela.salazar@thr.com.co
Colombia

Cyprus amends registration requirement on trusts

CYPRUS

The Republic of Cyprus, following its commitment to initialise rules to prevent and identify money laundering, has introduced an amendment to the requirement of registration of trusts. In particular, until today trusts had no obligation to be registered in any record in the territory of Cyprus.

On September 9 2013, the Official Gazette of Cyprus published the new legislation, according to which amendments on trusts were approved.

Persons providing services of management and administration to trusts are obliged to verify the details and the true identity of the beneficial owners of trusts, including the following categories:

- Trustees;
- Settlors;
- Beneficiaries or class of beneficiaries;
- Protectors, if any;
- Investment consultants, accountants, tax consultants, if any;
- Activities of the trust; and
- Any other person that exercises the effective control on the trust.

Those information needs to be kept in the Republic of Cyprus and the persons providing such services must be ready at all times to provide them to the competent authority, when requested.

Certain information on trusts, for as long as they are governed by Cyprus Law, will be kept in the so called "Trust Registries". The Trust Registries will be kept by three Cyprus regulatory authorities: the Cyprus Securities and Exchange Commission, which regulates amongst others the service providers, the Cyprus Bar Association, that regulates law practitioners and the Cyprus Association of Certified Accountants. The competent authorities that keep the Trust Registries can exchange information as part of their obligations under the legislation and the Anti-Money Laundering legislation. The new amendments on the legislation clarify that such information will not be made available for the public.

Trust information delivered to the competent authorities shall include:

- Name of trust;
- Names and addresses of every trustee, according to all relevant time;
- Date of creation of the trust;
- Date of any changes of the law governing the trust; and
- Date of termination of the trust.

The information must be provided to the competent authorities within 15 days of creation of the trust or from the date when the trust is governed by Cyprus Law. Any changes to the name of the trust or the details of the trustee as point two must be notified within 15 days from that change. In case of termination of the trust, or change of governing law, the competent authority must be notified within 15 days and the competent authority shall be obliged to keep information of the trust for the next five years.

In regards to trusts that are already in force and under Cyprus Law, trustees that are Cyprus residents have to notify the competent authority of the above mentioned information within six months.

Cyprus Securities and Exchange Commission notified that every registration of Trust, or any amendments thereafter, shall be accompanied with a fee. The fee for registration of every trust is EUR30.00 and any amendments thereafter is EUR20.00

Eurofast's Take:

The changes have been welcomed in Cyprus. They are considered as a positive step towards tackling anti-money laundering and a proof that Cyprus is committed to its obligations under the agreement with Troika. The amendments do not remove the level of confidentiality for the standards of Cyprus and at the same time it will be a great tool in evaluating the attractiveness of trusts in Cyprus. Mild concerns have been expressed, though, on the administration cost that will arise from such obligations by the service providers for Trust in Cyprus. Eurofast believes that the changes will be a step forward for Cyprus as a jurisdiction. The information provided to the competent authorities will not reveal confidential information and, also, achieve the monitoring of trusts in Cyprus.

Chris Damianou
chris.damianou@eurofast.eu
Cyprus

Legal Update

The meaning of Entire Agreement Clauses according to Dutch case law

THE NETHERLANDS

The most important commercial contracts are tailor made by either accountants, Legal Counsel or attorneys. Almost all of these contracts contain an 'Entire Agreement Clause'. The Entire Agreement Clause basically stipulatesthat the contract represents the complete and final agreement. In other words, the contract supersedes any prior agreements the contracting parties might have made with regard to the subject of the contract and can only be changed with the explicit written consent of both parties.

Entire Agreement Clauses are used extensively in commercial contracts with Dutch parties drafted by UK or USA lawyers. The essence of the Entire Agreement Clause is, however, somewhat contrary to the jurisprudence of the Dutchsupreme court with regard to civil litigation, the HogeRaad. According to old but still valid jurisprudence of the HogeRaad, a contract cannot necessarily be explained solely from the text of its stipulations, but it is (also) important to determine the intention of the parties in the given circumstances and what they reasonably expected from each other. In addition, the social environment and the legal knowledge of the parties can also be relevant (HR 13 March 1981, NJ 1981, 635 (*Haviltex*)). Naturally, this basically means there is *always* some chance of discussion (and therefore litigation) when it comes to dealing with explanation of provisions of contracts.

On 19 January 2007 the HogeRaad seemed to be persuaded by criticism of legal professionals and ruled the intentions of contracting parties may be determined by the most obvious literal meaning of the stipulations, depending on **(a)** the nature of the transaction, **(b)** whether the contract is detailed, **(c)** the manner of drafting of the contract and **(d)** whether the contract contains an Entire Agreement Clause(HR 19 januari 2007, LJN AZ3178 (*Meyer Europe/ PontMeyer*)). The plaintiffs considered they had expected the words "as of" in a Share Purchase Agreement to mean the period as of April 1, 1998 up to and including the Economic Transfer Date". The outcome of this matter would determine whether the seller was liable for company taxes to the amount of well over € 1.000.000. Judging from the Meyer Europe/ PontMeyer ruling an Entire Agreement Clause may result in a contract to be explained solely by the most obvious literal meaning of its stipulations in case of – simply put – extensive, high quality and tailor made contracts drafted by (legal) professionals. Most courts and lawyers were delighted by this new jurisprudence, as it entails the actual literal meaning of a contract can be depended on. However, *as of* the fifth of April 2013 this changed.

In its Lundiform/Mexxruling of 5 April 2013 the HogeRaad ruled the intentions of the parties in the given circumstances and their reasonable expectationsmay deviate from the most obvious literal meaning of the stipulations, *even in case of extensive, high quality and tailor made contracts*. This basically means any party claiming this is the case, must be allowed to attempt to prove its claim, even by witness testimony. The best remedy to such lengthy proceedings is to add another clause stipulating no evidence against the most obvious literal meaning of the stipulations is allowed. Our office has begun drafting such clauses and we expect them to hold in court. If you have any questions please feel free to contact us.

Van Poppel Croonen Van Dijk
Advocaten
www.pcda.nl

Maarten Kalkwier
kalkwiek@pcda.nl
The Netherlands

How tax incentives for R+D activities could trigger the globalisation of the small businesses

SPAIN

The current economic situation has been characterized by a sharp decline in domestic demand which is why many European companies have chosen to look abroad and globalise their activities. The high degree of development and specialization of many of these companies has caused a relocation of production centers although keeping development and decision centers in mainland Europe.

This situation has created tough competition among countries to attract productive capital investment with a high added value, especially relating to intangibles like patents, developments, designs or trademarks. The governmental tax agencies in different countries have not remained passive in this situation, reacting with the adoption of favorable tax measures and incentives to attract development activities to their countries.

Tax policies to promote Research and Development activities come from two sides, on the one hand, policies may come from direct public spending (aids or subsidies) and on the other hand indirect public spending, being the most important of all tax deductions allowed in a number of tax legislations.

Competing in foreign markets is complex, requires adequate and several resources and is mainly risky, so the tax incentives discussed above could be really useful in order to provide help to many companies, particularly the small companies.

A good example of this tax policy has been used by the Spanish government, which has introduced several tax incentives for activities in connection with R & D activities. In fact, the available deductions are really significant compared with other European countries.

It is important to consider and take into account how the European Commission is monitoring these measures from the general competition perspective in the European area as a free market is allowed and necessary. Maybe this trend is a fact that recognizes excessive tax rates for the companies in the European area, so one might wonder whether it would be better to have lower tax rates in the European territory.

Therefore it has become essential for our companies to understand and optimize these tax incentives in order to globalise and grow their businesses. A good example of these policies is the tax reduction known as "patent box" which can effectively reduce the tax bill by half. This tax incentive was copied in Spain after watching countries like Holland and it began a real "Tax war" between countries in order to attract these kinds of activities.

Reinforcing this proposal and vision that relies on tax incentives, the Spanish government has recently enacted the Law 14/2013 introduced as of 27 September 2013, in order to support entrepreneurs and encourage their international activity.

Hopefully these new changes in our tax incentives in Spain and in other countries like the United Kingdom, France, Holland, Portugal and Ireland, will serve to fulfill their purpose which is to provide a good base for the increased globalisation of our companies, and hopefully in addition, it will also allow a quicker economic recovery to enable European countries to solve and overcome their budget deficit in a sustainable manner without harming the competitiveness of our companies.

evalue
tu innovas, nosotros hacemos el resto

Félix de la Guía
felix.delaguia@evalueasesores.com
Spain

Setting up a branch officce in El Salvador

EL SALVADOR

BASIC STEPS AND LEGAL REQUIREMENTS

When it comes to setting up a bussiness in a foreing country, you always wonder if it will be harder or too diferent from setting up your bussiness in your own country, in order to help you figure it out, we have gathered the steps you ought follow when you do so in El Salvador.

Step 1: You must register your company at the national registry centre (CNR) and provide your branching information, the location you have chosen to place your officce and your intentions of making bussiness in El Salvador.

The national registry centre has eleven officces all over the country to make your set up easier; as you can see on the following map:

In order to get your registry completed, a legal representative or administrator with legal authorizarion from the owner of the company must present an application with the following:

1. Articles of incorporation and regulation, legal backing the company or asociation at the country where it was first stablished.
2. Supporting documentation that the decision of choosing El Salvador as a new branch officce it's not against the company policies and regulation.
3. Legal documentation stablishing clearly and detailed the powers and duties of the representative chosen in El Salvador. This person has to be a permanent resident in El Salvador.
4. Aviable capital that supports all the bussiness related activities in El Salvador, that will be proven to the Ministry of Economy at the international investment registry.
5. Statement of financial position, previously certified by a CPA in El Salvador.

The aplication must present the company's will of submission to the laws, courts and authorities of the republic; when it comes to development of their duties adquired in El Salvador.

When all of these requirements are completed, the registry will provide the company all the legal documentation required by the commerce code supporting their registration and the legality of the officces stablished in El Salvador.

Every ammount modified in the ownership equity or obliteration must be enrolled at the international investment registy ant he ministry of economy, ant it's the ministry's responsability to notify the officce exercising supervision of the State.

The officce responsable for the supervision of the State will make sure that all of the activities developed by the foreing company discharges all the requirements of the commerce code, such as:

1. Register at the city hall
2. Sign at the General Directorate Internal Revenue.
3. Register at the Work Ministry
4. Register at l ISSS (healthcare) and AFP (jubilation found)
5. Register at Ministry of Economy.

MURCIA & MURCIA, S.A. DE C.V.
M & M
AUDITORES Y CONSULTORES

Aida del Carmen Ramos
aida.r@auditoresmurcia.com.sv
El Salvador

Safe Harbour Rules

INDIA

Worldwide trade has extended rapidly growing in the past, among all the countries in the world causing various issues / conflicts on International transactions to the Heads of Global Tax concerns, and to the Revenue Authorities. India is non-member country in the OECD (Organization for Economic Cooperation and Development). Revenue Authorities internationally have been following OECD's principles/regulations as a main primary rule of law as well as laws of transfer pricing laid down in their own country, requiring multinational companies (MNCs) to document inter-company transactions and fulfill their pricing as within the arm's length standard & other provisions of section 92E of the Income Tax Act.

In exercise of the powers conferred under the Income-tax Act, 1961, the Central Board of Direct Taxes made the 'Safe Harbour Rules on 18th September, 2013

What is a Safe Harbour- Rule D?

- An assessee eligible as per rule 10B
- enters into an International transaction eligible as per the provisions of rule 10C,
- in accordance with the circumstances as specified in sub-rule (2) of rule 10TD
- has exercised a valid option as prescribed under rule 10TE

Then the transfer price declared by the assessee in respect of such transaction shall be accepted by the income-tax authorities as mentioned in the table below:

Sr. No	Eligible International Transaction	Circumstances
1	Provision of software development services with insignificant risk, to a non-resident Associated Enterprise (AE)	where the aggregate value of such international transactions does not exceed INR 500 crores (approx. USD 80 million) OP/OE2 is not less than 20 per cent Where the aggregate value of such international transactions exceeds INR 500 crores OP/OE is not less than 22 per cent
2	Taxpayer engaged in providing ITES, with insignificant risk, to a non-resident AE	where the aggregate value of such international transactions does not exceed INR 500 crores OP/OE is not less than 20 per cent Where the aggregate value of such international transactions exceeds INR 500 crores OP/OE is not less than 22 per cent
3	Taxpayer engaged in providing KPO services, with insignificant risk, to a non-resident AE	OP/OE is not less than 25 per cent (There is no threshold for this category of taxpayers)
4	Taxpayer advancing intra-group loan to wholly owned non-resident subsidiary where the loan is sourced in Indian Rupees (excluding loans by enterprises engaged in lending or borrowing in the normal course of business)	Interest rate equal is not less than base rate of State Bank of India (SBI) as on 30th June of the relevant previous year plus (i) 150 basis points [where amount of loan does not exceed INR 50 crores (approx. USD 8 million)]; (ii) 300 basis points [where amount of loan exceeds INR 50 crores]
5	Providing corporate guarantee where the amount guaranteed does not exceed one hundred Crore rupees	The commission or fee declared is at the rate not less than 2 per cent per annum on the amount guaranteed.
6	Providing corporate guarantee where the amount guaranteed exceed one hundred Crore rupees and the credit rating is done by an agency registered with the SEBI	The commission or fee declared is at the rate not less than 1.75 per cent per annum on the amount guaranteed.
7	Taxpayer engaged in provision of contract R&D services (wholly or partly) relating to software development, with insignificant risk, to a non-resident AE	OP/OE is not less than 30 per cent There is no threshold for this category of taxpayers
8	Taxpayer engaged in provision of contract R&D services (wholly or partly) relating to generic pharmaceutical drugs, with insignificant risk, to a non-resident AE	OP/OE is not less than 29 per cent There is no threshold for this category of taxpayers
9	Taxpayer engaged in manufacture and export of core auto components / non-core auto component [where 90 per cent or more of total turnover are in nature of Original Equipment Manufacturer sales]	Manufacture and export of core auto components OP/OE is not less than 12 per cent Manufacture and export of non-core auto components OP/OE is not less than 8.5 per cent

(OP/OE - Operating profit margin on operating expense)

Eligible assessee as per Rule 10TB

Eligible assessee means a person who has exercised a valid option for application of safe harbor rules in accordance with rule 10TE, and

(i) is engaged in providing software development services or information technology enabled services or knowledge process outsourcing services, with insignificant risk, to a non-resident associated enterprise (hereinafter referred as foreign principal);
(ii) has made any intra-group loan;
(iii) has provided a corporate guarantee;
(iv) is engaged in providing contract research and development services wholly or partly relating to software development, with insignificant risk, to a foreign principal;
(v) is engaged in providing contract research and development services wholly or partly relating to generic pharmaceutical drugs, with insignificant risk, to a foreign principal; or
(vi) is engaged in the manufacture and export of core or non-core auto components and where ninety per cent. or more of total turnover during the relevant previous year is in the nature of original equipment manufacturer sales.

The transactions covered under rule 10TC.
An international transaction between the eligible assessee and its associated enterprise comprises of:

(i) Provision of software development services;
(ii) Provision of information technology enabled services;
(iii) Provision of knowledge process outsourcing services;
(iv) Advance of intra-group loan;
(v) Provision of corporate guarantee, where the amount guaranteed does not exceed one hundred Crore rupees; or exceeds one hundred Crore rupees, and the credit rating of the associated enterprise, done by an agency registered with the SEBI, is of highest safety;
(vi) Provision of contract research and development services wholly or partly relating to software development;
(vii) Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs;
(viii) Manufacture and export of core auto components; or
(ix) Manufacture and export of non-core auto components, by the eligible assessee.

Other key changes in the final rules relating to procedural and other related aspects are briefly set out below:

1. For exercising the safe harbour option, a taxpayer would need to furnish Form 3CEFA on or before the due date for furnishing return of income for the relevant year (in case option is exercised for one year) or for the first year (in case option is exercised for more than one year).

   Taxpayers opting for multiple year coverage by safe harbour rules are required to file a statement annually with the tax officer before filing the tax return.

2. A validly exercised safe harbour option will continue to remain in force for a period of 5 years or period opted by the taxpayer (in Form 3CEFA), whichever is less, provided certain conditions are met. There is also a new provision which allows taxpayer to opt out of the safe harbour regime by filing a declaration to that effect.

3. The final rules incorporate time limit up to which the tax authorities can challenge the validity of safe harbour option exercised by taxpayers. Practically, taxpayers can have certainty on the acceptability of their eligibility for safe harbour within a period of 6-7 months from the date of filing Form 3CEFA

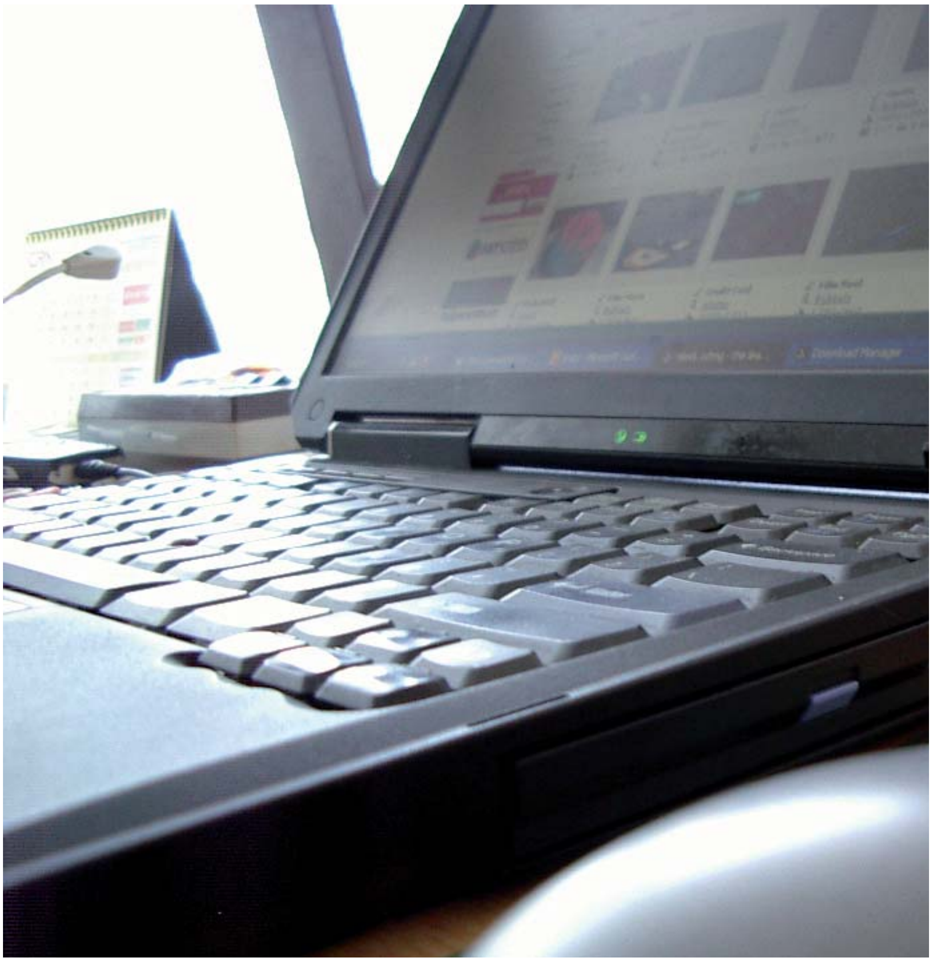
   [2 months for the tax officer to refer the matter to transfer pricing officer (TPO), 2 months for the TPO to pass his order; 15 days for taxpayer to file objections with the Commissioner in case eligibility is not accepted by TPO; and 2 months for the Commissioner to pass his order].

   The introduction of mechanism for taxpayer to object before the Commissioner in case the TPO does not accept eligibility is a welcome measure.

4. In certain specified facts and circumstances, the tax officer can seek subsequent review of the taxpayers' eligibility to safe harbour by again referring the matter to the TPO.

Kanu Doshi Group™ KNOWLEDGE DEDICATION ASSURED

Arati Parmar
aratip@kdg.co.in
India



Alternative yachting center on Mediterranean sailing map

MONTENEGRO

Increased tax liabilities related to yachts in many countries in Mediterranean region, due to strong effects of financial crisis, yachts owners are looking for alternative jurisdictions to register their yachts.

Many yachts owners and businessmen are strongly considering Montenegro as an alternative jurisdiction to relocate.

Significantly lower tax rates in Montenegro compared to the other countries tax rates in the region are very favorable and attractive.

Other advantages such as company incorporation process is easy and in most cases it takes less than 10 days, obtaining work and temporary residency permits is simple, all these coupled with stable economic, political and banking system makes Montenegro more attractive.

Finally, when it comes to acquisition of real estate, foreign physical and legal persons are treated equally and are subject to the same rights and obligations as Montenegrin citizens.

Montenegro is situated in South East Europe and is positioned in a strategic location for the maritime world, having access to major maritime centres throughout the Mediterranean. Its shipping sector is constantly developing, offering wider opportunities to investors.

The registrations of yachts in Montenegro is increasing overtime, and the advantages of displaying the Montenegrin flag are more and more revealed to the global arena.

In the line with existing legislation, Montenegro provides for a series of favorable conditions and relief for the owners of Montenegrin registered yachts, which makes the country competitive to the world's favorite yacht registration jurisdictions.

The constant developments in the legislation of Montenegro to this direction aim to attract nautical tourism in the country, in anticipation to its establishment as the biggest marina for mega-yachts and an elite nautical center in the Mediterranean.

Located in Bay of Kotor, Porto Montenegro is the first comprehensive state-of-the-art deep water marina in the Adriatic Sea.

Porto Montenegro has now 250 marina berths, five mixed-use buildings containing 130 luxury residences, over 20 retail outlets, a full sports facility, yacht club, 64m infinity pool and lounge bar, a naval heritage museum, and a planned waterfront 5-star boutique hotel.

With a dedicated fuel dock Porto Montenegro offers tax and duty-free fuel at a cost approximately 45% of retail diesel prices to both private and commercial vessels. The cost of fuel is 50% to 70% lower than in Italy or France.

Recent Montenegro's Law on yachts that entered into force on 1st January 2008, has introduced a number of exemptions for owners of yachts who are using Montenegrin flag, effectively equalizing with so called "flag of convenience" as, for example ,the flags of Panama, or Cayman Islands which are used by most worlds mega-yachts.

The main and largest propitiatory of Montenegro Registry is that foreign yacht can be register in very convenient and easy procedure(eight documents required), law tariffs for registration and renewal certificate is for i.e. €800 for boats of lengths 17 to 24 meters and €1200 for yachts larger than 24 meters, even to get certificate for one day.

Tax on the use of yachts needs to be paid on the registration of navigation of yachts and by extension of each regular navigational permit that is made in accordance with the regulations governing by the Register of yachts. Taxation is imposed to legal and natural person on whose name the yacht or facility is enrolled in official register.

Tax on the use of yachts is paid on the length of the yachts expressed in meters. Law recognised possibility of reducing the tax by 5% for each year of age old yachts, provided that the total deduction can not be 50% of the prescribed amount of tax.

Turnover tax is paid at the rate of 5% for used yachts and tax payer will be the buyer of that yachts.

There is no tonnage tax on Montenegro level.

Yachts are possible to rent by the charter companies which can be owned by the foreign legal entities .Activity of chartering the yachts can be performed by the company or body registered in the Montenegro for that activity .A leaser can charter yachts or yacht of its own property or a yacht by other domestic or foreign company or natural person. Also, leaser can charter yachts flying the domestic or foreign flag. Annual fees for chartering a foreign yacht flying a foreign flag shall be paid in the amount of € 3,500.00 for yacht about 17 meters long.

In the line with this, if leaser is a foreign natural person he needs to pay VAT in 19% rate plus 7% tax provided on that service, but if leaser is a foreign company no VAT will be imposed.

All profit on leasing the yachts of foreign charter companies registered in Montenegro will be tax only 9% corporate tax which represents a big simulation for yachting community.

Eurofast

Jelena Zivkovic
jelena.zivkovic@eurofast.eu
Montenegro

Dutch sandwich still very tasteful

THE NETHERLANDS

Introduction

In the last months a lot of attention was provided to multinational companies who pay little or no taxes as a result of aggressive international tax planning. In this respect examples were mentioned such as Google, Apple, Starbucks and Facebook.

In this article we briefly outline how some of these structures work, what role the Netherlands has played in these structures and how the Netherlands has dealt with the criticism on these structures.

Tax planning structures

One of the basics for international tax planning is the use of the differences in the tax legislation between different countries. For example, in certain situations the United States (US) does not tax profits from abroad if these profits are not repatriated to the US. That means that as long as the earnings remain abroad, no income tax will become due in the US. The tax strategy on multinationals is therefore aimed at keeping earnings outside the US. Furthermore, these companies try to minimize the foreign taxes using certain structures.

A typical tax planning from companies located in the US can be summarized as follows:

- a US company transfers its Intellectual Property rights (IPR) to an Irish company resident in a tax haven country (such as Bermuda or Cayman Islands);
- the tax haven company sublicenses the IPR to a company residing in Ireland;
- the Irish company sublicenses the IPR to group companies outside the US.

This structure is called the 'double Irish' because two Irish companies are required. The structure enables a multinational, to shift high taxed profits to lower taxed countries (the tax haven company), without triggering immediate US taxation.

To enhance the structure a Dutch company is interposed between the Irish tax haven company and the Irish resident company. This structure is therefore referred to as a double Irish with a Dutch sandwich. The addition of the Dutch company results in lower withholding taxes.

This structure is not unique. Also Luxembourg and Swiss sandwiches are used in the international tax practice.

International criticism
In the last months structures like these were criticized heavily, since according to the public opinion multinationals did not pay its fair share in taxation. This criticism did however not result in any change in the structures, since the multinationals did not offend any regulation; these structures are completely legitimate. Even recently Twitter announced that it would use this structure (if it at least would make profits some day).

Impact on the Netherlands

On August 30, 2013, the Dutch government submitted a letter to Parliament explaining the position of the Netherlands following recent Parliamentary debates on international tax planning by multinationals. This letter also announces unilateral measures that should serve to preclude unintended use of Dutch tax treaties.

The Dutch government acknowledges that Dutch companies belonging to foreign multinationals often receipt substantial dividends, interest and royalties that are passed on to other group companies outside the Netherlands. It does however note that dividend payments do not lead to base erosion in the source country because dividends are not deductible from the taxable income of the company in the source country. Interest and royalty payments may, however, be deductible in the source country and may therefore lead to the avoidance of taxation. The government considers it appropriate to take some pro-active measures regarding conduit entities anticipating other measures that may be agreed at a later stage in an international context.

The measures

The letter to Parliament announces the following measures:

1. Substance requirements for conduit companies

All resident companies that receive royalties and interest from abroad which are passed on to foreign entities will have to meet minimum substance requirements. These requirements will be similar to those that have been in place for some years already for conduit companies that applied for a tax ruling:

- At least 50% of the members of the board of directors with decision taking powers must be resident of the Netherlands;
- The board members must be sufficiently competent and qualified to perform their tasks;
- The (most important) board decisions must be taken in the Netherlands;
- The (main) bank account of the Dutch company is in the Netherlands;
- The bookkeeping of the Dutch company be done in the Netherlands;
- The Dutch company must comply with all its tax obligations;
- The Dutch company must have its registered address and office in the Netherlands and is not treated as a tax resident of another country;
- The Dutch company must have a level of equity which fits with its functions.

The company must account for this substance on an annual basis in its corporate tax return. If the minimum requirements are not met, the Dutch tax authorities will exchange information with the source countries.

2. ***Exchange of information on Advance Pricing Agreements ("APAs")***
   The Dutch tax authorities will proactively exchange information with foreign tax authorities about the content of APAs concluded with Dutch resident conduit companies that receive and pass on interest and royalties if the multinational only performs conduit financing/licensing activities in the Netherlands.

3. ***No Advance Tax Rulings (ATRs) and APAs for holding companies with insufficient substance***
   The Dutch ruling team will only deal with ATR and APA requests of Dutch resident holding companies if there is sufficient substance in the Netherlands. The requirements for sufficient substance will be similar to the substance requirements for conduit companies mentioned above.

4. ***Anti-abuse measures in tax treaties with developing countries***
   The Dutch debate on international tax planning also addresses the fair treatment of developing countries. To encourage fair treatment, the Netherlands will proactively reach out to developing countries to propose the introduction of anti-abuse measures in the tax treaties concluded with these countries.

Comments

The announced measures are intended to avoid abuse of the Netherlands in international situations. The measures are however in no way surprising or new. For instance the substance requirements for conduit companies are already in place for a number of years. It is therefore not surprising that in response to all international criticism the Dutch government emphasizes with these measures that the Netherlands can not be used for tax evasion. Proper structuring is however not considered tax evasion.

The international tax practice can therefore continue to use the Netherlands as the ultimate location for holding-, financing- and royalty activities. The only significant change is that the debate has resulted in a better result for the developing countries, with which the Netherlands has set a good example.

VAN ZWOL | WIJNTJES
ACCOUNTANTS & BELASTINGADVISEURS

Frans Tempel
FTempel@vanzwolwijntjes
The Netherlands

Malta's Unique Position with Regards to the Generic Industry within the EU

MALTA

Malta is the only EU country which allows for the testing, production and stockpiling of Generic pharmaceutical products prior to that product's EU patent expiry.

How is this possible?

Firstly Malta's Patents and Designs legislation incorporate within them the "Bolar" Pro,/isions which allows a company to develop and stockpile a particular generic prior to its patent expiration.

Secondly because of its size, Malta has seen very few patents being registered as most international firms do no bother to register locally thus giving other companies the time to develop, license and stockpile a particular product prior to patent expiry enabling the flooding of the market as soon as a particular patent expires.

Malta's entry into the EU has further strengthened Malta's position by enabling compa niesto market their generics in North Africa and beyond especially to the rest of the African continent, as well asto South America, thanks to the authorisation of the Maltese regulatory body asan EU member state.

Thirdly Malta embraces the inward processing relief (IPR) mechanism on imports . This mechanism provides an exemption or reduction in import duties of raw materials utilised for the export out of the EU of the final product.

Fourthly this Industry benefits from very attractive investment incentives such as investment tax credits amounting from anything from 30% to 50% of

A. The amount invested in qualifying expenditure

B. The cost of wages.

The percentage of tax credits being dependent on the size of the company

There are also very attractive additional tax credits on 1or Grants on R&D varying frorn 35% to as much as 80%

Another advantage is a tax exemption in income from patents regi:stered in Malta. Moreover patents moved to Malta can benefit from a top up provision

Finally Malta's extremely attractive general tax refund system, complete with a ready pool of professional English Speaking Graduates makes the package complete and hard to beat for pharmaceutical generics industry.

CIANTAR ASSOCIATES
Accountants, Auditors & Management Consultants

Simon Ciantar
simon@sciantar.com
Malta

How to optimise the remuneration of the personnel located abroad

SPAIN

The Spanish fiscal system tries to attain a greater competitiveness and development of companies abroad. To achieve such aims, it foresees that employees displaced to a foreign country can enjoy some very attractive fiscal profits.

In those cases when the employees keep their fiscal residence in Spain, different measures allow them to obtain a reduction of the fiscal pressure. This system is used in practice to schedule a better remuneration for directors and qualified personnel that have to be located abroad. In practice, it allows to reduce their effective taxation and, therefore, obtain a higher remuneration of the worker.

Some measures allow the application, with certain limits, of an exemption to the incomes obtained by means of the special regime of expatriate employees or the possibility to apply a reduction to the excesses generated as a consequence of the displacement.

As follows, we will indicate some of the established tax advantages, special regimen and excess regime, together with another general reduction that allows obtaining remuneration attractive from a tax perspective:

1. SPECIAL REGIME OF EXPATRIATES (EXEMPTION)

Labour income received by works actually executed abroad result **"exempt" up to a limit of 60.100 Euros**, if they comply with certain requirements (Article 7 p) of the Personal Income Tax Law):

1. That the mentioned works are carried out for a non resident company or a permanent establishment based abroad.

2. That in such country exist a Tax in similar nature and it is not a tax haven, although the effective taxation in said country is not required.

Requirements for the application of the exemption

The application of the exemption requires the fulfilment of the following requirements:

- "Effective transfer to a foreign country".

- "Effective performance of the works for the foreign company". There is a choice between being contracted by the foreign company by means of labour agreement or keep the labour relation of the worker with the Spanish society and provide services to the foreign company by means of an agreement of provision of services between companies.

- "Utility" for the foreign company of the service provided. A profit resulting in the foreign company is required (for instance, the transfer of technical personnel to design and introduce software that will be used by the foreign subsidiary company.)

- "Assumption of cost" of the service's provision by the foreign company.

- It is not necessary that the remuneration for the works performed is settled by the foreign company. Both the foreign and the Spaniard entities can pay it.

- It is possible to apply the exemption to agreements with a related foreign company if the service produces an advantage or utility in the target entity.

- This exemption is compatible with the regime of national allowances and with deduction to avoid the international double taxation.

2. EXCESS REGIME

The income excesses received by the employees of companies located abroad for more than nine months, on the incomes that they would receive if they remain in Spain, are not taxed (Article 9.To.3.b) of the Regulation.)

It is required to be displaced abroad for more than nine months, that is, a "change of job centre".

This special excess regime is incompatible with the above mentioned expatriates regime.

3. GRANTING OF "BONUS": REDUCTION OF 40%

This profit can be applied if it does not have a recurrent nature and does not need a location of the worker abroad.

The irregular labour income generated in a period exceeding two years, not obtained periodically or recurrently, granted by means of a "bonus", can enjoy a 40% reduction of taxation.

This reduction could only be applied on the complete income that does not exceed the amount of 300.000 annual Euros.

It is necessary to prove that the agreement was granted two years before its effective satisfaction.

In short, the main purpose of the Spanish legislator with these measures is to stimulate the internationalisation of the human capital and improve the labour experience abroad. The practical effect achieved is a lower tax rate, and therefore, an optimisation of the effective remuneration of the expatriate personnel.

Eulalia Galceran Díaz
eulalia.galceran@bcn.auren.es
AUREN Barcelona
Spain

Promotion of Film Activity in the Dominican Republic

DOMINICAN REPUBLIC

Considering that the Dominican Republic soil is a strategic and privileged place to be promoted as filmmaking scenario, foreign and domestic as well, in 2010 a government stimulus of cultural incentive began in order to contribute to the local economy and boost the foreign investment. Thus law 108-10 was promulgated to help along film activity in the Dominican Republic.

Objective and the Law (summarized)

The law aims to promote a progressive, harmonious and fair national cinematography Industry and, in general, stimulate film making activity in the Dominican Republic.

The scope of application of the law consider all legal and personal entities in Dominican Republic and encourage them to activities like, production, distribution, exhibition, film and audiovisual training and all related technical aspects of the industry.

Conditions of Application

Certain tax incentives created for the film making industry can be of benefit for all legal and personal entities as they are those who administer, encourage, promote or develop cinematographic activities and other audiovisual works that meet specific requirements of the law.

Foreign films development in the Dominican Republic may advantage of all the incentives provided in this Act, except those stated as exclusive benefits of the cinematography promotion funds.

Main benefits of Law 108-10

1. A 100% exemption of actual value invested for purposes of calculating the Income tax. As long as this amount does not t exceed the 25% of the tax calculated to be paid by the investor.

2. A 100% tax revenue exemption for a ten (10) years period, as long as this income is capitalized or a reserve is created to develop new products or new investment in the film making industry.

3. A 50% tax exemption for a fifteen (15) years period for those investments, when building cinemas in the Santo Domingo and Santiago area. For all other provinces, the exemption sky high to one hundred percent (100%).

4. A 100% exemption of all national and municipal taxes for a five (5) years period.

5. A 100% exemption of import taxes, IVA and other taxes of the new initial equipments brought to the country, for a five (5) years period.

6. A 100% IVA exemption and other taxes related to the roll of a film, film equipments, and overall film production.

7. Tax credit equivalent to twenty-five percent (25%) of all costs incurred in the Dominican Republic.

8. A 100% tax exemption to income from technical services for all films shot in Dominican soil.

9. A 100% income tax exemption for a 15 years period to those legal or personal entities that establish film studios, or recording of shots or related activities within the film industry in the country. It's allowable to import, duty free, capital goods over a 10 years period.

10. All equipment or materials, expendables or not, film making related, may be Imported without restriction for a temporary period of six (6) months, extendable, if necessary, as long as they are all sent back (exported) upon termination of the initial film related purpose.

11. Shot Single Permit might be issued free of charge for a period of ten (10) years.

CPA CONSULTING
Geraldo Garcia
cpaconsulting@claro.net.do
Dominican Republic

Uruguay in the route of fiscal transparency

URUGUAY

Since the approval of the tax reform Law (Law 18.083) at the end of 2006, Uruguay is going through the route of the fiscal transparency. This law eliminated the law taxation of the SAFI from January 2011 (Financial Investment Corporation), established transfer pricing in the Corporate Income Tax (IRAE), created Personal Income Tax for Residents (IRPF) and for Non Residents (IRNR), and eased banking secrecy in tax fraud cases.

On the other hand, since 2009 Uruguay has signed more than ten double taxation or information exchange agreements. For example, the country has signed information exchange agreements with France, Island, Denmark, and has double taxation agreements with Argentina, Spain, Germany, Ecuador, and Finland. But it is still negotiatingseveral agreements, for example with Brazil.

At the same time in June 2009, Law 18.494 increased the scope of entities/individuals that must report transactionssuspicious of involving money laundering activities. Since the approval of this law, notaries, auctioneers and Free Zone operators were given this responsibility.

In December 2010, Law 18.718 continued easing banking secrecy, authorizing its removal in case of strong evidence that reasonable leads to presume the existence of evasion, or in case this is requested under reasonable grounds by the competent authority of another Country in application of a double taxation agreement or information exchange agreement.

After the passing of Law 18.930 in July 2012, it becomes an obligation to identify the owner of bearer shares to the Central Bank of Uruguay (BCU). This information is not public but the fiscal authority (DGI) can request its disclosure to the Central Bank in case of tax audit or if it is requested under reasonable grounds by the competent authority of another Country in application of a double taxation agreement or information exchange agreement. Furthermore,a law that taxes the sale of bearer shares (at a rate of 2.4% of the price sales) is in process, so as to apply a similar treatment to that of nominative shares.

In addition to this, there is a new bill that will be submitted tothe Parliament for approval shortly regulating the acquisition of real estate. If the purchase exceeds a non-substantial amount it must be executedthrough a bank transfer.

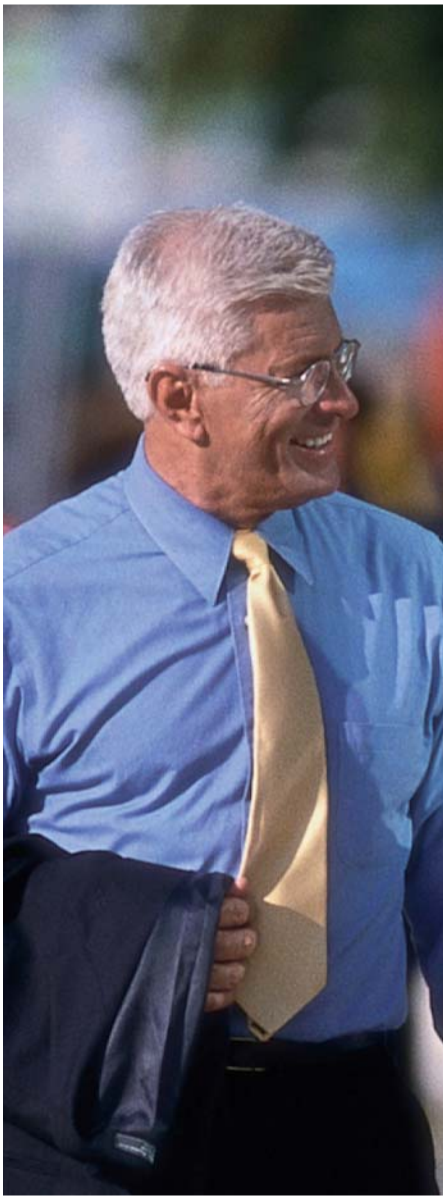
Finally, it is worth noticing that currently there is a lot of discussion around the possibility of considering the tax crime as predecessor to money laundering crime.

We can conclude that, since 2006, Uruguay is in the route towards fiscal transparency.

Raul Giacomini
raul.giacomini@mvd.auren.com
AUREN Montevideo
Uruguay
AUREN

Mexico´s 2014 Tax Reform

MEXICO



Last week, Mexican Congress has approved a controversial tax reform that will come into effect beginning January 1, 2014.

The new tax package intends to pursue the following principles:

1. Increase tax collection coming primarily from the Entrepreneurial Groups with the most income.
2. Reduce the possibility of applying aggressive tactics and reduce tax evasion or elusion.
3. To broad the tax base in all environments.

Next we briefly describe some of the changes that will have a bigger impact:

Value Added Tax (IVA)

- Tax Rate applicable in activities conducted by residents in the border region (with both, US as well as Guatemala and Belize) goes from 11% to 16% (general rate).
- Imports that under the Custom Law are deemed as temporary and are narrowly connected with Maquiladoras or some Temporary Import Programs to Produce and Exports products, will now be levied (some exceptions apply).
- International transportation of goods will have the same tax treatment as air passenger transportation; in other words, they will have chance to apply for a tax refunds.

Income Tax (ISR)

Corporations

- Entities will withhold a 10% on dividends to individuals or foreign residents.
- Tax Exempt payments made to employees (to whom such payment becomes an income) will be deductible to companies at a 53%proportion.

Individuals

- Income on sales of shares issued by Mexican entities conducted through Stock Exchange will be now levied with a 10% rate.
- Top tax rate rise from 30% up to 35% because three new income levels are added to the tax rate schedule (32%, 34% and 35% are now applicable tax rates).

Other taxes:

Too much notice was generated for a new tax against obesity. In short, this is a new 8% rate that is going to be applied over some "junk food" that pretends to diminish the overweight shown on many people. The tax will be applied to food having certain specific caloric content or more per weight unit. Members on the Congress will be subject of our close scrutiny because some of them are really, really, "heavy".

Probably the only benefit that comes from the tax reform is such related to the disappearance of IETU (Flat Rate Tax).

There are many additional tax reforms that are worthy to be discussed in coming reports.

Miguel Rodríguez
miguel.rodriguez@cun.auren.com
AUREN México DF
México
AUREN

Spain: Tax crime as a criminal activity preceding money laundering

SPAIN

Article 1 of Act 10/2010, April 28, on Prevention of Money Laundering and Terrorist Financing, establishes the meaning of asset derived from criminal activity as "assets of every kind whose acquisition or possession originates from a crime, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets, and the amount defrauded in the case of tax fraud."

Given this definition, we understand that the defrauded tax is an asset which comes from a criminal activity and, therefore, an object suitable for laundering. With this definition the legislator wanted to end the complex interpretation existed between authorities and a sector of the doctrine. In this way, in 2010 the Act took in stand, conceding that tax crime can be considered as a prior criminal activity of money laundering.

But what is the fee from which it is understood that there is a fiscal crime? Article 305 of the Spanish Penal Code states that it commits fraud to the Treasury "Whoever, by action or omission, defrauds the central Exchequer, that of the Autonomous Communities, special provinces or city councils, by avoiding payment of taxes, sums withheld or those that should be withheld, or deposits to account of remunerations in species, unduly obtaining reimbursements or taking advantage of tax rebates likewise, as long as the sum of the quota defrauded, the amount not deposited of withholdings or deposits to account or reimbursements or tax profit unduly obtained or taken advantage of exceeds one hundred and twenty thousand Euros.".

Therefore, the crime requires that the amount defrauded exceeds one hundred and twenty thousand Euros.

If we look at how to address this issue in other countries, in France, Italy, Belgium or Germany, for example, courts have already spoken in favor of admitting that tax fraud is a crime before laundering money. While Laws of Belgium and Germany limit the crime of money laundering to tax crimes of a serious nature. However, in Peru and Portugal, for example, the crime of money refers to a tax offense without any limitation.

Then, an issue that seemed to be clear recently is being questioned again. It appears that the anti-corruption prosecutor intends to consider that the offense of money laundering does not exist in itself but is part of the tax offense and it does not doubly punish a fact. At this time, to include a crime within the other is not just a theoretical debate among criminologists but it could have an immediate practical consequence: release or not a person who has committed a tax offense. This is because the criminal would be facing one and not two crimes whose penalty would accumulate.

INFORMA CONSULTING

Arantza Fernández
arantza.fernandez@informaconsulting.com
Spain

Income Tax Amendment – Law No. 26.893

ARGENTINA

In this opportunity we will present to you the following article analyzing the latest amendment to the Income Tax introduced by the Law No. 26.893, published in the Official Bulletin on September 23rd. It is applicable not only to subjects domiciled in Argentina, but also to non-residents, which is why this topic is of great interest for this newsletter.

1) Taxability of results on purchase/sale contracts of depreciable goods, stocks, bonds, shares taxability.

The text passed related to this topic changes the tax object replacing the Article 2, point 3 of the Income Tax Law by the following:

"3. Results from purchase/sale contracts of depreciable goods, stocks, bonds, shares and other securities, whoever the buyer is."

It also replaces the Article 20, first paragraph, section w) of the Income Tax Law by the following:

"w) Results from purchase/sale contracts, exchange, shares, bonds, fees and other securities, obtained by natural persons and successions domiciled in the country, ***excluded those whose object is stocks, bonds, shares and other securities not listing in the stock market or which do not have public offering authorization…*** *."*

In this way, the tax object is modified in order to include in it the results from selling depreciable goods, which since the repeal of Law No. 25.413, the Fiscal Authorities understood were out of scope of the Income Tax for natural persons with no frequent activities. By this amendment, they are expressly under the scope once again.

Additionally, it includes in the tax object the results from purchase/sale ofstocks, bonds and other securities, and at the same time it limits the tax exemption for resident natural persons, maintained only for income from selling stocks,bonds, shares and other securities listing in the stock market or which have public offering authorization. It maintains the exemption for resident natural persons on those results when the stocks, bonds, shares and securities are listed in the stock market and have public offering authorization. **However, for non-residents, whether they are natural persons or legal entities, this exemption is not applicable. This means that their income from the mentioned transactions is taxable, whether they are listed in the stock market or not.**

The Article 78 from the Decree 2284/91 was repealed. This norm established the exemption in Income tax for results from purchase/sale or exchanging stocks, bonds and other securities, as long as these transactions were made by non- resident natural persons or legal entities.

Therefore, results from the purchase/sale ofstocks, shares, equity interest, bonds and securities which do not list in the stock market and do not have public offering authorization are taxable for natural persons and successions.

Also, *"results from the purchase/sale and exchange of stocks, shares, bonds and other securities"* are expressly included in the second category income for natural persons and successions, which is detailed in Article 45 of the Income Tax Law.

The first paragraph of the Article 90 of the Income Tax Law was replaced, establishing a fifteen per cent (15%) taxability of the results from the purchase/sale, exchange or disposal of stocks, shares, equity interest, bonds and other securities for resident natural persons and successions.

The second paragraph of the previously mentioned article was also replaced. It now taxes the results from the transactions mentions in the previous paragraph when they were obtained by foreignlegal entities, companies, establishments, worths or exploitations.

The taxable income for legal entities or companies which are foreign beneficiaries on which the 15% will be applied, will be the presumed income established in the Article 93, section h) of the Income Tax Law. This section determines the foreign beneficiaries' presumed net income of argentinian source in 90% of the paid gross income, resulting in 15% of the 90% of the payment, or the 13.50% of the gross payment. This article also gives the option to pay the 15% of the real income, which is the gross income deducted the expenses incurred in the country for the selling stock possession.

We understand that there has been an omission in the legal text and foreign natural persons have not been considered in the previously mentioned second paragraph of article 90. As a consequence, the general rate of 35% has to be applied on the 90% of the payment, instead of the 15% rate. This produces an effective withholding of 31.50% on the presumed income, which we consider as extremely inequitable and with no foundations, in relation to foreign legal entities, which, as mentioned previously, pay the 13.50% of the presumed income.

It is established that in certain situations where the purchase/sale of stocks or bonds is made between foreign subjects, that is to say that both the seller and buyer are foreign subjects, the payment will be in charge of the stocks, shares, equity interests or any other securities' buyer.

Since this new system has not been standardized to the date, our opinion is that it is not applicable to foreign buyers.

Special laws'regulation still applicable for securities, regardless of the previously analyzed amendment:

- Debt Instruments of the Argentinian Republic: By Law No. 23576, article 36 bis, both the result of the purchase/sale and the interests of non-residents (natural person or legal entities) are still exempt.
- Negotiable bonds listed in the stock market: The same criterion as the case before is applicable, this is both the interests and results from the purchase/sale are exempt for non-residents.
- Trusts' Debts Instruments offered in stock markets: By law No. 24.441, article 83, both the result of the purchase/sale and the interests of non-residents are exempt.

2) Taxability of dividends or profits distributed by subjects included in the article 69 of the Income Tax Law

The new legal text considers the taxability of the dividends or profits in cash or in kind, except stocks distributed by:

1) Public Limited Companies established in the country;
2) Limited Liability Companies established in the country;
3) Civil associations and foundations established in the country, as long as they have not obtained the Income Tax exemption by the Fiscal Authorities;
4) Trusts established in the country under Law No. 24.441, in which the trustee and beneficiary are different subjects, in which regardless of the trustee and beneficiary being the same subject, it is a non-resident, and financial trusts.

5) Closed mutual funds for investment, whose object is direct investment established in the country;
6) Permanent establishments of foreign natural persons or legal entities.

The applicable tax rate will be of ten percent (10%), whether the beneficiary (shareholder or partner) is a natural person or succession, resident or non-resident, or foreign natural person or legal entity, resulting in one and only payment.

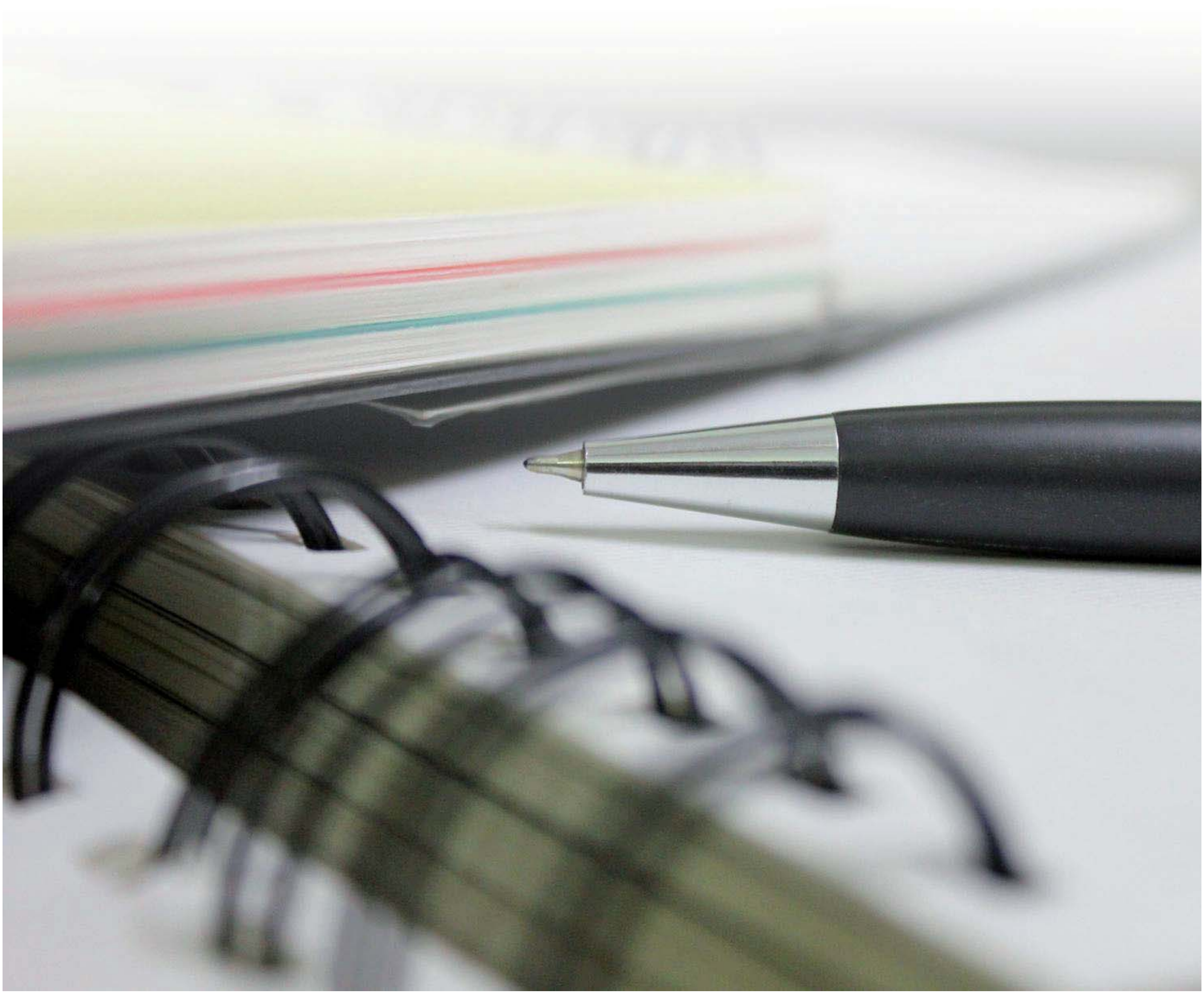
Currently, we are facing a 10% Income Tax on distributed dividends, not being clear how it will be declared or paid by resident shareholders. In the case of foreign shareholders, its withholding nature is determined by the article 91 in the Income Tax Law.

The equalization tax withholding remains as a one and only payment of the 35% on the dividends exceeding the cumulative tax profit, net from the respective income tax.

On another note, the passed law considers in its 6th article the validity of the amendments since its publication in the Official Bulletin (23/09/2013) and its applicability to the taxable events taking effect from the validity date forward. It is important to remember that the taxable event for dividends in the Income Tax, this means the moment when they have to be attributed to the shareholder's tax year as an income, is not the distribution date established by the Shareholders' Assembly but the effective date they are available for the shareholder.

Finally, in our opinion, this legal gap and insecurity makes necessary, more than its standardization, its urgent amendment by another law in order to narrow the legal gap, correct certain aspects, and provide certainty to those involved in the purchase/sell of stocks, shares or bonds transactions, especially when a foreign subject takes part in it purchasing or selling stocks.

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



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