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The UK as a holding company location

When an business with international operations is considering the choice of country for a holding or intermediate holding company, aside from commercial factors, there are a number of key tax questions.

These are:

- How much tax is withheld on payments to that country from subsidiaries located outside that country.
- How much tax is lost in the holding company itself.
- How much tax is lost when moving profits from the holding company to the shareholders of that company if located outside that country.

This article shows what the position of a UK based holding company would be in answer to each of those questions.

How much tax is withheld on payments to the UK?

Initially tax to be withheld by a subsidiary company will be determined by the country in which the subsidiary is located. However double tax treaties then have a role to play in mitigating tax due. The UK has one of the most extensive double tax treaty networks in the world, and is a member state of the EC. In many cases this will allow interest, royalties and dividends to be paid to the UK from non UK subsidiaries with little or no withholding tax being deducted.

There are a number of countries though, that impose withholding taxes or withholding taxes under another name on service related activities for which the holding company raises a charge to the subsidiary. These “withholding taxes” are typically not covered by double tax agreements. Therefore the use of management charges by a holding company may not be particularly tax efficient because it may in some cases be subject to withholding tax in the country in which the subsidiary company is located.

How much tax is lost in the holding company?

Any UK incorporated company is (with a few limited exceptions, primarily from tie breaker clauses in double tax agreements) regarded as UK resident and therefore is subject to UK tax on its worldwide profits. UK corporate tax rates currently lie between 21% and 29.75% depending on taxable profit levels in the company. Therefore if the holding company is a trading company in its own right and not simply a vehicle to hold subsidiary shares, it will pay UK tax on those profits.

Where income is received by the holding company that has had non UK tax deducted, that tax will be available to offset against any UK tax due on that same income source (credit is given up to the amount of UK tax due). In the case of dividend income not only is credit given for withholding tax if any on the dividend, but also often on the underlying tax, the corporation tax paid by the subsidiary non UK company on its profits before it was able to make a dividend payment to the UK. However the tax position of dividend income of a UK holding company is soon to change radically and will strengthen the UK's competitive position as a holding company location.

From 1 July 2009 most dividends received by UK companies will be exempt from UK tax.

The key features of the legislation are:

- For small companies (broadly an enterprise which employs fewer than 50; persons and whose annual turnover and/or annual balance sheet total does not exceed €10 million; where the company is part of a group then this applies to the group as a whole), dividends are exempt if:
  - The payer is resident in the UK or a qualifying territory (broadly a territory specified by UK Government regulation, or one with which the UK has a double tax agreement and which contains a non discrimination clause).
  - The payer does not receive a tax deduction for the dividend.
  - It is not part of a tax avoidance scheme.

- For non small companies, dividends are broadly exempt if:
  - The distribution falls into one or more of a number of exempt classes which include distributions:
    -from controlled companies where either the recipient controls the payer, or is one of two parties controlling the payer where both have over 40% of the shareholding and control each.
    -in respect of ordinary, non redeemable shares
    -in respect of portfolio shareholdings (less than a 10% interest in a company)
    -paid without a UK tax avoidance motive,
  - The payer does not receive a tax deduction for the dividend.
- It is possible to elect for a dividend that would otherwise be exempt to be taxable in the UK.

Holding companies whose income consists primarily or exclusively of non UK dividend income will find this change particularly beneficial.

To help balance the anticipated loss of revenue to the UK Government from introducing the dividend exemption, for larger companies the Government has introduced a worldwide debt cap. This is likely to apply to accounting periods beginning on or after 1 January 2010. The main features are that:

- This applies only to large companies, companies employing more than 250 people and which have an annual turnover exceeding €50 million, and/or an annual balance sheet total exceeding €43 million; for a company that is part of a group then these limits are applied when looking at the entire group.
- This will apply where UK net debt in a group exceeds 75% of a worldwide groups gross debt (other than for financial services groups).
- Where net debt in the UK is £3 million or less it is treated as nil.
- Net debt is broadly defined as borrowings (including finance leases) less broadly cash, cash equivalents and government securities.
- The rules are modified for certain types of business such as financial services and insurance.
- Where the legislation applies, interest payments made in the UK may not be tax deductible either fully or partially.
- The legislation is fairly complex and is still being drafted.

The UK does continue to have controlled foreign companies' legislation that allows, in some circumstances, the UK authorities to look through subsidiary companies set up in low tax jurisdictions for non commercial purposes. The profits of those entities may then be subject to UK tax. This system is under review at the moment and it is possible that there may be changes at some point in the future.

Should the UK holding company wish to sell any of its non UK trading subsidiaries then potentially the share sale will not be subject to UK tax. Key features of the legislation that gives relief are:

- The company selling the shares is either a trading company in its own right or the holding company of a trading group.
- The company whose shares are sold must also be a trading company or holding company of a trading group.
- Both companies must have maintained that status for a 12 month period within the two years prior to the disposal and immediately after the disposal.
- The UK company must have had at least a 10% shareholding in the company being sold.

This exemption is not available for investment activities.

How much tax is lost when moving profits from the holding company to the shareholders of that company if located outside that country

If profits in the UK holding company are simply paid as a dividend to non UK shareholders, there is no UK withholding tax. Therefore non UK shareholders will receive their dividends free of UK tax.

When shareholders of the UK holding company seek to sell their shares, if they are non UK resident at that time, then there will be no UK tax to pay.

Conclusion

When looking at the three key tax questions which affect the choice of a holding company location, how much tax is withheld on payments to the holding company, how much tax is lost in the holding company, and how much tax is lost when making payments out of the holding company, the UK is reasonably well placed.

The UK's double tax treaty network and membership of the EC means that there is often little or no withholding tax on dividends, royalties and interest paid by non UK subsidiaries to a UK based holding company.

The UK's corporate tax rates are not as attractive as some jurisdictions, but the proposed exemption from tax on non UK dividend paid to the UK should reduce the holding company's tax liability or even remove it entirely in the case of a holding company simply acting as a conduit for dividends flowing through the UK to non UK shareholders. The substantial shareholdings exemption for trading groups can often mean that the UK holding company will pay no tax on the sale of subsidiary company shareholdings. Therefore, for a simple holding company undertaking few, if any, activities other than holding shares it is possible to receive significant profits from dividends and share sales free of UK tax.

Finally non UK shareholders can receive dividends from the UK free of UK tax, and can sell shares in a UK company without incurring a UK tax charge. Therefore overall the UK has a number of tax attractions, to add to its non tax attractions, as a holding company or intermediate holding company location.

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COMMERCIAL LAW REFORM IN GERMANY

The Accounting Law Modernization Act (Bilanzrechtsmodernisierungsgesetz – BilMoG)

The German Parliament (Bundestag) has passed the Act to Modernize Accounting Law (Gesetz zur Modernisierung des Bilanzrechts or BilMoG). The legislation is intended to substantially ease financial strains in the economy and strengthen accounting law under the German Commercial Code (Handelsgesetzbuch or HGB) for competition with international accounting standards.

Provisions that are central to the Commercial Code have been retained. In other words, the annual financial statements drawn up under commercial law remain the basis for distributing profits and for calculating profits for tax purposes.

Thresholds and size categories for small and medium-sized enterprises

Sole merchants who do not exceed certain thresholds (revenues of €500,000.00 and profit of €50,000.00 per financial year) are exempted from the obligation to keep accounts, inventories, and records in accordance with the provisions of commercial law.

Existing thresholds creating different categories of enterprise size, and thus determining which obligations to provide information are to apply to a particular enterprise, have been raised. The thresholds for total assets and revenues set forth in Section 267 of the Commercial Code have been increased by 20%. This means that a larger number of enterprises than before will be able to enjoy the relief already afforded to small and medium-sized corporations (e.g. no annual audit, no disclosure of the income statement).

Corporations with total assets of no more than around €4.8 million (previously around €4.0 million), revenues of around €9.8 million (previously around €8.0 million), and/or an annual average of 50 employees are classified as small. A corporation must fulfill at least two of these criteria to be classified as small.

Corporations with total assets of no more than around €19.2 million (previously around €16.0 million), revenues of around €38.5 million (previously around €32.0 million), and/or an annual average of 250 employees are classified as medium-sized.

Uniform balance sheet

The modernized Commercial Code accounting law is also an answer to the International Financial Accounting Standards (IFRS). The IFRS are geared to suit capital market oriented companies and serve the information needs of financial analysts, professional investors, and other participants in the capital market. By far the majority of those German companies that are required to keep accounts and records do not take part in the capital market at all. Although the new legislation is intended to be on a par with the international accounting standards, it is also much cheaper and easier to handle in practice.

In particular, the Commercial Code balance sheet remains the basis for calculating taxable profits and dividends. This makes it possible for small and medium-sized enterprises in particular to continue drawing up just one statement, which forms the basis for all stated purposes.

However, exercised tax options can no longer be recognized in the Commercial Code balance sheet, meaning that reconciliations are required in the event of discrepancies.

Internally generated intangible assets

It will be possible to recognize internally generated intangible assets classified as non-current assets, such as patents or know-how, in the Commercial Code balance sheet in the future. In tax terms, the expenses remain deductible. They are also not available for profit distribution.

Valuation of financial instruments at fair value

In the future, financial institutions will on principle have to assess financial instruments such as equities, debt securities, units held in funds, and derivatives at their fair value at the closing date, provided they are held for trading purposes. They will have to include an appropriate risk discount and recognize up a special reserve subject to a bar on distribution, as additional protection against risk.

Change in the valuation of provisions and abolition of accounting options

An enterprise's provisions for future obligations will be assessed more realistically in the future. In respect of the valuation of provisions, future developments (salary/wage, price, and personnel developments) are going to be taken into greater account than in the past. Moreover, provisions are to be discounted in the future.

The reform will lead to an increase in the valuation of provisions, at least in the case of post-employment benefits. The legislation does, however, make it possible for provisions to be accumulated over a period of 15 years. The tax provisions remain unchanged on this point, so that there will be no shortfall in tax revenues.

Accounting options once enjoyed by enterprises but no longer reflecting current circumstances have been made subject to restriction or abolished. This applies, for instance, to the option – which also does not enjoy recognition for tax purposes – of setting up reserves for internal expenditure on repairs, renovations, and the like.

Currency translation

Given the proviso that Section 244 of the Commercial Code requires the Commercial Code financial statements to be prepared in German and in euros (€), and the intention is to enhance the comparability of the annual financial statements, a standard regulation governing currency translation has been introduced. Section 256a of the new version of the Commercial Code relates to the translation of assets and liabilities at the balance sheet date. Under this regulation, assets, liabilities, accruals, expenses, and income denominated in foreign currency are to be translated using the average spot rate while maintaining the principle of imparity.

Entry into force

The German Federal Council (Bundesrat) approved the legislation on April 3, 2009. The new accounting provisions are obligatory in respect of financial years beginning after January 1, 2010. The new accounting provisions can already be applied on a voluntary basis to the 2009 financial year – but only in their entirety. Some of the regulations, particularly those implementing EU legal requirements, are already binding for the 2009 financial year. Where this is still possible, the accounting relief furnished to small and medium-sized enterprises can already be claimed in respect of the 2008 financial year. The Accounting Law Modernization Act was published in the Federal Law Gazette (Bundesgesetzblatt) on May 28, 2009, with the effect that it entered into force on May 29, 2009.

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Benefits for capital repatriation to Mexico

Mexican tax authorities issued a new decree on March 26th, 2009 to grant benefits with respect to investments repatriated to Mexico, applicable to income derived from capital kept abroad repatriated and invested back to Mexico through a financial institution.

This decree is applicable to income derived form capital kept abroad before January 1st, 2009 and said repatriated capital shall be remain invested in Mexico for at least two years.

Taxpayers who repatriate their capital to Mexico will only pay a 4% (individuals) and 7% (corporations) income tax rate on the gross amount returned to Mexico. Such tax shall be paid within 15 days following the repatriation date through stamps from the financial institutions which shall provide global information to the tax authorities regarding the number of stamps sold.

The income tax paid according with the aforementioned decree shall not ne creditable against the Single Rate Business Tax (IETU) a kind of Mexican flat tax, and no compensation, credit or return shall arise from its application.

All the benefits derived from the application of the Decree shall not be cumulative for the income tax.

It is considered that repatriated capital is invested in Mexico when said capital is destinated to:

1	The acquisition of : a)Fixed assets deductible for the income tax b)Land and constructions situated in Mexico
2	Investments through financial institutions in debt instruments issued by corporations domiciled in Mexico, Federal Government, states or the Bank of Mexico.
3	Investments through financial institutions in issued stock by corporations residents in Mexico or in investments certificate issued by the stock trusts. Such stocks and certificates must be placed in the Mexican Stock Exchange.
4	The acquisition of issued stocks by corporations resident in Mexico, only if at least 50% of their assets are located in Mexico.
5	The deposit into authorized popular saving and credit institutions

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Special tax credit for investments 2009 in Portugal

A recent law related to the Initiative for Investment and Employment Program, establishes the investment tax regime for investments made during 2009 (designated as RFAI 2009).

Beyond other tax incentives, RFAI 2009 includes a new tax credit, up to 25% of the tax due, equal to 20% or to 10%, for investments below or above MEUR 5.000, respectively.

This credit may be carried forward for 4 years.

Additionally, RFAI 2009 also includes an exemption on real estate transfer tax (IMT), property tax (IMI) and stamp tax on the acquisition of real estate for the purposes of the qualified investments.

Eligible investments shall be designed to promote the creation of jobs during 2009 and should be maintained for a five-year period.

The following investments are eligible for these tax incentives:

- New tangible assets (except land not for resource extraction), buildings (except factories or administrative offices), non-commercial vehicles and other assets directly connected with the activity developed; and
- Intangible assets qualified as expenses with technology transfer, namely through the acquisition of patent rights, licences, know-how or unpatented technical knowledge, which cannot exceed 50% of the qualified investments in case of large companies.

This tax benefit is limited to taxpayers in the sectors of agriculture, agro industries, energy, next-generation broadband equipments, tourism and manufacturing or extraction industries (excluding steel industries, shipbuilding and synthetic fibres as defined in Commission Regulation 800/2008).

Thus, RFAI 2009 is part of a wider package of measures that have been timely implemented in Portugal to promote economic growth.

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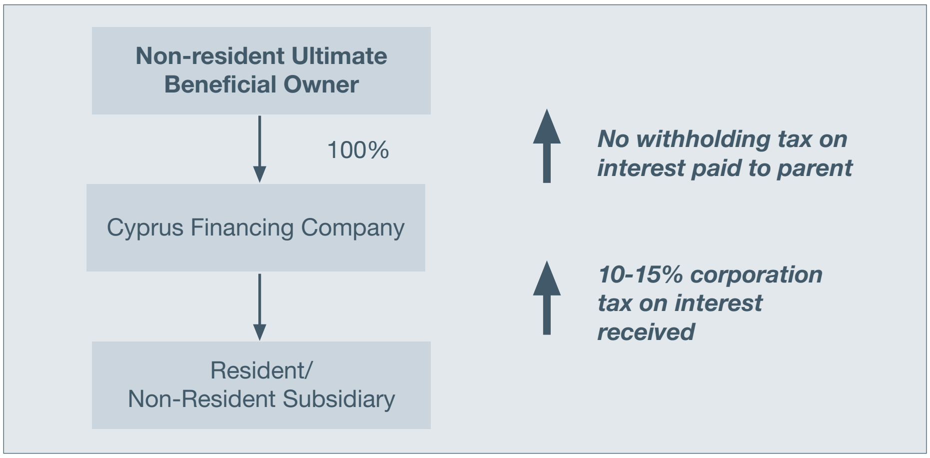
Cyprus: Tax treatment of interest income

Cyprus has a most favourable tax and legal regime to offer to investors. As such, it is considered to be a popular destination to host companies engaged in financing activities. To this extent, it is important to note the fact that no direct thin capitalisation rules apply in Cyprus, such as debt-to-equity requirements. Equally, from a transfer pricing perspective, as this is considered in cases of back-to-back financing transactions, the arm's length principle is applicable in Cyprus.



Further to the above, an important parameter to be considered is the fact that interest income under the Cypriot Tax Legislation may fall under different classes, which would in turn be considered in determining its respective tax treatment.

Accordingly, interest income differs between interest income received in or being closely related to the ordinary course of business of the Company and interest income earned outside the ordinary course of business of the Company.

In accordance with the above, interest income earned in or being closely related to the ordinary course of business is taxed with Cyprus Corporate Income Tax at the rate of 10%.

On the other hand, interest income earned outside the ordinary course of business of a company is subject to 10% corporate income tax on 50% of the said interest income and also to a special contribution for the defence of the Republic, rated at 10%, effectively leading to a 15% tax.

Accordingly, it should be noted that based on the above provisions, interest income deriving from the ordinary activities of the business of a person, including interest which is closely connected to the said activities, is not treated as interest for tax purposes but rather as income deriving from trading activities.

Equally, further to a circular issued by the department of Inland Revenue interest income earned in the ordinary course of business of the company is deemed to be the said interest income deriving from:

1. Banking Enterprises (incl. all banks and co-operatives and businesses whose main activity is to provide loans).
2. Financing Businesses engaged in hire purchase or leasing or other types of financing.

In line with the above interest closely connected to the ordinary course of business of a company is deemed to by interest income deriving from:

1. Trade debtors (i.e. relating to businesses whose ordinary activities include the acquisition, disposal and development of land and/or businesses engaged in the sale and resale of cars or other vehicles)
2. Insurance companies
3. Retail banking accounts (current accounts) and
4. Group financing companies (i.e. a parent, subsidiary or in any other way related company borrowing money and subsequently lending it to other group companies).

Finally, it should be noted that interest deriving either from the provision of loans by a company to third parties or from deposits or bonds, and given that they do not fall within the categories mentioned above hereto, is not deemed to be interest earned from the ordinary course of business of the company nor interest closely related to the ordinary course of business of the company, and it is thus subject to Special Contribution for the Defence.

In conclusion, the most favourable tax and legal regime of Cyprus, has positioned Cyprus among the leading jurisdictions among others in the context of financing transactions.

Apart from its favourable corporate tax regime of 10%, its EU Membership and respective adoption of the EU Directives, and its wide Double Tax Treaty network which is further expanding due to the enactment of the exchange of information provisions into the Cypriot legislation, Cyprus Financing Companies enjoy the following advantages:

- No withholding taxes on interest paid from the Cyprus Company to the its nonresident creditors;
- Interest income received is subject to low tax rates;
- Unilateral tax credit allowed with respect to foreign taxes paid;
- Deductibility of expenses given that they have incurred wholly and exclusively for the production of income;
- No thin capitalization rules;
- Limited transfer pricing rules.

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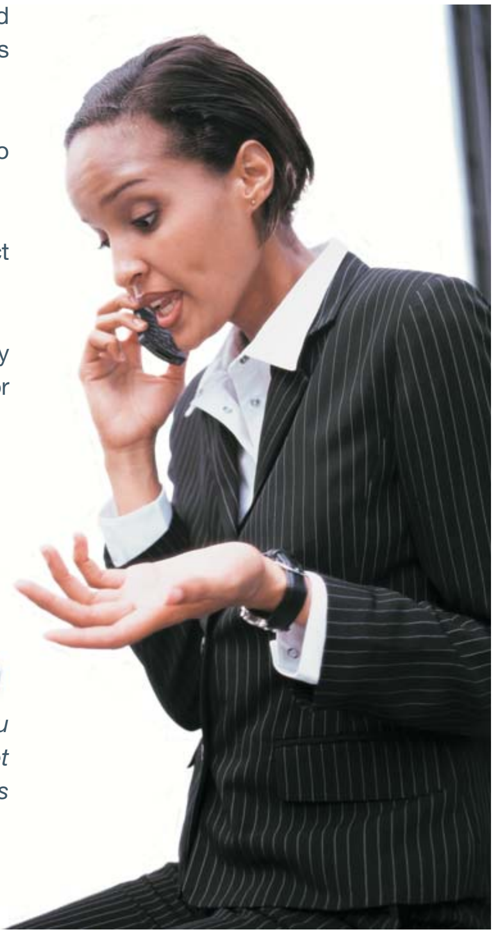

The advantages of doing Business in Malta

Malta is fast becoming a significantly important financial centre within the European Union. A long history of fiscal and investment incentives for foreigners wishing to set up shop in Malta have led to an very attractive package for both investors as well as for non residents wishing to use Malta in their international tax planning structures.

MAIN ADVANTAGES OF THE NEW TAX REFORM

- Net tax payable of 5% on company profits.
- NIL tax payable on incoming dividends from subsidiaries situated outside Malta(subject to certain conditions).
- Possibility to opt to be taxed at 35% on incoming dividends and subsequently apply for a full refund or 6/7 refund on the Malta tax paid (ie: 5% net tax) This might be beneficial in cases where the foreign shareholders would need to show that income has suffered tax.
- Net tax payable of 10% on passive income received from outside Malta (such as interest and royalties)
- A Maltese Company can act as both a holding company and a trading company with no negative tax consequences thus eliminating the need to open separate companies.
- A branch of a non resident company carrying out activities in Malta will be treated in the same way as a resident company with resultant tax planning opportunities, and benefitting from the same net tax rate of 5% as companies.
- No Withholding taxes on outbound dividends, interest or royalties.
- Three or more tier Malta companies are now possible.
- Relief on tax suffered abroad on incoming dividends possible up to full amount of Malta tax payable (35%) (if such dividend

does not satisfy the conditions for exemption mentioned above).

- Possibility to claim relief on Malta tax payable on income received from outside Malta even if such income has not been subject to tax abroad or if such income has suffered tax at a lower rate.

- Full exemption on stamp duty and capital gains upon the transfer of shares between non residents (Subject to certain conditions).

- Possibility of re organization relief, wherein a company can be amalgamated, split, or merged without loosing any accumulated tax losses. (In fact tax losses can be surrendered or claimed within a group and set off against any other type of income. Such claimed losses can be carried forward indefinitely).

- All costs incurred in the production of the income is allowed as a tax deductable expense, there are no disallowed expenses. (except for formation expenses).

- Possibility to hold shares under fiduciary(nominee). In order to hold shares under fiduciary a fiduciary agent must be a specially licensed company. Such company is bound by law NOT to reveal the identity of the ultimate beneficiary owners of a company to ANY party including the financial regulatory body (Malta Financial Service Authority) Indeed the only authority who has the right to ask for this information are the Courts of Malta and then only in cases of serious suspicion of Fraud or Money laundering.

- Malta currently has over 50 double taxation agreements in place including with all EU countries and with the US. Moreover the number is increasing yearly.

A WORKED EXAMPLE OF THE REFUND SYSTEM

Source of income	Corporate Tax Paid	Refund of tax to share-holders	Effective tax
Dividend income from holding activities with participating holding in subsidiary	**Nil**	**nil**	**zero**
Capital gains accruing from the disposal of a participating holding	**Nil**	**nil**	**zero**
Dividend income from holding activities without participating holding in subsidiary or other company income not falling within any other category	**35%**	**6/7ths of corporate tax paid**	**5%**
Trading income	**35%**	**6/7ths of corporate tax paid**	**5%**
Passive income (interest, royalties etc)	**35%**	**5/7ths of corporate tax paid**	**10%**

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Tax Credit Regime for Staff Training Projects in Argentina

Hereafter, we would like to point out the main aspects to be considered in relation to a very important tax tool for SMEs aimed to increase their competitiveness and efficiency. These companies represent a substantial part of the employment and economical activities in Argentina. We are referring to the Tax Credit Regime established by the Ministry of Labor, Employment and Social Security through the resolution 309/2009, which came into effect on May 9th, 2009 that refers to training activities.

ENTITIES THAT CAN OPT FOR THIS REGIME:

In order to participate in the Tax Credit Regime, companies must be classified as a SMEs, should not have been fined for having unregistered employees, have no social security debts nor have performed collective dismissals.

This Tax Credit Regime focuses on staff training courses and formative projects as detailed below:

a. Professional Training and/or job skills training.

b. IT basic training.

c. Evaluation and certification processes related to jobs abilities according to the methodological standards and procedures established by the Ministry of Labor, Employment and Social Security.

Projects mentioned above, can be undertaken either by natural persons or legal entities by themselves and/or in association with other companies part of the same the chain value. Moreover, this Tax Credit Regime will be extended to those associations that employ mentally and physically disabled individuals qualified to develop certain types of works – called *Talleres Protegidos* - which take part of the chain value of the firms.

The companies can deduct, net from Value Added Tax, the following items:

a. Professional instructors training expenses.

b. Instructor's fees.

c. Tutors' fees, exclusively in the cases they have been assigned as instructors of skills-training courses directed to unemployed individuals.

d. Resources and educational supplies acquired by firms in order to provide primary and secondary studies certificates as well as superior studies and professional training courses for those staff members who participate in training courses that are part of the project.

e. New equipment to be exclusively used in the training activities.

f. Evaluation and certification processes related to jobs abilities and skills according to the methodological standards and procedures established by the Ministry of Labor, Employment and Social Security. (Such as instructors' fees, educational supplies, evaluation centers use, certifications' expenditures).

g. Expenditures in security elements, equipments, tools, and uniforms given to the staff by companies whose employees take part in formative and educational courses within the scope of the project .

h. Costs of accountants' certifications and further legalizations that are required by the Ministry of Labor, Employment and Social Security in order to submit the projects as well as the expenses reports.

DEDUCTIONS LIMITS WITHIN THE TAX CREDIT REGIME

Companies can finance their staff training projects through the Tax Credit Regime with the following limits: SMEs can finance up to 8 % of the total amount of employees' salaries and contributions paid between January and December of 2008. For Large companies the limit is established in 8%o calculated on the same basis as mentioned above.

According to the Resolution 147/2006 of the Secretary of SMEs and Local Development, in order to be classified as a SMEs, companies must have an amount of sales inferior to USD 5.968.000 in average in the last three years, net from Value Added Tax and internal taxes in the case companies rendering services.

Under no circumstance the amount to be financed will exceed USD 80.000 per year and company.

TAX CREDIT REGIME APPLICATION

Tax Credit Regime Certificates can be only by applied to cancel tax obligations related to the Income Tax, Minimum Assumed income tax, Value Added Tax (VAT) and Internal Taxes as regulated by the Federal Administration of Public Revenue (AFIP). The cancellations of Social Security's obligations are explicitly excluded from the present Credit Regime.

TAX CREDIT REGIME APPLICATION PROCEDURE

The fiscal certificates can be applied to any of the taxes mentioned, in order to do so, companies must submit the certificates given by the Ministry of Labor, Employment and Social Security to the Federal Administration of Public Revenue's Agency in which they are registered. These certificates have to be endorsed in favor of the Federal Administration of Public Revenue.

Certificates can be totally or partially applied, in this case a copy stating the amount remaining should be handed.

TAX CREDIT REQUEST

Companies can request a maximum of two tax credit certificates covering the projects' expenditures been already performed, supervised, accrued, and paid. The firms will be able to submit a maximum of two expenditures reports. The first report is due when the company has performed 50 % of the actions foreseen and must be certified by a public accountant. The Ministry of Labor, Employment and Social Security, with handle a certificate once the expenses are accrued, paid and are approved by the Ministry.

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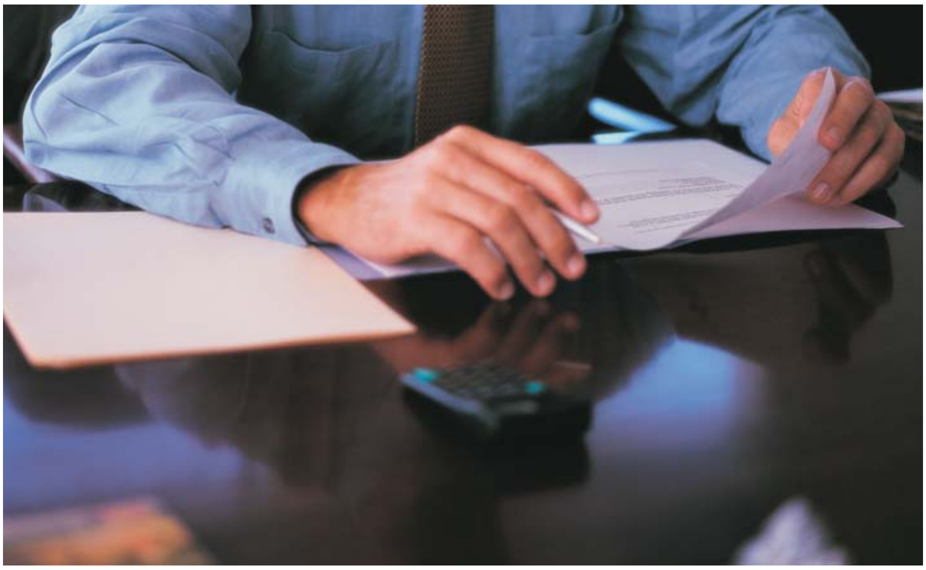
New regulations for operations linked to Spain

The recently approved regulations, which detail the obligations of documentation and sanctioning regime relating to linked operations, shape the obligations established by the law 36/2006 of 29 November which deals with this matter.

Inasmuch as it affects direct taxation, said reform has two aims. The first refers to the valuation of these operations according to the market price, thus pertaining to the accounting criteria applicable to these types of operations –contained in articule16 of the current *Ley del Impuesto sobre Sociedades*. In this sense, the price of the acquisition for which these operations have to be registered in the financial records must correspond to the amount which they would be valued by persons or independent entities in conditions of free competition, understanding that to be the market value, if a representative market exists; or otherwise the derivative of applying certain models and techniques of general acceptance and in accordance with the principle of prudence.

The tax regime in force covering the operations requires the taxable person subject to value them in accordance with the appropriate valuation criteria and permits the Tax Authority to correct the accounting value assigned to these operations when it is determined that the normal market value differs from that agreed by the persons or entities involved, with regulation of the fiscal consequences or the possible difference between the respective values.

Before the reform, the Tax Administration already had the capacity to check and correct the valuation, if it differed from the considered norm within the market, but on the other hand, no obligation existed on the part of the taxable person of the value according to the market prices originated.



As a consequence, government investigations in the material have never been the subject of or cause of sanctions or fines.

The second declared aim of the reform is to adapt Spanish legislation in matters of transfer pricing to the international context, in particular to the directives of the OECD in respect of the matter and to the European Forum in respect of transfer pricing, in the light of which the modified normative should be interpreted.

One of the fundamental new rules of the reform is the regulation of the obligation on the part of the taxable person to provide documentation regarding the determination or market value which has been accorded in the linked operations in which he is involved.

In practical terms, this reform obliges us to check documentally that, for instance, the remuneration which a member perceives pertaining to a company for his/her position as Director General, “Consejero-Delegado” or another function carried out similarly, or an invoice for services provided between companies within the same group, correspond with the market value. This obligation, thus, represents the peparation of files which should be kept at the availability of the Tax Authorities for the purposes of Inspection and which, without any doubt, represent a cost, not only administrative but also financial, for the company.

The regulation which imposes the obligation of documentation establishes the preparation of a file which must correspond to the respective parties and levels of information. The first will contain the general information of the group on a descriptive level, its strategy, organizational structure and the identification and description of the intra-group transactions (flows of goods and services, of invoicing, of financing, and so forth...), just as the companies which are envolved in the same. Moreover, the description of the transference pricing policy of the group should be an integral part of the description file as well as the methods used in order to determine those prices, including cost distribution agreement and adopted value agreements, in which case, with the Authorities.

And the second part will contain specific information about each country, albeit presented in standardized forms and with the same or similar format and criteria in every country – that is to say, harmonized although they refer to jurisdictions of different countries. The company, the strategy and the business must be described as well as the national transactions, and including a comparability analysis (features of the goods and services, functions carried out, assets used, risks assumed, contractual clauses, financial situation and specific business strategies, and so on...)

As is the case with all legal obligations, this accompanies the corresponding sanctioning regime which encourages adherence to the regulation. And thus it constitutes a serious fiscal infraction to fail to make available the required documentation when so instructed by the Tax Authority, or to present it in an incomplete or inexact form, or with false data; and furthermore, when the declared market value is not derived from the documentation presented.

The sanction consists of a fixed pecuniary fine of €1,500 per item of data, as well as €1,500 per set of data either missing, inexact or false, referring to each one of the obligations of documentation.

When the checking inspector derives value corrections which the Tax Administration acts upon, the sanction will consist of a pecuniary fine proportional to 15 per cent over the amount of the quantities that result from the value corrections of each operation, with a minimum of double the previous sanctions.

As can be seen, in addition to charging a new obligation on the tax payer which which makes the Inspection task of the Tax Authorities easier, the invoice could be taken further in the case that it is not dealt with correctly, so that it thus pays to attach special importance to obtaining adequate fiscal advice on this matter. Therefore, the new regulations relating to operations involving Spain acquire considerable relevance bearing in mind that failure to comply with them exposes one to substancial sanctions, even in a case whereby it is merely the documentation –required by law– that is missing, even if the values applied are indeed those of the market.

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Accounting and auditing parameters in Argentina

OBLIGATION TO KEEP BOOKS OF ACCOUNT

COMMERCIAL CODE

Application	■ All companies

FINANCIAL STATEMENTS

Elements of annual Financial Statements	■ For all corporations: Balance Sheet, Profit and Loss Statement, Changes in equity Statement, Cash Flow Statement, notes and exhibits (comparative with last year's Financial Statements).
Deadline of approval	■ For all corporations: called within 4 months after Financial Statements' closure.
Publication of the annual Financial Statements	■ For corporations: 6 months after Financial Statements' closure. Stock companies and limited liability companies included in article 299 (Law 19.550) must use "Inspección General de Justicia" 's presentation system.

ECONOMIC GROUP

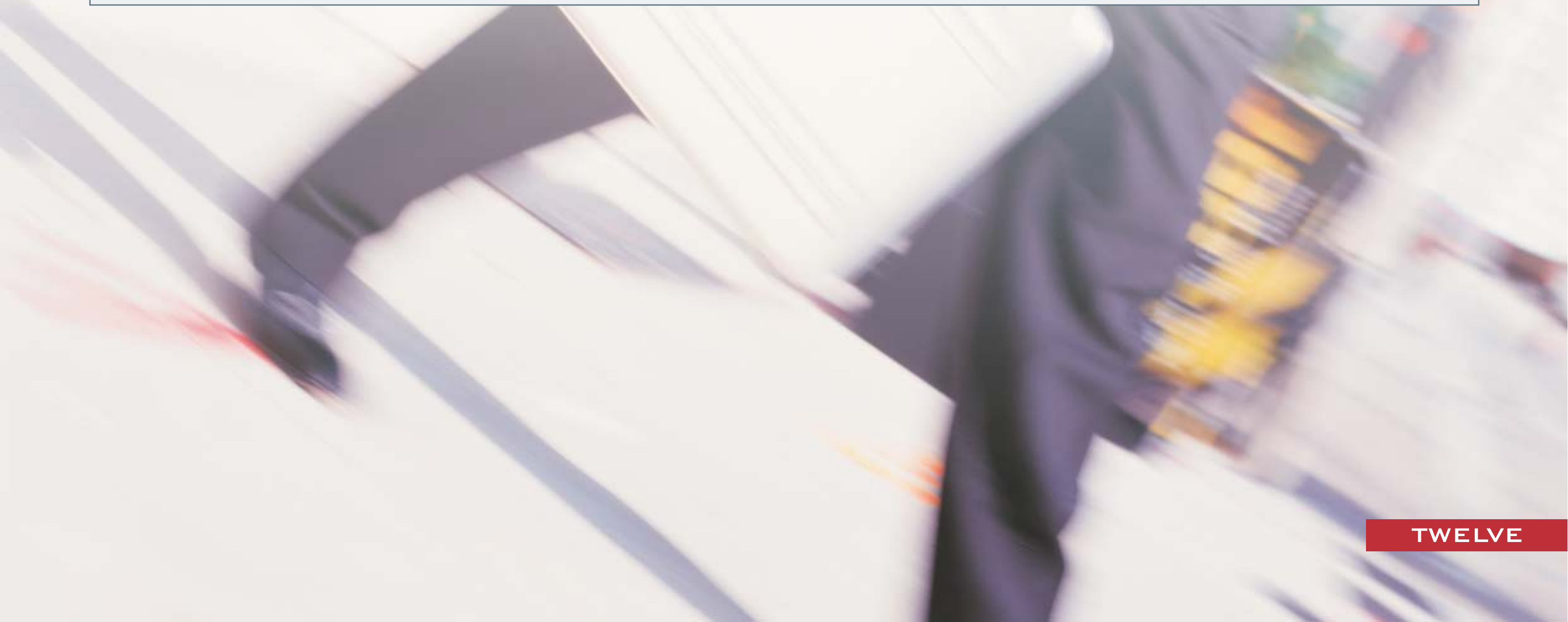
Controlling	■ At least 50% of the registered capital / voting rights. ■ Joint control: more than one company have at least 50% of the registered capital / voting rights.
Subsidiary	Uniform control, at least 20 % of the registered capital or control concept (majority of voting rights or other possibility of control)

COMPANY CATEGORIZATION:

Industry	Agriculture $	Manufacturing and mining $	Retail $	Services $	Construction $
Micro company	456,000	1,250,000	1,850,000	467,500	480,000
Small sized company	3,040,000	7,500,000	11,100,000	3,366,000	3,000,000
Médium sized company	18,240,000	60,000,000	88,800,000	22,440,000	24,000,000

AUDITING DUTY

All corporations should be audited by independent accountant.



Accounting and auditing parameters in Chile

OBLIGATION TO KEEP BOOKS OF ACCOUNT	
FISCAL CODE	
Application	■ For all individuals taxpayers or corporations which incomes came from mainly activities of capital managing.
Elements of annual statement	■ All have to keep books of account and annual balance sheet on accrued basis and exhibit annual income statement. All documents that support registers must be kept at least 6 years.
Deadline	■ With or without tax consultant: until April 30th for all taxpayers.
COMMERCIAL CODE	
Application	■ All Merchants that perform comercial activities defined by law.
Elements of annual statement	■ Balance Sheet, keeping books of account, ledger, inventory, and balance in official Register previously stamped by authority. These balances are not informed in any public register and the Merchant must keep them until its operations ending.
Deadline	■ The annual closure is December 31st of every fiscal year and it is not published.
Publication of the annual statement	■ There is not obligation of balance's public disclosure neither annual statement.
CORPORATION SUBJECTED TO AUDITING DUTY CONTROL	
Parent Company and Subsidiaries	■ All public and privated corporations issuing of assets of public offer.Open stock corporations having 500 or more shareholders and those having at least 10% its subscribed capital belong to 100 shareholder minimun. ■ Investments funds. ■ Insurance Companies ■ Funds Entities of Social Pension. ■ Financial and Bank Institutions ■ Dealer Corporations of Public Works Public ■ Sport Stock corporations; ■ Other submitted corporation to taxation.
Financial Statements	■ Quaterly and annual Financial Statements
FREE TO KEEP ACCOUNTING	
Small and medium sized companies	■ Small and médium sized taxpayer having annual sales not exceeding US$330.000 can be subjected to a simplified taxation and to free from balance sheet obligations and other duties according law.

Accounting and auditing parameters in Germany

OBLIGATION TO KEEP BOOKS OF ACCOUNT

FISCAL CODE - FOR UNINCORPORATED BODIES

Application	■ Self employed and tradesmen with the obligation of bookkeeping for other purposes than fiscal one ■ Or with a turnover of € 500,000 and a profit of € 50,000
Elements of annual statement	■ For smaller business and freelancers: accounting on cash basis for tax purposes ■ For the others: tax balance sheet and income statement
Deadline	■ Without tax consultant: tax return until 31th May ■ With tax consultant: extension until 31th Decembre possible

COMMERCIAL CODE - FOR CORPORATE ENTITIES

Application	■ Merchants with a turnover of € 500,000 and a profit of € 50,000
Elements of annual statement	■ For all: balance sheet and income statement ■ For corporations: in additon notes ■ For medium-sizes corporations: in addition annual report
Deadline	■ Small corporations: 6 month after closing date ■ Other corporations: 3 month after closing date
Publication of the annual statement	■ For all corporations in the Electronic Federal Bulletin ■ By 12 months after the closing date at the latest ■ Small and medium-sized corporations with some facilities

GROUP ACCOUNTING

Parent company	Corporation domiciled in Germany or other company, being subject to the Public Disclosure Act
Subsidiary	Uniform control, at least 20 % of the registered capital or control concept (majority of voting rights or other possibility of control)

Exemption from group accounting:

	Balance sheet total	Turnover	Employees
Addition parent company and subsidiaries	≤ € 23,100,000	≤ € 46,200,000	≤ 250
Consolidation parent company and subsidiaries	≤ € 19,250,000	≤ € 38,500,000	≤ 250
Public Disclosure Act, if 2 criteria apply for 3 due dates	≤ € 65,000,000	≤ € 130,000,000	≤ 5,000

AUDITING DUTY

Auditing necessary for medium-sized and big corporations, if at least two criteria apply for three due dates:

Corporation	Balance sheet total	Turnover	Employees
Small	€ 4,840,000	€ 9,680,000	Up to 50
Medium-sized	> € 4,840,000 to € 19,250,000	> € 9,680,000 to € 38,500,000	> 50 to 250
Big	> € 19,250,000	> € 38,500,000	> 250

Accounting and auditing parameters in Mexico

OBLIGATION TO KEEP BOOKS OF ACCOUNT	
FISCAL CODE	
Application	■ Individuals and corporations
Elements of annual statement	■ For smaller business (individuals): accounting on cash basis for tax purposes ■ For the others: tax balance sheet and income statement
Deadline	■ With or Without tax consultant: tax return until 31st March for corporations and 30th April for individuals
COMMERCIAL CODE	
Application	■ All Merchants
Elements of annual statement	■ For all: balance sheet and income statement. For corporations: Changes in financial position and notes as well
Deadline	■ 3 month after closing date
Publication of the annual statement	■ By 15 days after its approved
GROUP ACCOUNTING	
Parent company	Corporation domiciled in Mexico or other company, being subject to the Public Disclosure Act
Subsidiary	Uniform control, at least 51 % of the registered capital or control concept (majority of voting rights or other possibility of control)
Note: Each company has to keep books of account	

AUDITING DUTY

Auditing necessary for any corporations, if at least one criteria apply:

Taxpayer	Income	Assets	Employees
Corporation	> € 1,603,735	> € 3,207,472	≥ 3 € 300

Accounting and auditing parameters in Spain

OBLIGATION TO KEEP BOOKS OF ACCOUNT

FISCAL CODE - FOR UNINCORPORATED BODIES

Application	■ All of the subjects of corporation tax and the income tax business activities that are carried out under the direct method of estimation must be accounted for in accordance with the Commercial Code. ■ Professionals and tradesmen subject to the simplified method will only bring certain records books.
Elements of annual statement	■ The implementation of the tax should only be present tax declarations. Corporation tax documents include information on the balance sheet and income statement.
Deadline	■ Subject to income tax on individuals: 30 June. ■ Subject to corporation tax: 25 days subsequent to approval thereof (limit of 6 months from closing).

COMMERCIAL CODE - FOR CORPORATE ENTITIES

Application	■ Any company or merchant, individual or collective, whatever their legal form or Company.
Elements of annual statement	■ For all: daily operations, balance sheet, income statement, rule change in equity and notes. ■ For medium-size corporations: in addition to state cash flow and management report. Listed entities: in addition to Annual Report Corporate Governance.
Deadline	■ Official books of account: by 4 months after the closing date. ■ Preparation of annual accounts: by 3 months after the closing date. ■ Approval of annual accounts: by 6 months after the closing date.
Publication of the annual statement	■ For all corporations and merchants in the Trade REgister. ■ By 1 month after the approval date.

GROUP ACCOUNTING

Parent company	Corporation domiciled in Spain
Subsidiary	Uniform control, at least 50 % of the registered capital or control concept (majority of voting rights or other means of control)

Exemption from group accounting, if at least two criteria apply for three due dates:

	Balance sheet total	Turnover	Employees
Addition parent company and subsidiaries	≤ €13,680,000	≤ €27,360,000	≤ 250
Consolidation parent company and subsidiaries	≤ €11,400,000	≤ €22,800,000	≤ 250

AUDITING DUTY

Auditing necessary for medium-sized and large corporations, if at least two criteria apply for three due dates:

Corporation	Balance sheet total	Turnover	Employees
Small	€ 2,850,000	€ 5,700,000	Up to 50
Medium-sized	> € 2,850,000 to € 5,700,000	> € 5,700,000 to € 11,400,000	> 50 to 250
Large	> € 11,400,000	> € 22,800,000	> 250

Accounting and auditing parameters in UK

OBLIGATION TO KEEP BOOKS OF ACCOUNT

FISCAL CODE – FOR UNINCORPORATED BODIES

Application	■ Any unincorporated business
Elements of annual statement	■ Accounting on an accruals basis ■ The business can prepare its accounts to any date in the calendar year ■ Income statement for the tax return, and balance sheet if available
Deadline	■ The tax year ends on 5 April each year and the return has to be filed by 31 January in the following year. Generally details of the accounting period ended in that tax year are included in the return.

COMMERCIAL CODE – FOR CORPORATE ENTITIES

Application	■ All corporate bodies (including limited liability partnerships)
Elements of annual statement	■ Balance sheet and income statement including notes and an annual report from the directors ■ Prepared in accordance with UK GAAP, though companies can opt for international accounting standards
Deadline	■ To be filed with the Revenue authorities within 12 months of the company's year end ■ Limited liability partnerships file their returns with the Revenue on the same basis as unincorporated businesses
Publication of the annual statement	■ For all companies at Companies House ■ Nine months after the company's year end (six months in the case of public limited companies) ■ Small companies can file abbreviated (no income statement or directors report and reduced notes) rather than full accounts (unless they are required to prepare group accounts)

GROUP ACCOUNTING

Parent company	Corporation incorporated in the UK
Subsidiary	Control of the company

Exemption from group accounting if meets two of the following on either basis (for the financial year concerned and the preceding financial year):

	Balance sheet total	Turnover	Employees
Net basis	≤ £3,260,000	≤ £6,500,000	≤ 50
Gross basis	≤ £3,900,000	≤ £7,800,000	≤ 50

AUDITING DUTY

No audit required for a small company if it meets both the following criteria for the financial year concerned

Corporation	Balance sheet total	Turnover**
Small *	£2,800,000 or less	£5,600,000 or less
Others non small		

*Certain types of company are still obliged to have an audit even if the size criteria are met

**Turnover is pro-rated where the accounting period is not a 12 month period

Accounting and auditing parameters in Portugal

OBLIGATION TO KEEP BOOKS OF ACCOUNT

FISCAL CODE – FOR UNINCORPORATED BODIES

Application	■ Personnel income (self employed) with a turnover above € 149,639.37 at the previous year ■ All companies, with possible exemption of companies without commerce activity (mainly) ■ Branches domiciled in Portugal
Elements of annual statement	■ For all: Simplified Enterprise Information, assigned for “IES”
Deadline	■ Personnel income (self employed): tax return until May (annually established); ■ All companies: tax return until last work day of May ■ “IES”: until 30 of June

COMMERCIAL CODE - FOR CORPORATE ENTITIES

Application	■ All companies ■ Branches domiciled in Portugal
Elements of annual statement	■ Balance sheet and income statements, cash flow statement, notes and Management annual report
Deadline	■ Corporations: 3 month after closing date ■ Parent companies with consolidation: 5 month after closing date
Publication of the annual statement	■ For all corporations: commercial register which is administered in electronic form ■ Listed companies: in Portuguese Securities Market Commission Boletin

GROUP ACCOUNTING

Parent company	Corporation domiciled in Portugal and all its subsidiaries
Subsidiary	Uniform control, at least 20 % of the registered capital or control concept (majority of voting rights or other possibility of control)

Exemption from group accounting (consolidation parent company and subsidiaries), if for 2 consecutive years are not exceeded two of the 3 following limits:

Balance sheet total	Turnover	Employees
€ 7,481,968	€ 14,963,936	250

AUDITING DUTY

Auditing necessary for corporations, if, for 2 consecutive years, are exceeded two of the 3 following limits:

Balance sheet total	Turnover	Employees
€ 1,500,000	€ 3,000,000	Up to 50

Antea

ALLIANCE OF INDEPENDENT FIRMS

ANDORRA

ANGOLA

ARGENTINE

AUSTRIA

BULGARIA

COLOMBIA

COSTA RICA

CYPRUS

CHILE

ECUADOR

EL SALVADOR

CREECE

GERMANY

GUATEMALA

HONDURAS

ITALY

LUXEMBOURG

MALTA

MEXICO

NETHERLANDS

PERU

PORTUGAL

ROMANIA

SERBIA

SPAIN

SWITZERLAND

UNITED KINGDOM

URUGUAY

USA