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Case Study - Associations in Europe

GERMANY

We are in charge of a case of an association established under French law with its registered seat in France, whose members are distributed throughout Europe and other countries outside the European Union. The members of the Association are scientists, doctors and medical technology companies. Task of the Association is the transfer of knowledge between these various groups and persons. For this purpose the Association is organizing annually workshops, seminars and conferences and publishes a member's journal.

The question of taxation of such an Association is problematic due to the both reasons as follows: First with regard to corporate and business tax issues, and second in terms of the value added tax. This problem arises in part from the fact that the Board of the Association, i.e. President, Treasurer, Secretary etc., is distributed throughout different Member States of the European Union and therefore and based on the actual situation it is almost impossible to locate the effective place of business of the Association at which the relevant decisions for the Association and the Board are taking place. Moreover, the Chairman of the Board changes regularly, e.g. the next President will be located in Italy, whereas the present President is located in the Netherlands.

The Association, which got along in the past without employees, has now hired two employees earlier this year, that are taking care of the organization of the congresses and the internal management of the Association and performing their tasks and duties in an office rented by the Association in Germany.

Therefore the Association established under French law is to register to the German register of associations and consequently has to pay income tax in Germany - *at least for the purposes of its staff.*

At least in a situation such as this the comparison of the taxation of Associations in Germany and France has revealed interesting differences between both countries. While in Germany it is essential for the question whether an Association is exempt of corporate and business tax, that the Association can be classified as charitable, France shall use the criterion of non-profitability. However the criterion of charity is known in France as well, the classification as such a charitable organization is much harder to achieve in France than in Germany.

Within the framework of a comparative law analysis it appears that both countries are considering regularly the same characteristics, such as social and societal benefits of the activity, the type of use of the surplus, pricing, (in particular participation fees at congresses) or the methods of marketing. However both countries are not tying the same legal consequences to their respective performance of such characteristics. In France e.g. a so recognized and classified non-profit Association is exempt from all commercial taxes including value added tax (VAT). On the other hand the same Association in Germany is in danger, at least with a part of his activity, to be classified as economically and therefore to being subject to commercial taxes and in particular value added tax (VAT). In particular, in regard to the value added tax (VAT) there can occur substantial differences between the various Member States of the European Union, which have an effect in case of the Association organizes seminars or congresses in different countries of the European Union.

Conclusion: The aforementioned Association with its statutory headquarter in France, has – *one can certainly say* – by opening an Office in Germany likely scored an own goal. In a direct comparison it seems to us that the place of location of the Association in France is ultimately more attractive than one in Germany.

For Europe-wide acting Associations, it can be quite reasonable to compare the law of Associations and in particular the Association tax law of different European Member States before choosing his seat in the State of one or the other. To finally preserve this benefit in the end, the Association should waive opening branch offices or administrative offices in other European countries at a later date.

However, still there are no existing European rules on the transfer of the seat of an Association from one European country to another. The transfer of the seat therefore inevitably leads to the dissolution of the Association in one and the reestablishment in the other State. This should give international acting Associations cause for serious concern choosing their home state consciously before incorporation.

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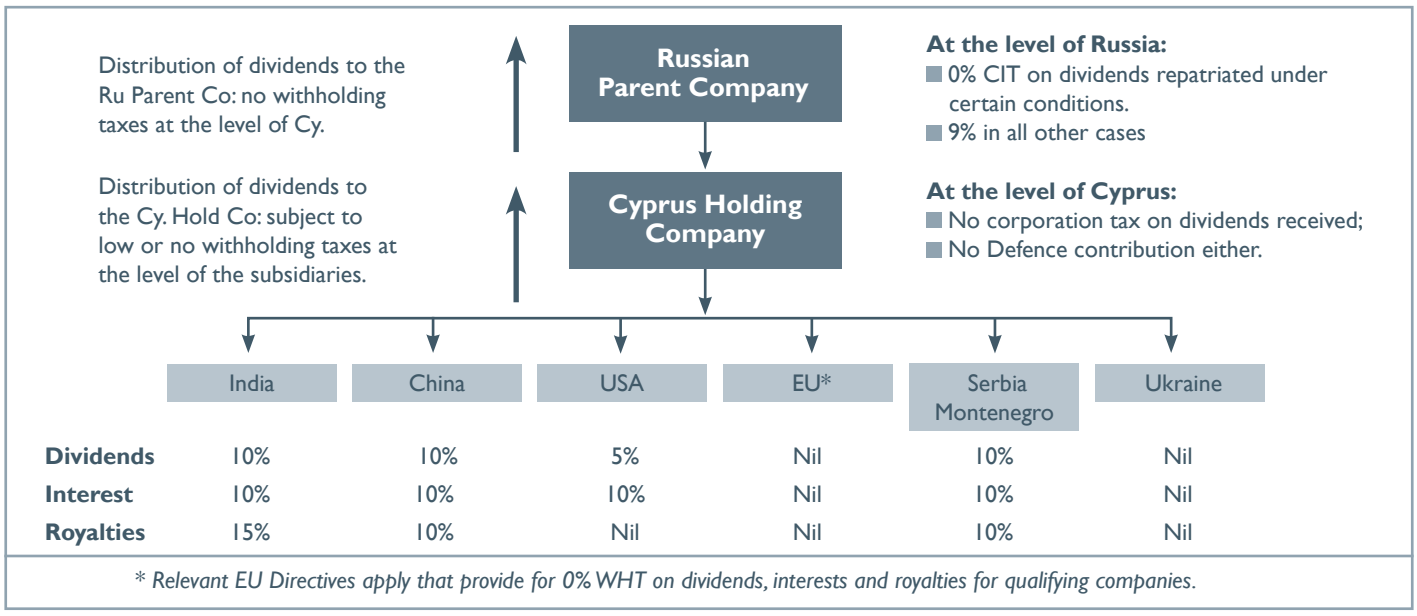
Cyprus removed from Russian Black List

CYPRUS

The end of 2012 marks a great success for Cyprus. The official removal of Cyprus will take place on 1st January 2013. The amended blacklist of the Russian Ministry of Finance has been published on 31 October 2012. The Republic of Cyprus was not present on that list. The removal of Cyprus from the Russian black list has a great meaning for Cyprus. It allows Cyprus to freely present itself to the Russian market for outbound investments. Using the tax beneficial Cypriot legal entities for the purpose of investing and pay dividends back into Russia, can now occur without any obstacles.

The structure below shows how a Cypriot legal entity can now be used after Cyprus has been removed from the Russian black list. Some countries with which Cyprus has a double tax treaty (DTT) in place have been chosen for the structure, with the applicable withholding tax rates (WHT) illustrated. Do note however that the structure is used as an example and proper tax advice needs to be sought.



** Relevant EU Directives apply that provide for 0% WHT on dividends, interests and royalties for qualifying companies.*

Many third country corporations wishing to invest in Russia can now do so freely using Cyprus while receiving a benefit from its appealing taxation regime.

The removal of Cyprus from the Russian blacklist has been one of the changes that were brought about by the Protocol to the DTT signed between Russia and Cyprus on 7th October 2010.

Eurofast has over 25 years of experience of advising legal entities and individuals that have ties with the Russian Federation. Eurofast can assist you in finding the most suitable structure for your particular case that will minimise taxes and ensure the smooth operation of your business.

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Promotion of foreign investment in Colombia

COLOMBIA

In Colombia, there are several types of international agreements, which allow business interactions between countries within these treaties, to be made efficiently as possible, in order to promote exchange and the inner growth of the Nation.

These are a number of treaties that are handled within the country:

FTA (Free Trade Agreement)	Treaty concluded between one or several countries to increase the amount of goods and services in the markets; drastically reducing or eliminating the tariffs charged.
DTA (Double Taxation Agreement)	In this agreement, the states Pact (to avoid double taxation) who will collect the income tax generated, or create a total combined tax, which will be divided between them.
BIT (Bilateral Investment Treaty)	These treaties are designed to protect the investments of member states in their territories.
EPA (Economic Partnership Agreements)	It is a bilateral treaty with some similarity to a free trade agreement, differing in the treated topics; in this, non-trade issues can be negotiated.

In recent years, Colombia has brought forward several agreements with neighboring countries, increasing its international ties. Therefore, within the 10 countries with whom it maintains investment agreements, United States, Mexico, Peru and Chile, are, in order, the preferred destinations for entrepreneurs, as well as representing in the past 18 years, the 37.39% of the total DFI (Direct Foreign Investment) of the country.

However, within the total of Colombian companies, 80% are SMEs (small and medium enterprises), which obstructs the expansion to other markets where trade agreements are being negotiated or signed; this happens, because these companies do not have major investment capacity, raising the need for a strategic partner to invest in the economic development of the country and also the number of companies that can expand internationally with different ways to trade.

According to the information from the Ministry of Commerce, Industry and Tourism in the agreements and covenants, commitments are established related to:

1. Treatment granted to investors (national treatment and most favored nation treatment).
2. Standards of liability assumed by the States regarding other the Nation's investors (minimum standard of treatment).
3. Establishment of rules for investor compensation in case of expropriation.
4. Transfer of capital relating to investment.
5. Specific tax treatment.

Likewise, experts suggest the use of DFI as an indicator of economic growth and development, since the agreements promote job creation and generation and distribution of wealth by companies and investors in sources other than local; encouraging companies to lose their fear of risk and seize opportunities that these agreements provide. Largely the success of getting in good terms in treaties is based on the development of companies and groups of competitive enterprises, which generate innovation, ownership and investment promotion.

Moreover, Colombia has begun to develop free investment agreements with countries such as Canada, Switzerland, Spain, China, India, and the Northern Triangle[1] (El Salvador, Nicaragua and Guatemala).

Regarding the tax treatment, the following table illustrates the countries that hold agreements with our Nation, and likewise which are being negotiated or have not yet enter into force (Note that for a treaty to enter into force, it must be endorsed by the Colombian Constitutional Court).

[1]The Northern Triangle countries have a high purchasing power, characteristic that, according to experts, should be seized by Colombian entrepreneurs, as these Nations have made the greatest contribution to the country's DFI since 2010, with U.S. $ 987 million.

Double taxation agreement	Enter into Force	Covered Taxes	COUNTRY OF THE AGREEMENT	COLOMBIA	Explanatory Note
Between Colombia and Chile	Year 2009	This Covenant shall apply to the taxes on income and capital imposed on behalf of each contracting state, irrespective of the extraction system. The Covenant will also apply to taxes of identical nature or substantially similar, taxes imposed after its date of signature, and included to the ones existing or replaced. The competent authorities of the contracting states shall mutually communicate at the end of each year, the significant changes introduced in their respective legislations.	In Chile, the established taxes on the "Law on Income Tax"	In Colombia: i) Income Tax and Supplementary ii) National tax on Equity.	There are considered taxes on income and capital the ones imposed on the total income or capital or any part thereof, including taxes on earnings derived from the alienation of real or personal property, taxes on the total amounts of wages or salaries paid by the companies, as well as taxes on capital appreciation.
Between Spain and Colombia	Year 2008		l) The Income Tax of natural persons ii) the corporate income tax; iii) the Income Tax of Non-Residents, iv) the wealth tax, and v) the local taxes on income and on capital, (hereinafter called "" Spanish tax "")	i) The income tax and supplementary ii) Wealth tax, (hereinafter referred to as "Colombian tax").	There are considered taxes on income and capital the ones imposed on the total income or capital or any part thereof, including taxes on earnings derived from the alienation of real or personal property, taxes on the total amounts of wages or salaries paid by the companies, as well as taxes on capital appreciation. The Covenant will also apply to taxes of identical nature or substantially similar, taxes imposed after its date of signature, and included to the ones existing or replaced.
Between Colombia and Switzerland	Year 2010	This Agreement shall apply to taxes on income and capital imposed on behalf of each Contracting State, its political subdivisions or local authorities, regardless of the exaction system. Are considered taxes on income and equity the ones imposed on the total income or capital or any part thereof, including taxes on earnings derived from the alienation of real or personal property, taxes on the total amounts of wages or salaries paid by the companies, as well as taxes on capital appreciation.	Federal taxes, cantonal and communal i) on income (total income, earned income, income from equity, industrial and commercial profits, capital gains and other income) ii) on equity (total property, real and personal property, business assets, paid capital and reserves and other elements of equity) (hereinafter called "Swisstax").	i) The income tax and supplementary ii) National tax on equity	The Covenant will also apply to taxes of identical nature or substantially similar, taxes imposed after its date of signature, and included to the ones existing or replaced. The competent authorities of the contracting states shall mutually communicate at the end of each year, the significant changes introduced in their respective legislations. This Covenant will not be applied to the withholding taxes on lottery prices.
Between-Canada and Colombia	The treaty has not entered into force		In the Canadian case, to the taxes imposed by its Government under the Income Tax Law (hereafter "Canadian tax")	i) The income tax and supplementary ii) Wealth tax, (hereinafter referred to as "Colombian tax").	The Covenant will also apply to taxes of identical nature or substantially similar, taxes imposed after its date of signature, and included to the ones existing or replaced. The competent authorities of the contracting states shall mutually communicate at the end of each year, the significant changes introduced in their respective legislations.
Between Mexico and Colombia		The treaty has not entered into force	i) Regarding the withholding taxes, on paid incomes or credited. ii) Regarding other taxes, in any annual fiscal period.	i) Regarding the obtained income taxes and the amounts paid, charged to an account, put to disposal, or accounted as an expense. Ii) In all other cases, from the date the agreement comes into force.	
Between Colombia and Korea		The treaty has not entered into force	The treaty has not entered into force	The treaty has not entered into force	Regarding the withholding taxes, for amounts paid or credited to non-residents
Between Portugal and Colombia		The treaty has not entered into force	The treaty has not entered into force	The treaty has not entered into force	a) Regarding the withholding taxes, by the generator event. b) Regarding all other taxes, for the income obtained in any fiscal period.
Between Colombia and India		The treaty has not entered into force	i) Regarding the income obtained in any fiscal year. Ii) In all other cases, starting the date in which the agreement comes into force.	i) Regarding the obtained income taxes and the amounts paid, charged to an account, put to disposal, or accounted as an expense. Ii) In all other cases, from the date the agreement comes into force.	

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Main provisions of the French Finance Bill for 2013 (as at October 5th)

FRANCE

COMPANY TAXATION

Disallowance of part of the financial charges

It is being proposed to implement a ceiling on the tax deductible part of net financial charges. Only 85% of these net financial expenses would be tax deductible for financial years 2012 and 2013, reduced to 75% as from 2014.

For companies member of a tax consolidation, this ceiling would apply solely to financial charges arising from operations made with companies outside the group.

For the protection of small and medium enterprises, the measure would not be applicable where the overall amount of net financial charges is lower than 3 million euros.

Calculation of the proportionate share of costs and charges ("quote-part de frais et charges – QPFC") on capital gains from share transfers

Currently, long term capital gains realized by companies upon the sale of shares are exempt from corporate income tax (CIT), subject to the add-back of a QPFC equal to 10% of the financial year's net capital gains.

The Finance Bill provides for a limitation of this tax incentive (so-called « Niche Copé ») by taking into account for the calculation of the QPFC the gross income on capital gains, with no offset of capital losses realized during the same financial year,
increasing said QPFC.

This new measure should apply to capital gains on disposals made during financial years ended as from December 31, 2012.

Hardening of the use of tax losses carriedforward for companies subject to corporate income tax (CIT)

In the wake of the Amended Finance Bills for 2011, it is being proposed to lower the ceiling for offsetting tax losses carried-forward.

Currently, the amount of tax losses which can be offset against the taxable income of a given financial year is capped to 1 million Euros increased by an amount of 60% of the taxable income exceeding this first limit. After the reform, the new rate would be reduced to 50%.

However, the portion of non offsettable tax losses would still be indefinitely carried forward, but applying the same limit in use as described above. These new measures should apply as from financial years ended December 31, 2012.

Modification of the instalment regime of CIT for large companies

The new measures concern both the threshold of turnover triggering the payment of the last instalment on CIT (so-called "fifth instalment") and its calculation.

It is being proposed to reduce the threshold of turnover triggering the payment of the fifth instalment to 250 millions euros (instead of 500 millions euros currently).

Moreover, regarding the calculation of this last instalment, the additional amount payable, in addition to instalments already paid, would be increased to:

- 75% (instead of 66%) for companies with a turnover between 50 millions euros and 1 billion euros;
- 85% (instead of 80%) for companies with a turnover between 1 and 5 billions euros;
- 95% (instead of 90%) for companies with a turnover exceeding 5 billions euros.

This measure should enter into force as from January 1st, 2013.

General Tax on polluting activities (GTPA) "Air"

The reform of the GTPA "Air" aims at strengthening the deterrent effect of the tax on polluting behaviours for the benefit of the environment and public health on the basis of the "polluter-pays" principle. It also intends to comply ensure compliance of French law with the European regulation resulting from the European directive 2008/50/EC of the European Parliament and of the Council of May 21, 2008.

It is being proposed to extend the scope of the tax and to increase its rate. Thus it is planned:

- to extend the GTPA to five new polluting substances emitted in air : benzene, arsenic, selenium, mercury, polycyclic aromatic hydrocarbons;
- to triple the rate into force in 2012 on emissions of sulphur oxides, emissions of non-methane hydrocarbons, solvents and other volatile organic compounds and emissions of total dust in suspension;
- to lower the threshold of submission to the GTPA on emission of total dust in suspension..

TAXATION OF INDIVIDUALS

Reform of wealth tax

The threshold of the wealth tax should be 1,310,000 € and the tax should be imposed at the following rate:

Fraction of the net taxable value of assets Applicable scale (in %)

- Less than 800,000 € 0 Over 800,000 € but less than or equal to 1,310,000€ 0,50
- Over 1,310,000 € but less than or equal to 2,570,000 € 0,70
- Over 2,570,000 € but less than or equal to 5,000,000 1

- Over 5,000,000 € but less than or equal to 10,000,000 1,25
- Over 10, 000,000 € 1,50

A system of deductions should be implemented allowing to smooth taxation for taxpayers with assets worth between 1,310,000€ and 1,410,000€.

Only debts corresponding to taxable assets should be deducted as liabilities. Moreover a cap mechanism should be re-introduced. The applicable ceiling should be 75%.

Creation of a new 45% income tax bracket

A new 45% tax bracket should be applied to income over 150,000€ per part of family allowance. This measure should apply with respect to income tax applicable to income perceived in 2012.

Establishment of a special contribution of 75%

All earned income over 1,000,000 Euros per beneficiary should be concerned by a special contribution of 75%. This measure should apply to earned income perceived in 2012 and 2013.

Taxation on progressive income tax scale of capital gains on disposal of shares

The capital gains on disposal of shares made as from January 1st 2012 should be taxed at flat-rate of income tax and no more at 19% flat rate.

A quota system as well as tax allowance proportional and progressive mechanism should be implemented in order to mitigate the progressive effect of income tax and encourage the holding of shares. This measure should apply to capital gains made from 1st January 2012.

However, this measure should not apply to capital gains made by entrepreneurs who will transfer shares of their company. The benefit from 19% flat rate for entrepreneurs will be maintained subject to comply with conditions relating to the duration of holding of shares and to their percentage of shareholding.

Finally, conditions of tax exemption applicable to entrepreneurs who transfer shares of their company and who reinvest thereafter the capital gain should be more flexible.

Taxation on progressive income tax scale of gains from exercise of stock options and allocations of free shares

Gains from exercise of stock options and allocations of free shares should not be taxed at flat rates of 18% (and 30%) but should be taxed at the progressive rate of the income tax.

The quota allowance provided under general law mitigating the progressive effect of income tax should nonetheless be applied to stock held for over 4 years.

CSG on gains from exercise of stock options and allocations of free shares should become partially deductible. This measure should apply to transfers occurring from 1st January 2012.

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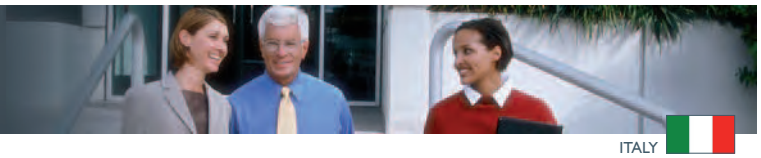
Vat Rates – European Union (27)

source: AMA Congress

SPAIN

- AUSTRIA: Standard --- 20%; reduced 10% or 12%
- BELGIUM: Standard ---21%; reduced 6% or 12%
- BULGARIA: Standard ---20%; reduced 0% or 7%
- CYPRUS: Standard --- 15%; reduced 5%
- CZECH REPUBLIC: Standard ---20%; reduced 10%
- DENMARK: Standard --- 25%; reduced non
- ESTONIA: Standard --- 20%; reduced 9%
- FINLAND: Standard --- 23%; reduced 9% or 13%
- FRANCE: Standard --- 19,60%; reduced 2,10% or 5,50% or 7%
- GERMANY: Standard ---19%; reduced 7%
- GREECE: Standard --- 23% (islands 13%); reduced 13% or
- 6,50% (islands 6% and 3%)
- HUNGARY: Standard --- 25%; reduced 5%
- IRELAND: Standard --- 21%; reduced 0% or 4,80% or 9% or 13,50%
- ITALY: Standard ---23% from January 2012; reduced 4% or 10%
- LATVIA: Standard ---22%; reduced 0% or 12%
- LITHUANIA: Standard ---21%; reduced 5% or 9%
- LUXEMBOURG: Standard ---15%; reduced 3% or 6% or 9% or 12%
- MALTA: Standard ---18%; reduced 5%
- NETHERLANDS: Standard ---19%; reduced 0% or 6%
- POLAND: General ---23%; reduced 0% or 5% or 8%
- PORTUGAL: Standard ---23%; reduced 6% or 13%
- ROMANIA: Standard ---24%; reduced 9%
- SLOVAKIA: Standard --- 20%; reduced 10%
- SLOVENIA: Standard ---20%; reduced 8,50%
- SPAIN: Standard --- 21%; reduced 4% or 10%
- SWEDEN: Standard ---25%; reduced 6% or 12%
- UNITED KNIGDOM: Standard ---20%; reduced 0% or 5%

VAT changes introduced by EU law



ITALY

Law n. 217/2011 (European Union law 2010) contains a series of provisions for the adjustment of domestic law in line with European Union law.

In particular, the main VAT changes regard:

- the date of supply of "generic" services, according to art. 7-ter of Presidential Decree no. 633/72, performed with non-resident VAT subjects (EU and non-EU);
- the introduction of the obligation to supplement invoices for "generic" services, pursuant to art. 7-ter stated above, received from EU suppliers;
- interim VAT refunds.

These changes will apply to operations performed from 17 March 2012.

1. Changes in the date of supply of services provided/received to/from non-resident suppliers (EU or non-EU)

Supplies of "generic" services as per art. 7-ter of DPR 633/72, provided by a VAT subject based in Italy to non-resident subjects (EU and non-EU), or received from such subjects, are now considered performed on the date of payment of the fee or on the earlier date the invoice is issued.

With effect from 17 March 2012, the above services will be considered performed when the service is completed or, in the case of periodic services, when the fee is accrued.

If the fee is paid, either in full or partly, before such events occur, the services will be considered supplied on the date of payment.

Where services are received, the changes remove the value of issuing an early self-invoice, which would previously have signalled the moment of supply of the service and therefore the moment the tax was collectible (even if the transaction was neutral for financial purposes).

In other words, it will no longer be possible to bring forward the date of supply by issuing a self-invoice. It will now be necessary to wait until one of the events indicated by the new rule (completion of the service, accrual of the fee, early payment) takes place before issuing a self-invoice.

2. Obligation to supplement invoices received from EU suppliers in relation to the supply of services relevant in Italy under art. 7-ter

Supplies of services under art. 7-ter DPR 633/72 provided by a taxpayer based in another EU country to a VAT taxpayer based in Italy, are currently subject to VAT in Italy via the reverse charge mechanism, or by issuing a self-invoice under art. 17, paragraph 2, DPR 633/72.

Despite the regulation, the Revenue Agency has often allowed taxpayers to integrate the invoices of EU suppliers (as occurs in the case of intra-EU purchases of goods).

With effect from 17 March 2012, the integration of an invoice is no longer an option but rather an obligation. Therefore, the mechanism for paying the tax on intra-EU purchases of goods, provided for by art. 46 of D.L. 331/93, is extended to supplies of "generic" services under art. 7-ter. The new obligation makes the invoice issued by the EU supplier particularly important since it determines the moment in which the tax is payable, which coincides with the receipt of the supplier's invoice (which must therefore be registered specially).

Once the invoice is received, tax must be applied by integrating the document, and the time limits for recording in the VAT register apply based on articles 46 and 47 D.L. 331/93.

In particular, invoices issued by an EU supplier must be supplemented to indicate the VAT rate and the tax amount, and must be recorded in the sales and purchase registers within the month of receipt, or even later, but within 15 days of receipt (but calculating the VAT in the month of receipt of the invoice).

The date on which the invoice is received must be carefully monitored by the Italian client for another reason too: in the event of failure to receive the invoice by the end of the month after the service is performed – which may coincide with the completion of the service, the accrual of the fee or the early payment - the client must regularise the transaction within the following month (i.e. within 2 months of the transaction being effected), by issuing a single invoice (failure to comply with this rule will lead to the application of a fine equal to 100% of the tax not applied). This invoice must be recorded in the VAT registers applying the same methods and within the same timeframes as intra-EU purchases of goods.

On the other hand, no change applies to supplies of services under art. 7-ter, provided by non-EU suppliers. Self-invoices will continue to be issued for these services pursuant to art. 17, paragraph 2 of DPR n. 633/72.

3. Interim VAT refunds

The Legislator has extended the right to request an interim refund of VAT to a wider number of individuals. This benefit has been extended to taxpayers who, since they predominantly perform transactions that are outside the scope of VAT due to the absence of the condition of territoriality, have carried out the following supplies of services, to non-resident taxpayers and for an amount 50% higher than all the operations performed:

- works on moveable tangible property;
- transport of goods and related intermediation services;
- services relating to the transport of goods and intermediation services;
- transactions under art. 10, paragraph 1, from number 1) to 4) of DPR 633/72, (but, in the case, only if performed with non-European Union subjects) or regarding assets to be exported outside the EU.

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New Law for the Accounting Profession

For the first time since its independence, FYR Macedonia has a clear-cut law for the accounting profession, effective as of August 3 2012.

MACEDONIA

The Law, while generally welcomed by accounting and tax professionals, comes with a wide range of implications for the operations of entities performing accounting services.

Given the relatively small market, the reality is that accountants are heavily involved in tax matters, from filing periodical tax returns for their clients to ad hoc tax advising, therefore, the new law affects all companies in the marketplace from the aspect of selection of their accountancy/tax partners.

The Law for accounting profession regulates:

- The conditions under which individuals and entities can perform accounting services,
- The criteria for obtaining official certification in the field; and
- The creation of the Institute of Accountants in the country.

The law discerns between certificates and licenses: certificates are issued to individuals while licenses are issued to companies. The Law also categorises into accountants and certified accountants.

The difference between accountants and certified accountants becomes evident mostly in the scope of services each one can perform.

Uncertified accountants can perform accounting services for any entity but can only complete and sign annual closing statements for individual traders and foundations. Effectively, this means that unless an accountant is certified he/she will not be in position to sign financial statements for clients which are limited liability companies (LLCs) or joint stock companies.

Both accountants and certified accountants are now obliged to request that the Ministry of Finance issue official certification for their status by February 3 2013.

One radical novelty in the law is the strict prohibition on companies outsourcing accounting services to an individual who is not employed at the company in question. This restriction does not apply to outsourcing services to a legal entity that performs accounting services as a part of its registered activity. Essentially, this will change the current status for many small businesses that were, until now, using freelance accountants (not officially employed in an accounting company provider). Effectively, this will create pressure on officially unemployed accountants to either register their accounting activity as sole traders or seek official employment in accounting companies. On the other hand, it will oblige companies to move away from the grey market accountants and engage in a more official relationship with authorised accountancy providers.

In practice, these changes mean that companies subject to accounting (effectively all companies) will only have three options available when it comes to their accounting:

a) Hire an accountant or certified accountant who will perform accounting in-house; or
b) Outsource the accounting function to a certified accountant "sole trader"; or
c) Outsource the accounting function to a licensed accounting company.

Speaking of the regulation of the client-accountant relationships; it is now mandatory to conclude an official engagement agreement between clients and accounting providers be external parties (either certified sole-trader accountants or licensed accounting companies). The failure to possess a valid agreement between client and provider results in a penalty of EUR 3,000 – 4,000 payable by the provider.

In regards to accounting companies who will now be required to obtain a license for performing accounting services, all accounting providers will be required, by January 31 2013 to file an application for their accounting license. The criteria for receiving an accounting license include:

- At least two accountants employed at the company, of which at least one must be certified; and
- Proof for professional indemnity with a minimum amount of EUR 20,000 per indemnity case.

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Consumption Tax in Mexico

MEXICO

The head of the OCED (Organization for Economic Cooperation and Development) has recently stated that the trend set in the world is to reduce costs for job creation, as well as investments and, therefore, stimulating job creation to the same degree as investments.

In this sense, he says that tax consumption rates are increasing on real estate (real estate field), and green taxes on investments to achieve greater, more efficient collection. The purpose thereof is to have the State procure greater planned public resources and apply them to programs that benefit the whole population, together with the invitation in private investment to generate greater job opportunities.

With regard to Value Added Tax, the officer states that the average tax rate in most OCED member countries is 19%.

In the case of Mexico, which is an OCED member, consumption tax par excellence is the so-called Value Added Tax (VAT), which has the same mechanism that has been adopted internationally, that is, it is a territorial levy where the end consumer is the person who bears the tax burden of all the

productive chain of the good or service consumed.

However, in order to collect this levy successfully, the persons who are formally subject to VAT are individuals and legal entities in Mexico who sell goods, render independent services, grant the use or temporary enjoyment of goods or import goods and services. However, unlike the other OCED member countries, Mexico has a generalized 16% rate.

In addition, it has a preferential 11% rate when the acts or activities described above are realized by individuals and legal entities residing in their border zone, and goods are delivered and services are rendered in that region, except for the sale of real property in that region where VAT will be calculated by applying a 16% rate. However, by law, the border area applies to that contemplated within 20 kilometers parallel to Mexico's north and south international dividing lines, as well as the states of Baja California, Baja California Sur, Quintana Roo, and various municipalities and specially equipped zones.

On the other hand, the juridical-tax framework of Mexico contemplates a 0% tax rate on specific sectors and activities for the only purpose is to have its tax burden (given its importance and, in some cases, weakness - according to the spirit of the rule -) not be so burdensome and be conducive to boosting the following sectors, activities, and services:

- Sale of:

Animals and vegetables that are not industrialized, except for rubber; patent Medicines and products earmarked to food (with some exceptions; ice and water that are neither gaseous nor compound (with their exceptions); istle, palm, and wild lettuce; tractors for operating agricultural implements (with their exceptions); Fertilizers, insecticides, herbicides, and fungicides (with their exceptions); Hydroponic hothouses as well as their equipment; Gold, jewelry, goldsmith's art, artistic and ornamental pieces, and ingots, whose minimum content is 80% and it is not sold on a retail basis to the general public; and Books, newspapers, and magazines that are published by taxpayers themselves.

- Rendering of independent services:

Services rendered directly to farmers and livestock breeders; Corn and wheat grinding or crushing services; Milk pasteurization services; Services rendered in hydroponic hothouses; Raw cotton ginning services; Slaughter of fowl and feed lot cattle services; Reinsurance services, and Water supply services for domestic use.

In this sense, it is important to bear in mind that taxpayers subject to the 0% tax rate are entitled to claim a full refund from the tax Authorities of the VAT shifted for goods or services used in undertaking the acts or activities described above.

On the other hand, there are also acts or activities exempt from VAT. These acts or activities are as follows:

- Sale of:

Soil; Constructions adhered to soil, earmarked toward or used for dwelling houses; Books, newspapers, and magazines edited by a person other than the taxpayer, as well as the right to use or exploit a work realized by its author; Used private property, except that sold by companies; Bills and other supporting documentation that allows for participating in lotteries, raffles, drawings, and gambling contests of all types, as well as the respective prizes; Local currency and foreign currency, as well as gold or silver pieces; Gold ingots with a 99% minimum content and they are sold to the general public; Limited liability company shares, uncollected documents and negotiable instruments (with their exceptions); and That of goods between foreign residents or by a foreign resident to a legal entity that is enrolled in a Foreign Trade program.

- Rendering of independent services:

Fees and other considerations for mortgage loans; Fees charged by retirement fund managers; Teaching fees where studies are recognized and officially validated, as well as pre-school educational services; Public land transportation, except railroads; International maritime services rendered by foreign residents without a permanent establishment in Mexico; Agricultural insurance services, financially backed housing loan and life insurance (subject to various requirements); For interest (subject to various requirements); For derivative financial trading; For services rendered by Associations or unions to members as a consideration for their contributions; For professional medical services; For hospital services rendered by Mexican public agencies; and For the considerations received for copyrights (subject to various requirements).

Pursuant to the foregoing, it is important to note that this exemption benefits the end consumer. However, the tax burden generated in the production process for inputs not exempt from VAT and are required to produce the exempt goods or render exempt services falls on the last individual or legal entity that undertakes the acts or activities exempt from this levy, since the VAT applicable to inputs not exempt from VAT will represent another cost for its operation, since he may not pass the exemption applicable to all the end product or service to the consumer.

Finally, even with a 16% general rate and these systems that reduce this levy even more, for the revenue budget of the Mexican Government, the current VAT scheme will account for 38% of the tax revenue that it is receiving in this fiscal 2012.

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Removal of the VAT registration threshold for overseas businesses

UNITED KINGDOM

From 1 December 2012, the UK VAT registration threshold (presently £77,000: approximately € 95,000 at current exchange rates) will no longer apply to overseas businesses trading in the UK that do not have a physical UK business establishment. This means that any overseas businesses trading in the UK will now be required to become VAT registered irrespective of the value of taxable supplies they make in the UK (i.e. income received which is subject to the 20%, 5% or zero rates of VAT). For such businesses, an obligation to register for UK VAT will arise from the date when it is expected that trading will commence in the thirty days following. Failure to register for UK VAT at the appropriate time is likely to result in UK tax authority HM Revenue & Customs levying a financial penalty for 'belated notification'.

The above measure is being implemented as part of The Finance Act 2012 following the decision in the recent Court of Justice of the European Union case of Schmelz C-97/09 and brings UK VAT law into line with that of other EU countries. It will affect businesses which are not established in the UK but sell either goods or services in the UK from a temporary presence in the UK. This would include the following:

- Sales from a trade fair or exhibition
- Sales at a temporary market (e.g., a Christmas market)
- Some providers of land-related services (for example, an overseas architect providing land-related services to a UK project for a private individual).

It does not involve any change in the application of existing simplification measures such as Distance Selling (e.g. mail order sales directly to UK private consumers), Reverse Charge and Triangulation which will continue to apply in relevant circumstances.

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Living in Uruguay – Legal and Tax residency

URUGUAY

As a result of the internationalisation of the tax system, the pressing need for global tax transparency, the globalization, the agreements, the European crisis, etc., the matter of the tax residency becomes one of upmost importance.

In fact, it has always been relevant, but today Uruguay has a role to play.

Furthermore, in Conrad I, the President invited foreigners to live in our country. The fiscal consequences resulting from this invitation will be addressed in a future article.

There are two kinds of residencies to differentiate: legal and tax residencies.

Legal Residency

Someone that is really interested in coming to live here in Uruguay should arrange his **LEGAL RESIDENCY.**

It is a relatively simple procedure which is done at Dirección Nacional de Migración (equivalent of Immigration and Naturalization in the US) of the Ministerio del Interior. (Home Office – GB)

Immediately after this procedure is initiated a provisional identity card (which entitles the holder to work) is obtained. After approximately 8 months, a provisional Legal Residency is obtained to finally receive the definite one 2 years later.
For more information:
http://www.dnm.minterior.gub.uy/

Tax Residency

But what really matters is the tax residency as this is what will cause the cease of tax in the previous fiscal residency. Depending altogether on the fiscal residency conditions of the different countries involved.

Incidentally, individuals with fiscal residency in Uruguay pay taxes here (and, contrary to what Sarkozy may believe, it is far from being a tax paradise).

How is the fiscal residency obtained in Uruguay?

In any of the following 3 ways:

a) Residence time
More than 183 days in the country (including sporadic absences: less than 30 days away).

b) Economic interests
The generation of incomes in the country will be greater than in any other country. For this purpose, the comparison must be carried out country by country and all kinds of incomes must be computed (capital, work, mixed).

c) Vital interests
It is presumed, unless otherwise proven, that the taxpayer has his vital interests in national territory when his spouse and underage children reside in the Republic, as long as the spouse is not legally separated and the children are under parental guardianship.

Whenever there are no children involved, the spouse's presence will be enough.

Something that is rather new is the fact that our DGI (General Tax Office) issues a Tax Residence Certificate requested by one part.

The certificate mentioned before is issued by fiscal year and apart from indicating before which country's organism it will be presented, it is necessary to prove the points mentioned before (a), (b) or (c).

To demonstrate a) it is enough showing migratory movements through a certificate issued by the Dirección Nacional de Migración.

It looks like c) is not a complicated procedure while for b) the DGI is about to issue instructions.

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VAT Recovery 2012

Alternatives to transform VAT recoveries in liquid assets financially

ARGENTINA

In the framework of today's economy, in an inflationary environment which puts to the test the wrist of the financial entrepreneurs, the tax advisers, are slowly becoming tax engineers. Each day presents us with a new challenge in the Argentine current fiscal scenario.

In the year 2006, with a growing economy and a favorable international situation, the new procedure for that exporter will be able to recover VAT, augured a processing of not more than sixty days between the request and the effective return of money in the bank accounts.

That situation has nothing to do with the present 2012 system, in which an exporter may have delays of up to twelve months, that is to say, a year, to be credited in your account the money coming from recoveries of tax credits tied to exports.

There is no need to elaborate in detail referring to the ravages of the inflationary process on these tax credits. The delay above could mean a loss of value of up to 30 % in that period.

Fiscal and Financial Engineering.

The economic tax scenario 2012 imposed on entrepreneurs the need to carry an adequate management of taxes, since the tax burden consumes a significant part of corporate finance.

In this situation, which taxpayers exporters must continue to meet and assuming tax burdens and labor, which inexorably accrued regularly, and where the need is to collect tax is more than evident, imposes the need to seek alternatives to the use of these tax credits in order to alleviate the financial problems mentioned above.

Therefore, although the request for a refund of these credits implies that in an uncertain term there will be considerable cash in the bank, which are the alternatives that have the exporters to provide liquidity to favor these balances immobilized.

First, apply for accreditation or possibility to compute these credits against other taxes owed to the State Treasury. Specifically, with this alternative, companies can, after filing on the application for return, compensate without any delay taxes such as income tax or gain minimum presumed, as well as their advances.

In this way, prevents disburse funds to meet obligations not be paid tax could generate executions and embargoes in bank accounts for part of the National Treasury.

However, advancing in the unsolved of current funding prospects, we have to take into account that, in general the tax credits to retrieve can overcome amply the obligations under the Income Tax and/or Minimum Presumed.

A new question arises: What decision to take over the surplus? Ask return or there is another alternative to use?

The answer is YES. There is another option and is the "acceptance of debt by the taxpayer" and compensation ex officio by the Treasury. Although this mechanism is not conceived as a means of recovered in the current regulations, the Treasury before authorizing a return always reserved the obligations owed to the taxpayer. Therefore, in this case, if a taxpayer must for example obligations arising from the social security, can "accept its debt" for which the treasury can compensate ex officio these obligations.

Arrival this instance, the Argentinian tax Authorities (A.F.I.P), must issue the administrative act by informing the amount authorized to compensate, the compensated amount on its own motion, and finally the amount that will be return.

Expected post adoption of the recovered. Other alternatives

However, having gained the treasury approve the request for return implies that there is still hope for a term up to six months for the money in the bank accounts of the company.

Before this delay, there are still options. One, we understand that the less desirable in this framework of legal uncertainty and tax, it is the filing of an appeal for administrative office soon.

Fortunately, there's another exit to mitigate this delay and is the assignment or transfer of the tax credit to third parties, in which the exporter can make liquid your request of recovered without further delay.

Finally, there is the option to turn to other sources of funding. In the province of Mendoza, the Provincial Fund for the Transformation and Growth has just launched a line of credit for exporters whose object is the financing of the working capital of exporting companies which are locate in the Province of Mendoza and which have legitimized by the AFIP before the return in concept of VAT tax credits attributable to export transactions.

As can be seen, an adequate management of taxes in this context 2012 imposes the need to plan the maximum tax this engineering in order to reduce the delays and the impact of inflation prevailing. For this reason, from AUREN consulting firm, as we face each day to this problem, we propose to help companies identify and plan your tax administration by providing solutions and alternatives that best suit the reality of each company.

Alternatives to provide liquidity to requests for recoveries of Vat.	Delays in the effective liquidity for the Tax Credit
Return Request	Up to twelve months
Request for transfers to third parties	Immediate
Application for accreditation against other taxes	Immediate to face certain tax obligation
Application for compensation ex officio against tax obligations	Three to five months until the obtaining of the AFIP approval
Other: Example Fund for the transformation and economic growth of Mendoza	According to the case

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Antea
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