AUREN

NEWSLETTER

INTERNATIONAL BUSINESS / JUNE 2014

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Special regime in Corporate Income Tax applicable for international holdings

ANDORRA

During the last few years, the Andorran Government has been working into the elaboration of a new tax system, in order to make it compatible with those in force in most countries in the European Union and worldwide. The main aim of this new tax regulation is to allow Andorra to be a signing part in Tax Treaties to avoid double taxation with other countries.

In this regard, in May of this year, the Personal Income Tax Law came into force and the Andorran Government has completed the procedure began with the objective of creation of a new and homogeneous tax system.

The signature of Tax Treaties to avoid double taxation is one of the most popular tools used by countries to promote the internationalization of its local companies and to promote the national investments into foreign entities. However, there are other tax mechanisms aimed at strengthen the national companies investments into companies non-residents in Andorra.

In this regard, in order to promote the financial investments abroad, the Andorran Corporate Income Tax Law establishes a special tax regime which applies to those entities that have as its only activity the acquirement of non-resident's entities shares, in order to maximize its financial income.

The Andorran Corporate Income Tax Law foresees which benefits are applicable to this kind of entities and, at the same time, it details all the requirements that should be fulfilled in order to apply the abovementioned special tax regime.

Please bear in mind that the requirements established by the Andorran legislation must be fulfilled at all in order to could apply such special regime.

Which kinds of Andorran entities are able to apply the special regime?

Based on the provisions of the Andorran Corporate Income Tax Law, they are entitled to request the application of this special tax regime, those entities constituted in the legal form of Limited Company which only can carry out the activity consisting in managing and investing into the share capital of foreign entities.

Please bear in mind that there is another material requirement that has to be fulfilled in order to apply this special tax regime, which is that all the shares acquired by the Andorran entities which opt for this special tax regime must be registered shares.

What does the special regime consist?

This special regime consists in an exemption, for Corporate Income Tax purposes, of all incomes derived from the main activity of these kinds of entities. That means that the income received by those entities which apply this special tax regime will not be taxed by the Andorran Corporate Income Tax. In this regard, it is important to bear in mind that they are just allowed to apply this special regime those entities that only carry out the activity abovementioned.

In case the tax payer develops other kind of activities, the special tax regimen will be not applicable and the income obtained by the tax payer should be taxed by the general Corporate Income Tax regime (which general tax rate is 10%).

How to apply this special tax regime?

Lastly, it is important to highlight that the entities that are interested into apply this special tax regime should request its application before the Andorran Tax Authorities. To these effects, the Company should fulfill the corresponding Form in order to prove and to inform that it fulfill with the requirements foreseen by the Andorran Corporate Income Tax Law.

The Company would not be allowed to apply this special tax regime until the Andorran Tax Authorities grants its application.

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Penal tax regime. Public accountant outreach

(Joint resolution of the Argentine federation of professional councils of economic science and the argentine federation of graduates in economic science)

ARGENTINA

The Penal Tax Regime of Law 23771 was replaced by Law 24769, with all the amendments established in Laws 25292, 25826, 26874 and 26063. Law 25874 replaced Article 15 of Law 24769. Finally, Law 26735 established amendments to the PENAL TAX REGIME.

In order to analyze the subjects, liabilities and punishments it is necessary to become acquainted with the text present in Article 15.

Said text reads:

He who knowingly:

a) Rules, informs, attests, authorizes o certifies acts of law, balances, financial statements or documentation so as to facilitate the accomplishment of the violations covered in this law, shall be liable to, in addition to the corresponding punishments for their complicity in the act, the punishment of special disqualification for a period consisting of twice the time of the sentence.

b) Agrees with two or more people the accomplishment of any of the crimes included in this law, shall be punished with a minimum of FOUR (4) years of prison.

c) Takes part in an organization or association consisting of three or more people that is usually aimed at committing any of the crimes included in the present law, shall be punished with prison during periods of THREE (3) years and SIX (6) months to TEN (10) years. In the case of the boss or the planner, the minimum punishment is FIVE (5) years of prison.

(Article replaced with Article 1 of Ley N° 25.874 Sign Off: 1/22/2004).

The Resolution issued by the FACPCE describes the main functions of a Public Accountant, which should be highlighted for the purpose of this work. These functions are:

- External auditor of financial statements.
- Corporate statutory auditory.
- Technical consultant or advisor for taxes or pensions.
- Tax liquidator (for example: preparation of affidavits based on information provided by the user of the professional services).
- Services outsourcing (payroll liquidation, book-keeping, delivery of management services, etc.).

We shall only limit ourselves to the description of the tasks that should be carried out by the external auditor for the purpose of discovering irregularities.

The tasks carried out by external auditors generally are: External auditory, Limited review auditory, Special certificates and reports, which are covered in RT 7, Auditory rules. RT 37, which replaces RT 7 includes a wider range of services, but we will not use it because its effective date is the 1st of July 2014 and the Federation has not replaced said agreement yet. We shall now mention the work schedule suggested by the FACPCE:

- To identify accurately the accounting records of the entity and the samples selected as evidence.
- To identify the existence of criteria differences or interpretation issues of tax or pension rules between the auditor and the entity's management.
- To review selectively the issue of invoices or equivalent documents.
- To apply proceedings with the intention of discovering misrepresentations in order to hide, modify, conceal or to not reveal the actual situation of the entity.
- To verify that the elements and the data used in the preparation of affidavits presented during the audited practice are the result of the audited information.
- To check that the inputs and withholdings on the personnel payroll are reasonable and that, from the analysis of related accounts such as the ones referred to as remunerations for services, third-party tasks, hired services, fees, etc., there exists no unreported personnel.
- To apply proceedings with the intent of identifying if there exists any expenditure for which no receipt is provided.
- To verify the enforceability of the provisions which could force the entity to act as perception or withholding agent and to verify if the corresponding affidavits are provided.
- To review the regular deposit of withheld or received tax money and withheld inputs and contributions.
- In case of equity insolvency or doubts about the ability of the entity of continuing with its operations, the professional should evaluate if the entity can be considered as a "going concern" and its effect on the evaluation criteria.
- To check that the tax benefits of the entity, such as exemptions, breaks, refunds, salvages, returns or subsidies, are a product of the reasonable application of legal provisions.

- To evaluate the reasonableness of the values assigned to the importation and exportation operations.
- To obtain the written confirmation from the main operational officer of the entity and

the officer with the highest rank who is responsible for the control and accounting functions, as evidence that related information was collected or requested, and not as a substitute for other proceedings that should be applied on that information.

- To reflect the compliance of his duty in the paperwork, according to the provisions in the auditory laws in force.

If an irregularity is discovered from the application of the aforementioned auditory proceedings, the auditor must ask that the highest authorities adjust said differences. In case that the authorities neglect the adjustment of the financial statements, the auditor must evaluate, in accordance with the degree of the difference, and compare it against the limit of errors tolerated. In case that the differences exceed said limit, the auditor must express the situation in his auditory report, quantify the situation and qualify his assessment.

Other tools that the auditor can use in order to minimize his liability are:

- To issue a hiring letter outlining the rights and obligations and the reach of the task for both parties;
- To receive the Letter of Management signed by the highest authorities;
- To retain the paperwork for the time required by the laws in force;
- To obtain a signed copy of the financial statements;
- To obtain a copy of the record from the Directory/Assembly with the approval of the financial statements.

Conclusions of the Resolution of the FACPCE

- The Economic Science professional is accountable only for that he could learn by working with the technical knowledge required for the practice of his profession. It should not be understood that if, due to negligence, he failed to discover omissions or distortions that he should have discovered by applying, in accordance with the circumstances, the auditory proceedings established in the professional laws, which correspond to the type of service he was entrusted, he is protected or disclosed from liability.
- The public accountant acting in his multiple roles, be it as tax advisor, liquidator, external auditor or corporate statutory auditor, does not have the quality of public officer referred to in Article 77 of the Criminal Law. Therefore, they are not obliged to denounce the illicit acts of the Tax Criminal Law or any other kind of illicit act.
- In accordance with the criminal doctrine and the definitions of the Tax Criminal Law and law N° 24.769, it is understood that the accountant, even in the irregular exercise of their duties, cannot be the author of tax evasion, since this evasion is carried out by the obligor (own or external accountable). Therefore, neither it is considered that the professional is the co-author of the illicit act.
- Only those Economic Science professionals that in the practice of their activities and in their performance as advisors, liquidators, statutory auditors, auditors, etc. verify their intentional and personal participation in the illicit act shall be held responsible in tax criminal matters. The result of the application in those cases is the figure of abetment (primary or secondary).
- Furthermore, it must be proven that in their actions the objective and subjective elements (intentional action) were present in the offense charged. That is to say, in the role they performed in the contracting entity they had the intention and will to evade taxes, hence harming Public Treasury.
- As regards the letters of representation, they are no substitute of a proceeding that should have been applied according to an agreement among the parties, but the documentation and evidence that the professional requested the corresponding information.
- It is of the utmost importance that the professional performs their task supporting it in their own paperwork, which must maintain full professional secret. Article 156 of the Criminal Code establishes: "He who having been notified, due to his status, profession, job or art, about a secret which dissemination may harm, reveals it without just cause will be punished with a fine of......and a special disqualification, in their case, for a period of 6 months to 3 years." A law that discloses the professional secret o that forces to reveal it or if it is spread with the consent of the interested party, is not a just cause, but there is no secret in that case. This situation affirms that the public accountant has the legal obligation not to reveal the known issues in the professional practice and, from this standpoint, cannot be obliged to mention client related facts. The aforementioned article of the Criminal Code takes precedence over Law 11.68318. The case of duty to provide information about the operations that the professional performs with third parties (in this case their client), that is to say, their own trade relation, their fee, which is different from the documentation that the public accountant acquires from operations between other third parties and the entity. For this reason, the professional owns the papers and they are not part of the commercial documentation or support documentation of their relationship with their client, which in fact can be requested. At all times the revenue service performance hast to be framed in the profound respect of the law, without forgetting the presumption of innocence that explicitly arises from our Magna Charta. The mere application of presumptions to held criminal liability implies an excessive and unjustified performance that causes an unfortunate frame of lack of legal security and professional practice instability. To issue the criminal complaint to the professional, the auditors should have enough material regarding the participation of the public accountant in the illicit acts detected. The professional being limited to obtain certain information does not specifically imply them having conducted an actual situational analysis of the fact or that they have reviewed the information; the scope of their professional work has to be specified even with the participation of the professional disputed. However, if from the gathered information and after evaluating the information provided by the disputed professional, arises his possible participation in any illicit act, they have to be judged by the Court of Professional Ethics and Discipline and/or the Court of Law, as the case may be. And this evaluation must be carried out in the revenue service by those who take the form of administrative law judges, even though it is not a duty of those officers who do not have such capacity to initiate (by their own will) any investigation thereof.
- The behavior of the professional to be punished by criminal and civil penalties needs to have a suitable causal relationship between the reprehensible situation and the behavior of the professional. The detection of a crime does not necessarily imply the intentional participation of the professional, nor it is valid for the AFIP (Federal Administration of Public Revenue) to become the judge, evaluating the paperwork of the professionals, that, as it has been previously stated, must maintain full professional secret. In case any justified suspicion exists, the corresponding accusation must be reported, enabling the professional to claim their legitimate defense in court. However, it is broadly agreed that if having participated in the crime, they are subject to civil and criminal liability. Furthermore, they shall be liable to the punishment according to the Code of Ethics in force.

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Import VAT does not have to affect your cash flow!

THE NETHERLANDS

In these times of recession, cash flow has become a very important item to companies: customers pay their invoices later, which may result in cash flow problems. Also VAT may have a substantial impact on the cash flow position of companies, for instance when importing goods. Proper planning may offer a solution.

It is true that companies are entitled to a refund of VAT incurred. Therefore VAT should not have an impact on the cash flow position of companies. In practice however VAT does affect the cash flow. This is caused by the fact that several weeks elapse before actual cash is refunded by the tax authorities, since the input VAT should be reported in a monthly or quarterly return which subsequently needs to be processed by the tax authorities. In international situations things are even worse. Refunds of foreign VAT can even take more than a year, depending on the EU member(s) involved.

Another impact of VAT on the cash flow of companies arises when goods are imported in the EU. Companies that are engaged in such importing are faced with VAT upon importing the goods. This VAT can in principle only be reclaimed in their periodical tax return. The import VAT therefore has a major impact on their cash flow position. In some member states facilities have been introduced to defer import VAT.

In the Netherlands companies can apply for a so called 'article 23' license, which enables them to defer the payment of import VAT until the moment of filing the VAT return. In this return the same amount of VAT can also be included as input VAT. This effectively means that no VAT has to be paid to the tax authorities. As a result, the cash flow position of these companies is not affected by VAT on the imports.

An article 23 license can be granted to businesses established in the Netherlands and also to businesses that are not established in the Netherlands but have appointed a fiscal representative in the Netherlands.

On the basis of information available to us we understand that in almost all EU countries VAT has to be paid to the tax authorities at the time goods are imported. If we look at our surrounding countries we conclude that deferring payment of tax can not be applied in almost all countries. In some countries the VAT can be deferred, but only under strict conditions. Only Belgium provided a regulation that is similar to the one in the Netherlands.

The European VAT Directive provides the option to grant a VAT exemption on importation of goods that are intended to be transported to another EU member state immediately after importation. This does not apply to goods that will be stored or sold in the EU member state into which is imported. However, it is possible to suspend payment of import duties and VAT if the imported goods are stored in in "customs warehouse". This facility is available in all EU member states, but the practical formalities vary per country. In all cases the payment of import duties and VAT is suspended until the goods leave the warehouse. Although this regulation temporarily suspends the duties and VAT, eventually the amounts will have to be paid (unless the goods will be exported to countries outside the EU).

Considering the above one can conclude that since import VAT does not have to be pre-financed, it may be beneficial for companies to route the flow of goods through the Netherlands. This may offer some planning possibilities for European companies importing goods from outside the EU. Alternatively, a customs warehouse in other European countries may provide some relief.

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Colombia and the free trade agreement with European Union

COLOMBIA

One of the strategies that Colombia has been implementing to ensure the continued development of its economy is signing trade agreements, especially with countries with a strong and developed economy, such as the United States, South Korea and the European Union. This with the purpose of involving our small, medium and large companies in the new demands of globalization in order to become competent in the international market, increase the foreign direct investment and reduce the unemployment rate.

The European Union is the second largest trading partner of Colombia after the Unites States and the number one regarding Foreign Direct Investment (FDI). According to the DANE (the Colombian entity for the calculation of official statistic data) in 2011, Colombian exports to the EU grew by 76.7% (DANE, 2013), exporting $ 8,868 million USD, while in 2012 exports amounted a worth of $ 8.915 million USD dollars (DINERO, 2013). These figures indicate that exports remained constant for 2012 and although in the last ten years the number of exports to these countries has tripled, Colombia has to keep working hard on a strategy of differentiation to become a more important trading partner globally.

Keeping this in mind, Colombian universities are doing research on the profile of European consumers for the Colombian businessmen to have a clearer understanding of the European market in order to identify potential business opportunities that will allow both parties to benefit from this trade agreement. In addition, for Colombia is very important to maintain this trade agreement that promises a 1.3% growth of the Colombian Gross Domestic Product (EXPORTHELP.EUROPA.EU, 2013). Also to deepen this opportunities, Colombia and the EU are currently exploring the possibility to remove the VISA requirements for Colombians.

Furthermore, according to EUROSTAT, Colombia was the country number 40 in the list of imports by the European Union in 2011, another reason to make a study of the profile of the European consumer. Once there is a higher understanding of the major needs or requirements of the Europeans, there we will be able to build stronger and more durable relationships with all member countries of the EU and achieve a greater importance as a trading partner.

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Compliance in Light of New Brazilian Anti-Corruption Law

BRAZIL

Brazil has recently enacted a new anti-corruption law (Law 12,846), which came into force in February 2014 and is comparable to the United States' Foreign Corrupt Practices Act and the UK's Bribery Act. Along with the existing anti-money laundering law of 1998, it is expected to encourage Brazilian companies to ensure good practices and adopt compliance measures in their business.

Compliance has become a major concern of companies given the complex legal and regulatory systems that govern each sector of the economy, and Brazil is a special case, particularly with its intricate tax, labor and environmental laws and strict foreign exchange regulations. For these reasons, many companies have realized that the institution of an internal body dedicated solely to overlooking compliance with laws and regulations was a necessity.

In fact, under the new law, companies that engage in unlawful activities can now have their penalties reduced if they adopt internal compliance procedures such as implementing regular audits, encouraging the revelation of wrongdoings and applying ethical principles in the business.

Beyond corruption per se, Law 12,846 represses any damage to the Administration or public property, being applicable, for instance, when a certain act will artificially or fraudulently cause lower tax revenues for the government. Some of the conducts that are targeted are promising any compensation to public servants, financing illicit acts, the use of a legal entity to hide unlawful activities or the identity of the true beneficiaries, frauds in public bids or contracts and any obstruction to investigations made by public agents.

Important rules pertaining to mergers and acquisitions were introduced in the new anti-corruption law. Liability persists with the successor, to a certain extent, when a company performs illicit acts against the Administration: penalties and damages are due up to the amount of the transferred assets, but no other sanctions are applied, except in case of fraud. Affiliates (controllers, controlled or sister companies) may also be held jointly liable with the company directly involved in unlawful practices, and so can be the foreign companies with a subsidiary or office in Brazil.

Further consequences to companies that are found guilty of corruption or fraud are the confiscation of assets, suspension of their activities and even compulsory dissolution, in extreme cases.

There are benefits for those who cooperate with the investigation or denounce the involvement of others, which can reduce the penalty in up to two thirds, without affecting the obligation to pay for damages. These benefits apply when the company is the first to collaborate, if the illicit practices have ceased and if the company takes part in every hearing during the investigations.

Brazil has come a long way in the course of the last couple of decades to improve the restraints against illegal practices in the corporate environment. Specific controls over the actions of directors and employees, particularly in large corporations, are becoming a major concern and should be considered by all those willing to set up a presence in the Brazilian market.

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Cyprus Investment Firm (CIF): A good vehicle into the European Investment Arena

CYPRUS

The introduction of the Markets in Financial Instruments Directive of the European Union marked a new era in the regulation of investment firms in Europe. Cyprus has implemented the Directive, offering in this way a flexible and reliable entering point into the EU market for both EU firms that require a license and for non-EU firms that wish to have a place of business in the EU.

The regulatory authority for licensing and monitoring Investment Firms is the Cyprus Securities and Exchange Commission (CySec). After the full application is submitted to CySec, the regulatory authority has the obligation to reply within six months, approving or denying the license. Firms that are eligible to obtain an investment license in Cyprus are Cyprus Firms, Branches of Investment Firms established in other Member States and third country investment firms.

The basic requirements to obtain a CIF license are:

1. At least four directors (two executive and two non-executive),the majority of whom must be Cyprus residents. These should also satisfy the fit and proper test (sufficient good repute, experience, professional knowledge)
2. A General Manager, who can be one of the executive directors, with satisfactory knowledge of the activities of the CIF and must be a Cyprus resident
3. Employees offering investment services must hold the certificate obtained from the Ministry of Finance and be registered under the public registry of CySec.
4. Head offices must be located in Cyprus
5. Fully staffed office with the necessary equipment and substance
6. Accounting procedures and financial statements must be audited every year.

7. Compliance officer to ensure the application of anti – money laundering procedures

CIFs, for taxation purposes, are treated as any other Cyprus legal entity. As such, a 12,5% corporate tax is applicable on net profits realized by the CIF.

Indicative tax treatment of a CIF:

- 0% taxation on dividends received from other Cyprus companies
- 0% taxation on dividends received from non-resident companies (provided that the easily-met participation exemption conditions are satisfied)
- 0% taxation on dividend distribution to non-resident shareholders
- 0% capital gains tax resulting from the sale of securities/titles
- 0% withholding tax on interest paid to residents and non-residents

Cyprus is a highly regarded and popular jurisdiction for obtaining a license for investment purposes, Forex, binary options and others; a door to the investment field and a "passport" to the provision of those services in the European Union.

Over and above the taxation advantages and enhanced tax planning, Cyprus has much more to offer to foreign investors and that is to say the full implementation of the European Directives, the flexibility, the business friendly environment, the great number of Double Tax Treaties and the brilliant support of accounting, legal and banking professionals.

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Transfer Pricing in Serbia: A Taxing Issue

SERBIA

One of the means by which multinationals attribute profit and loss to different countries before taxation, known as transfer pricing, can have a huge effect on a company's end of year figures. Having the appropriate TP documentation in place is a safeguard against potential noncompliance penalties and adverse tax consequences.

According to the Rulebook published in July 2013, the general principles of transfer pricing (TP) in Serbia follow OECD guidelines. The philosophy remains the same and intercompany transactions should be priced in accordance with the "arm's length principle", as described in Article 9 of the OECD Model Tax convention.

A full Transfer Pricing study should include an analysis of the associated enterprises and taxpayer group, taxpayer's industry analysis, functional analysis, selection of the most appropriate TP method, a conclusion and appendices.

The taxpayer should also choose and adopt one or a combination of the following pricing methods:

- The Comparable Uncontrolled Price (CUP) method;
- The Resale Price Method;
- The Cost Plus Method;
- The Transactional Net Margin Method (TNMM); and
- The Profit Split Method.

TP has been around for more than 80 years now in different shapes and forms but effectively the first general guidelines were issued by the OECD back in 1979. Thereafter the first great step was what was called a "White Paper" issued by the US in 1988, which led to the development of detailed and comprehensive Transfer Pricing Guidelines (TPG) and ultimately converted to regulations in 1994.

TP documentation is to be submitted to the tax authorities in Serbia, together with the annual tax return within 180 days of the last date of the tax period. Deadlines in the region vary according to each country's Corporate Income Tax Law.

Companies in Serbia should realize that TP is one of, if not the, most important tax issue on the agenda of all financial authorities. Taxpayers should address with careful consideration the documentation of their related party transactions. Having appropriate TP documentation in place is in all circumstances a safeguard against potential noncompliance penalties and adverse tax consequences.

A TP study is more than just a "read and write study", and requires training in methodology and the obtaining of experience in the use of a comparable database such as Amadeus.

Companies should therefore seek out the right expert advice to eliminate tax risks, as well as achieve harmonization of their business structure with market conditions and TP Regulations.

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The Retirement pensions' tax burden

ECUADOR

Introduction to the problem

Citizens and entrepreneurs who want to improve the "pension", that means the value that is received or is intended to be received by people once they reach a certain age and which allows them to cover their living expenses once they are not longer working or generating resources, known as "retirement pension" or "old age pension"; are looking for alternatives in private pensions systems in order to improve the pension granted by the Ecuadorian Institute of Social Security (IESS)[1]

The largest amount that someone can receive as retirement pension in 2014 is $1,870.00

Improvement of the pensions

There is an habitude, based on the legitimate people's precaution, like investing on private retirement plans in order to improve the retirement pension offered by the Government, by giving contributions and savings for a determinate period of time to private institutions; so they can be benefited from an old age pension to cover living expenses, which can be higher when the person doesn't have the old time's strength and health.

Do the retirement pensions given by the IESS pay income tax?

The Ecuadorian tax regime applies the "minimum exempt" principle to recognise that a certain type of incomes, before to enrich a person, are used to cover basic living expenses (health, feeding, dressing, education) which don't have to be taxed with income tax.

So, in 2014 the **"exempt basic fraction"** or released of taxation consists on a net income (income minus expenses) of **US $ 10,410.00** for natural persons; the deduction of "personal expenses" must be added as well, that means, those values that are intended to cover living expenses and are not related with the income taxable activity, and which can reach **US $ 13,533.00**, additional to the exempt fraction. Those values can be strengthened under the conjugal partnership regime.

Within these incomes, and distanced from the remunerations under working relationship (salaries and wages); the retirement pensions received by someone who has contributed at least 40 years, and which have been received by the Government (IESS) are exempted of income taxation; regardless of the amount. So, the 7th numeral of the 9th article of the Internal Tax Regime Law, establishes:

"Chapter III

EXEMPTIONS

Art. 9.- Exemptions.- For purposes of determination and settlement of income tax, only the following incomes are exonerated:

7.- Those received by the beneficiaries of the Ecuadorian Institute of Social Security, for any kind of benefit granted by this entity; the retirement employer's pension under the provisions of the Labour Code; and, those received by the members of the Army and Police from the ISSFA and ISSPOL; and the pensioners of the Government;"

Do the retirement pensions that ARE NOT given by the IESS pay income tax?

Yes. So that the exemption of taxation is subjective; because it depends on the entity that pays the retirement pension, so that if it comes from the IESS it is exempt; and, if there exists a complementary pension from the private sector, it will be income taxed on the person; who could pay up to 35% of tax income.

The perception of justice and injustice, can't be restricted to an analysis of legal and constitutional principles of the rule, because as many people could realise, a common financial investment could be conceptualise as a retirement pension in order to distract tax payment, which could justify that only the retirement pension payed by the Government would the only exempted.

Opinion of the Tributary Administration

The Internal Revenue Service answers on its Notification 917012012OCON001745, published on the Supplement of the Official Paper 143 of 13 December 2013, to the Employer's Retirement Found of the Municipality of Quito, who consulted the following:

"If the incomes received by the participants or their rightful claimants, coming from their retirement pensions or death settlements, are or are not taxed with the income tax, according to the provisions or taxable event established by the Internal Tax Regime Law."

The Tributary Administration, once it considers that the income tax exemption applies as a subjective exoneration over the person who pays it, concludes that the values payed by the Special Employer's Retirement Found of the Municipality of Quito, whose legal nature is a non profitable entity; to any person under the manner of "retirement pension" is taxed with income tax over the receiver.

The Tributary Administration answers:

"Replying: Only incomes received by the beneficiaries of the Ecuadorian Institute of Social Security, the Army Social Security Institute and the National Police Social Security Institute, and those given by the employers under the provisions of the article 216 of the Labour Code; are exempted of Income Tax payment.

Therefore, the incomes received by the participants or their rightful claimants, coming from the Special Employer's Retirement Found of the Municipality of Quito, non profitable private law entity, are taxed with Income Tax."

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The Indian Companies Act 2013 - A Paradigm Shift

INDIA

The recently enacted Companies Act 2013 (the '2013 Act') is a landmark legislation and is likely to have far-reaching consequences on all companies operating in India. The 2013 Act is expected to facilitate more business-friendly corporate regulations, improve corporate governance norms, enhance accountability on the part of corporate and auditors, raise levels of transparency and protect interests of investors, particularly small investors and reduce the number of required Government approvals.

Major Highlights of The 2013 Act

- One Person Company (OPC) - a new vehicle for individuals for carrying on business with limited liability
- Credit rating made mandatory for acceptance of public deposits
- 2% of average net profits of last 3 years to be mandatorily spent on Corporate Social Responsibility by certain class of companies
- Companies to have a uniform financial year – ending on 31 March each year
- **National Financial Reporting Authority (NFRA)** to be constituted by Central Government to provide for dealing with matters relating to accounting and auditing policies and standards to be followed by companies and their auditors
- Restriction placed on provision of specified non-audit services by an auditor to ensure independence and accountability of the auditor
- Mandatory internal audit for prescribed classes of Companies
- At least 1 director of a company shall be a person who has stayed in India for 182 days or more in the previous calendar year. Existing companies to comply with this provision within 1 year from the date of commencement of 2013 Act.
- Listed and prescribed class of companies to have at least 1 woman director. Existing companies to comply with this provision within 1 year from the date of commencement of 2013 Act.
- Electronic voting for Board and shareholders meetings Introduced Merger of Indian company with a foreign company Allowed
- Person / group of persons holding 90% or more equity shares by virtue of amalgamation etc. can purchase the remaining equity shares of the company from minority shareholders
- Provisions relating to class action suits introduced
- Central Government to establish Serious Fraud Investigation Office for investigation of frauds relating to a company

Rotation of Auditors- A welcome step

Overview of significant changes

1. Listed companies and companies belonging to prescribed class of companies will not appoint or re-appoint the auditor for:

   (a) More than two terms of five consecutive years, if the auditor is an audit firm
   (b) More than one term of five consecutive years if the auditor is an individual

2. The auditor, who has completed his term, will not be eligible for re-appointment as auditor in the same company for five years from completion of the term. This restriction will also apply to the audit firm, which has common partner(s) with the outgoing audit firm at the time of appointment.

3. The revised Guidelines of Network, issued by the ICAI, require that where rotation of firms is prescribed by any regulatory authority, no member firm of the network can accept appointment as an auditor in place of any member firm of the network which is retiring.

4. All listed companies, particularly companies, which have long-term relationship with auditors, need to gear-up for rotation. This will help companies to work closely with proposed auditors and ensure compliance with strict independence requirements upfront. Many global companies have listed subsidiaries in India. Typically, they prefer firms, which are part of common network, as their global auditors. This is expected to create some challenging situations

On contravention of law

5. Where, in case of audit of a company being conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, whether civil or criminal as provided in this Companies Act, 2013 or in any other law for the time being in force, for such act will be of the partner or partners concerned of the audit firm and of the firm jointly and severally.

6. NFRA may investigate either suo moto or on a reference made to it by the Central Government on matters of professional or other misconduct by any member/firm

of chartered accountants. If professional or other misconduct is proved, NFRA has the power to make order for:

(a) Imposing penalty of:
   (i) Not less than INR 1 lakh, but which may extend to five times of the fees received, in case of individuals, and
   (ii) Not less than INR 10 lakh, but which may extend to ten times of the fees received, in case of firms.

(b) Debarring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountants of India for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the NFRA.

7. Members or depositors or any class of them may claim damages or compensation or demand any other suitable action from or against the auditor including audit firm of the company for any improper or misleading statement made in his audit report or for any fraudulent, unlawful or wrongful act or conduct.

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Holiday homes in Spain - a potential tax trap

GERMANY

Spain and in particular its island Mallorca is a very popular holiday region especially among Germans. Buying and owning a holiday home there require a detailed consideration concerning both Spanish and German tax issues.

Holiday homes in Spain used for both private purposes and for rent owned by Germans obviously have fiscal consequences in Spain; tax effects in Germany for such real estate have to be considered as well. Due to Spanish tax laws it is often recommended that real estate is bought not by the individual person himself/herself but rather by a Spanish limited company. The sole shareholder is a German individual person with residence in Germany. As per our understanding, Spanish inheritance tax is not applicable, if a person in Germany receives the shares in line with the succession. Spanish inheritance tax would be applicable, if no limited company was implemented. Also the Spanish increase-in-value-tax can be avoided by such a tax structure. Focusing on Spanish tax laws, the implementation of a limited company is a good means to avoid Spanish taxes.

German (corporate) income tax is applicable which does require a closer look: Profits of the Spanish limited company transferred to the German individual person can be taxed in Germany according to Art. 10 double tax treaty between Spain and Germany.

Not only the monetary profits of the limited company can be taxed. The use of a holiday home itself can have fiscal consequences in Germany. The use by the sole shareholder is often free of charge. He/she does not pay rent to the limited company. This free use basically is a hidden distribution of profits between the Spanish limited company and its German shareholder according to German tax law. A hidden distribution of profits can be assumed since the free use would not be granted to everybody. It is only granted to the sole shareholder and close relatives. The hidden distribution of profits results in taxable income of the shareholder in Germany. German tax authorities apply German tax regulations although a Spanish limited company is involved. The hidden distribution of profits has a value of the potential rental fee for the time spent in the holiday home. Shareholders who own 10% or more of a limited company abroad are required by law to inform the German tax authorities about owning a limited company abroad. Hidden profit distributions are often revealed in a tax examination by the tax authorities years later after the first (but not final) tax assessment. High interest payments are just one of several consequences.

Further tax issues can arise when the holiday home (= part-time home) becomes the one and only home and the (other) German domicile is abandoned. The German Foreign Transaction/Expatriation Tax Act (AStG) requires the taxation of potential capital gains (for example: purchase price EUR 200.000,00, value at time of emigration: EUR 300.000,00 – a capital gain of EUR 100.000,00 has to be taxed). Such a taxation is mandatory, even if the limited company and its sole shareholder do not get any cash. In most cases the payment date for taxes on such capital gains is (endlessly) postponed. But the liquidation of the limited company or the transfer of the real estate to someone not living in the EU automatically terminate this postponement. Then taxes have to be paid for an act that did not result in liquidity.

The double tax treaty between Spain and Germany was changed with effect as of year 2013. Art 13 para 2 of the treaty allows Spain to tax profits of a sale of the shares of such a limited company. The new rule reflects the OECD Model Convention. Before 2013 Germany had the right of taxation of profits. Changes in the double tax treaty also have to be considered.

Spending the vacation in an own home in Spain is a dream for many people living in a county north of the Alps. Nevertheless in order to avoid a rude awakening cross-border consultation is necessary. Most clients prefer a detailed tax consulting rather than unexpected tax assessments.

Holiday homes in Spain are just one example. Cross-border investments for both private and business purposes should be discussed and examined by consultants in the countries involved in order to avoid tax traps.

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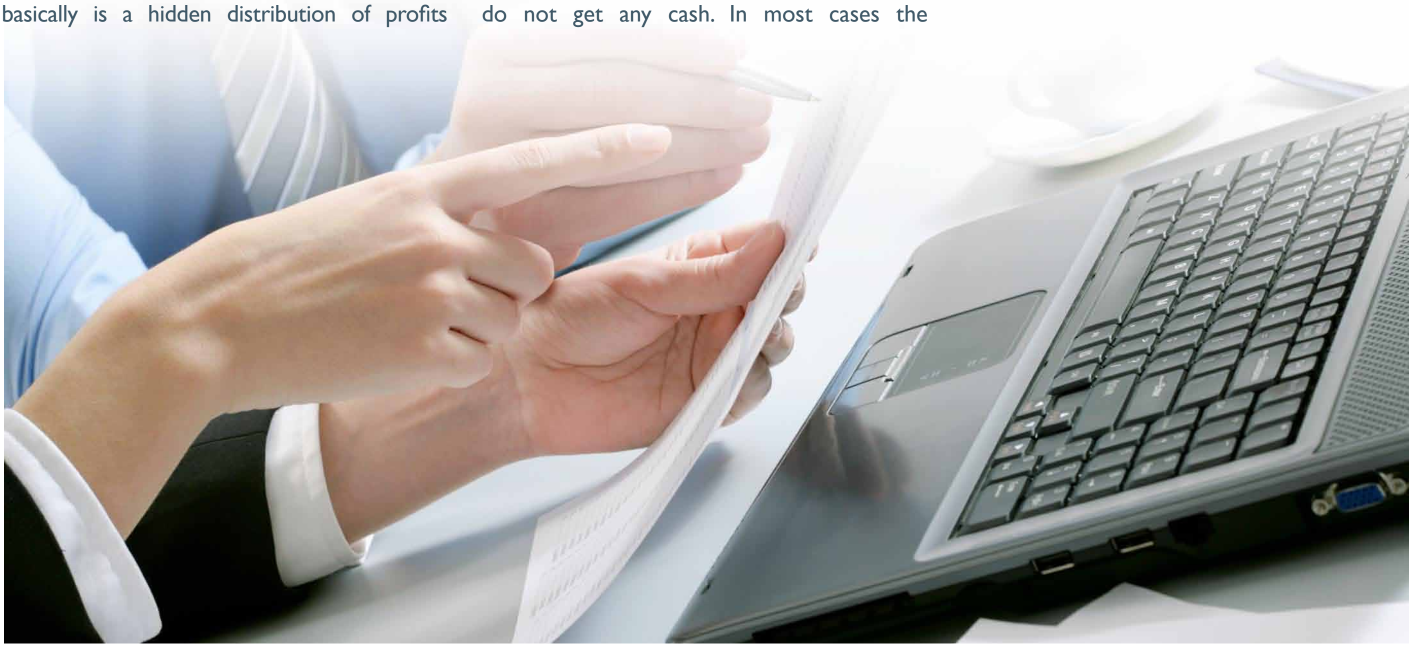

Granting residence permits to non-EU citizens in Greece

GREECE

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

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

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

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

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

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

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

The new provision for granting of a residence permit does not establish the right to access to any form of work, and also the relevant period (five years) will not be counted for granting citizenship.

Additional information:
In order to obtain a residence permit, a passport or other travel document recognised by international conventions is mandatory.The residence permit is issued by the decision of the General Secretary of the Region.

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

Eurofast

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Tax treatment of the income by sale of shares from a non-Mexican resident company to a resident company

MEXICO

Mexican Law establishes income tax obligation for payment of that tax on individuals and corporations resident in Mexico, over all its incomes, regardless of the location of the source of wealth in which they arise, as well as payment of tax for residents abroad regarding income from source located in Mexico.

In the same way Income Tax Law provides that tax revenues are subject obtained by the sale of shares, being subject to the tax gains realized by the sale thereof

They are also the following list which have the same treatment of the shares:

1. Equity contribution certificates issued by the national credit.
2. Social Parties.
3. Contributions in civil societies.
4. Ordinary participation certificates issued by trusts for shares issued pursuant to the Foreign Investment Law.

Treatment for purposes of this tax profits earned by a Mexican company in the sale of shares to another Mexican company is to accumulate this utility to their other income for both interim payments to calculate the annual tax.

Individuals are treated differently, since they will have to take the following steps:

1. The buyer if resident in Mexico or abroad but resident with a permanent establishment in Mexico of the total sale of the shares to the seller will retain the same 20%, and paid by the seller to the Tax Administration Service .
2. The seller must accumulate to their other income on their annual tax the profit on sale of shares, calculate tax and deduct the payment from the buyer by the seller.
3. Payment of 20% can be diminished if the operation of share purchase is examined by a CPA.

It is important to note that a disposal of shares in which the seller is resident abroad, is considered a source of wealth in Mexico, where such shares are issued by companies resident in Mexico or the book value of these shares come directly or indirectly more than 50% of real property located in the Country.
In such cases, the fee is calculated on 25% of the total operation, without any deduction and shall be made by the acquirer and aware to the Internal Revenue Service, however if the seller, residing abroad, have a legal representative in Mexico They can choose to apply the tax rate directly on the revenue as long as the operation is examined by a CPA.

Buyer must extend a record retention and should be considered that the retention rate may vary in accordance with international treaties to avoid double taxation.

The seller will credit in their country withholding tax paid in Mexico

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Bitcoin - a Financial-Digital Revolution in the Banking Sector

ISRAEL

Recently, internet and financial worlds are found in the process of merging and some even consider them to be on a collision course. They say it will be only a matter of time until the virtual world will take over economic tools of the old economy and will develop independent financial tools and instruments.

In general, a virtual currency gains momentum in the world as a digital and decentralized one. Nowadays, there is no financial institute or central bank which is responsible for currencies issue and for its exchange course; but, actually, collaborative internet network of computers issues in accordance with the rules of defined programs which are open and accessible to all.

Bitcoin (*https://www.weusecoins.com/en*) is only one of a variety of virtual currencies existing today in the internet but it is considered the most prevalent and popular.

Bitcoin, the virtual currency – the new world of finance

Many governments as well as traditional banking around the world feel suspicious about revolutionary financial event of the decade. Just like any new phenomenon is initially being met with hesitation, so in this case the same. About five years after the "invention" of the first Bitcoin (2009), first signs of reference from the international banking sector appear. Nevertheless, most of the comments are negative. It is impossible, however, to ignore public opinion and the "wisdom of the crowd" will obviously prevail once again and will force economy to recognize the innovative financial activity.

The federal government of the USA treats negatively to the new invention and recently even began to send an abundance of warnings to the American public. Nevertheless, a first sign of trend change is visible in USA and derives mainly from the fact that the public is trading in increasing volumes of virtual currency.

Germany was the first country to display a positive attitude by recognizing the new currency. Towards the end of 2013, the federal authorities of Germany announced that the government from now on recognizes Bitcoin as a monetary unit. While, according to decision of the German Ministry of Finance Bitcoin is recognized as"private money" and that the "mining" of such currency considered as a private issuing of currency. This means that it will be possible to impose tax on part of the currency activities.

Bitcoin, the virtual currency – does it create a "tax haven"?!

"Tax haven" is a wide-used term for a place where it is possible, legally or illegally, to avoid tax payment. Since the basic idea of Bitcoin is a confidential currency trade, Bitcoin phenomenon challenge regulators, tax and governmental authorities,

The general idea of Bitcoin is that a user has a virtual "wallet" that can be accessed from any place in the world via protected access code. The money is not deposited in a certain country or area but exists as confidential and protected information in the internet and can be accessed only by wallet's owners.
No country in the world can claim "ownership" of the "bank" and therefore the state has no supervision or control of the bank's assets or client's assets and accounts.

Therefore, the great concern that must bother not only legal authorities but whole community is that the privilege with no regulation may arouse negative or even criminal elements while conducting bank transactions and trading for illegal purposes. However, authorities' concerns refer to reporting loss; supervision and taxation of the normative citizens who were, until now a subject to the strict control of the firm banking system.

Bitcoin, the virtual currency – taxation challenges of the new world

Tax issues challenge authorities worldwide, but still, their interpretations will set the final count and turn into accepted norm.

The main tax issues are:

- Bitcoin definition - commodity, asset or currency;
- International and national Bitcoin VAT;
- Bitcoin/local currency exchange rate;
- Bitcoin taxation – as a capital income or capital gain?
- Exchange rate differences of Bitcoin at a cutoff date, reporting date or exercise date and currency conversion;
- Trade between Bitcoin and other virtual currencies in recent years.

It must be assumed that in coming years every country will create its own mechanism for taxation and reporting on trade by Bitcoin and trade of Bitcoin as a financial tool.

We believe, since most of countries have not yet defined instructions and standards, all these practical professional issues must be treated the same way we treat any other deal conducted on the basis of cash equivalent in accordance with internal instructions of specific country where a deal was carried out.

Previously to submitting a report regarding the deal, Bitcoin should be converted to local currency according to local law relating to date of the deal and Bitcoin/local currency exchange rate.

We assume that in order to determine the exchange rate it is worthwhile to collect written proof about sales rate of the currency from a number of popular internet sites dealing with the conversion of currency to local currency or to a popular currency such as Euro or USD. Moreover, we recommend quoting average exchange rate in order to report about the deal in terms of local currency.

The virtual currency and international taxation

As mentioned before, Germany was the first country that adopted a positive attitude and recognized Bitcoin as an official currency, as "monetary unit" and as "private money", undertook initial efforts to institutionalize its supervision and activity and even published directions in this field. This means that German tax authorities will be able to impose taxes on commercial profits from business activities connected with Bitcoin. While at the same time, it seems like German tax authorities do not intend to impose taxes on private use of Bitcoin or on the possession of Bitcoin for more than a year. However, it seems that Germany will impose tax on profits from exchange activity with Bitcoin similar to the tax it imposes on capital gains.
Since the end of 2013, also the Norwegian, the US and the British tax authorities released official communications addressing the problem of virtual currency and taxation.

The research department of the European Central Bank (ECB) published that Bitcoin constitutes a potential threat to an international monetary order. The ECB's concern, regarding the loss of control over the money, reflects the fear of the disturbance of the "international order" of traditional banking and a publication of this kind reveals, in our opinion, the massive precedent that was posed by the use of private money.

Bitcoin, the virtual currency – the future arena of financial trading

In our opinion, virtual currency trade by Bitcoin and others will turn them into a legitimate currency that cannot be ignored any longer in next few years, for sure. Moreover, the virtual currencies may even become an international currency and trading system of the future. Therefore, there is no doubt that governments as well as the tax authorities will be have to accept a virtual currency as a legitimate tool.

In the coming years, the virtual trade will challenge us as the experts in the field, with countless interesting issues for quality opinion and consultancy for our customers. The earlier we will understand and deepen our understanding in the field the better we will be in a position to supply legal solutions for legitimate tax savings to customers and companies that are developing in the financial world of the future.

We recommend to create a virtual "wallet" and to start getting active in the field –the future is already here!

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Registration for VAT purposes in Italy of non-established taxable persons

ITALY

Non-established taxable persons (e.g. individuals, limited liability companies, partnerships) who carry out business in Italy without having a permanent establishment in Italy, have to register for VAT in certain cases, e.g:

- **Supplying and delivering goods from another Member State to non VAT-registered customers in Italy.** Common examples are mail order and internet sales, this is known as distance selling (Ital: vendite a distanza). The non-established taxable person has to register for Italian VAT if the value of the distance sales is more than 35.000 Euro in a year.
- **Supplying and delivering goods within Italy to non VAT-registered customers.** E.g.: Müller GmbH is established in Germany, buys goods in Venice and sells them to its non-VAT registered customer in Milan. If the goods are dispatched from Venice to Milan, the non-established German firm has to issue an invoice with Italian VAT. If in this case the customer is an established taxable person, a particular reverse charge rule (Art. 17, par. 2, Italian Law DPR 633/72) is applicable and the non-established taxable person has not to issue an invoice with Italian VAT.
- **Performance of certain services to non-VAT registered customers in Italy:** In case of supply of services connected with immovable property performed by a non-established taxable person to non-VAT registered customers, the non-established person has to register for VAT in Italy.
- **Construction work:** If the subcontractor and the main contractor are non-established taxable persons, the main contractor has to register for VAT in Italy (general rule).
- **Intra-community acquisitions or importation of goods in Italy or Intra-community supply or exportation of goods from Italy** carried out by a non-established taxable person.

It is recommended to verify case-by-case whether a VAT registration in Italy is necessary.

In order to register for VAT purposes in Italy the following procedures are applicable:

- **Non-established taxable persons from other Member States:** they can "directly" register for VAT (Ital.: identificazione diretta) or appoint a tax representative (Ital.: rappresentante fiscale). In the first case, the non-established taxable person must keep VAT records and is liable for any VAT debts incurred by the business. In the second case, the tax representative is jointly and severally liable for any VAT debts incurred by the business and he must keep VAT records and accounts for Italian VAT on behalf of the non-established taxable person he represents.
- **Non-established taxable persons from outside the European Union:** They have to appoint a tax representative in Italy.

Late registration – High penalties foreseen by Italian law

In case of late VAT registration, the Italian VAT due from the time that the non-established taxable person should have registered for VAT has to be paid to the Italian tax authorities.

Additionally, in case of late VAT registration, the **administrative penalty is equal to 100% of the VAT** and **further administrative penalties (30% of the VAT)** and **interests on late payments** are due. The Italian tax law contains some possibilities for reduction of the penalties, but compared to other Member States the penalties in Italy are very high. In particular situations of late registration, criminal law rules are applicable.

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Luxembourg (Special) Limited Partnership in the framework of the Alternative Investment Fund Managers Directive (AIFMD)

LUXEMBOURG

The Alternative Investment Fund Managers Directive ("AIFMD") came into force on 21 July 2011 and EU Member States had to transpose the framework into national law by 22 July 2013. Luxembourg was one of the first jurisdictions to transpose the AIFMD into its national law and has attractive features to answer the needs of the alternative investment funds industry.

The AIFMD is reshaping the alternative investment industry

The AIFMD arose out to address the concerns raised by investors following the 2008 financial crisis, notably the perceived lack of regulation surrounding alternative investment funds ("AIFs"). Therefore, the AIFMD aims to create a comprehensive regulatory and supervisory framework for asset managers wishing to manage AIFs within the EU. The directive applies to the managers of alternative investment funds, including all funds that are not regulated under the directive governing undertakings for collective investments in transferable securities ("UCITS") such as hedge funds, private equity funds, property and commodity funds.

Thus, EU AIFMs, non-EU AIFMs managing EU AIFs, and non-EU AIFMs who market their AIFs in the EU must be registered and comply with a set of rules including strict authorization requirements, limits on leverage, risk management, valuation, remuneration schemes and transparency requirements. One of the major provisions of the AIFMD is the introduction of a passport allowing managers domiciled in the EU to market EU AIFs they manage to professional investors across the EU.

Luxembourg leverages the AIFMD to enhance its attractiveness

Luxembourg is recognised as an important hub for distribution activity in the UCITS space and the AIFMD is expected to add strongly to these flows. Indeed, Luxembourg has developed a strong track record in the investment fund industry and the country is Europe's largest investment fund centre and world's second largest after the US.

In Luxembourg, the AIFMD has been implemented in a favourable legal and regulatory framework for investment funds. Luxembourg has notably a variety of vehicles which are well suited to the requirements imposed by the AIFMD (FCP/SICAV/SCA, SIF regime, SICAR). Besides implementing the AIFMD, Luxembourg has reinforced its legal framework to enhance its attractiveness for alternative investment funds and more particularly in the fields of private equity, hedge funds and real estate funds.

Hence, Luxembourg has modernized its limited partnership ("SCS") regime on 10 July 2013 through the bill of law n°6471 ("the Bill") and has introduced the special limited partnership ("SCSp"), the partnership being considered as the most appropriate structure to answer the needs of the alternative investment funds industry. The Bill allows notably for greater legal flexibility as well as full tax transparency and tax neutrality. The VAT exemption applicable to investment fund management services was broadened and a specific tax regime for carried interest was introduced.

The main specificity of the SCSp is that, unlike the SCS, it is not vested with legal personality. The new SCS and SCSp can be compared with the Anglo-Saxon Limited Partnership, whose success mainly lies in the corporate flexibility and tax transparency it provides.

In principle, the SCS is treated as tax transparent with respects to Luxembourg corporate income tax ("CIT") and net worth tax ("NWT"). Nonetheless, the SCS and or its non-resident/resident partners may currently be subject to Luxembourg taxation in the following cases:

- In the case where the SCS performs a commercial activity through a permanent establishment generating business income in Luxembourg.The SCS will then be subject to municipal business tax ("MBT"), and its non-resident/resident partners will be subject to (i) CIT on the SCS's income and (ii) NWT on SCS's worth (unless exemptions apply).
- If the General Partner of the SCS is a Luxembourg company performing an activity of a business nature based on its legal form, the whole activity of the SCS will be deemed to be commercially tainted for Luxembourg direct tax purposes. Consequently, the SCS will be subject to MBT, unless exemptions are available, and the non-resident and resident partners will be subject to CIT and NWT (unless exemptions apply).

Since the ratification of the Bill in July 2013, the SCS and the SCSp may be fully tax transparent with respect to CIT and NWT provided that:

- The General Partner(s) takes the form of Luxembourg company(ies) and that they/it hold(s) less than 5% of interest in the SCS/SCSp, the income of the SCS/SCSp will no longer be deemed to be a business income.
- The activity of SCS/SCSp is limited to private wealth management (which generally corresponds to the activity of private equity and real estate funds), the income of the limited partnership should not be classified as business income. Consequently, no permanent establishment should be recognized, especially for municipal business tax ("MBT") purposes.

In addition to its favourable legal framework, Luxembourg provides AIFs with resources and sophisticated expertise covering the full range of fund services, including administrators, transfer agents, custodians, lawyers, auditors. Moreover, Luxembourg's know-how continues to develop by attracting varied industry experts in key areas such as governance and risk management.

Conclusion

The AIFMD is more than a reporting or a compliance directive as it impacts significantly every actor across the alternative fund management. In this context, Luxembourg grasped the opportunity to introduce a more favourable tax regime for limited partnerships in the Bill transposing the AIFMD by providing greater transparency in terms of taxation regimes. In a nutshell, Luxembourg carries on being a choice destination for alternative managers with the ability to support new products, leveraging strategies and structures.

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Income obtained in Spain without a permanent establishment. Tax rates

What are the different tax rates that apply to income obtained without a permanent establishment by non-resident income taxpayers?

SPAIN

- As a general rule (see table).

Year of return	Up to 31-12-2006	2007-2011	2012-2014
Tax rate	25 %	24 %	24.75 %

- Wages perceived by individuals not residing in Spanish territory by virtue of a fixed-term contract for seasonal workers, according to what has been established in the labour law, 2% (effective as of the 1st of January 2002).
- Dividends and other earnings derived from the stake in funds of an organisation. The tax rate depends on the year of return (see table).

Year of return	2003-2006	2007-2009	2010-2011	2012-2014
Tax rate	15 %	18 %	19 %	21 %

- Interest and other earnings obtained by assignment of own capital to others. The tax rate depends on the year of return (see table).

Year of return	2003-2006	2007-2009	2010-2011	2012-2014
Tax rate	15 %	18 %	19 %	21 %

- Pensions and other similar services perceived by individuals who non-residents in Spanish territory any who is the person who has generated the law to its perception. They will be taxed according to the following scale.

(Until 31/12/2006) annual pension Amount --- Up to Euros	Rate --- Euros	Remaining pension --- Up to Euros	Applicable rate --- Percentage
0.00	0.00	9,616.19	8 %
9,616.19	769.30	5,409.11	30 %
15,025.30	2,392.03	and over	40 %

(From 1/1/2007) annual pension Amount --- Up to Euros	Rate --- Euros	Remaining pension --- Up to Euros	Applicable rate --- Percentage
0.00	0	12,000	8 %
12,000	960	6,700	30 %
18,700	2,970	and over	40 %

- Work incomes of individuals who do not reside in Spanish territory, provided they are not income tax payers, who lend their services in Spanish Diplomatic Missions and Consular Representations abroad, if the the specific norms of the International Treaties to which Spain belongs are not applicable. They will be taxed by 8%.
- Incomes resulting from reinsurance operations, 1.5%.
- Maritime or air navigation entities resident abroad, whose ships or aircrafts touch Spanish territory, 4%.
- Capital gains derived from the transfer or reimbursement of shares or holdings representing the capital or assets of collective investment institutions are taxed at the applicable rate of the year in which the income was accrued (see table).

Year of return	2003-2006	2007-2009	2010-2011	2012-2014
Tax rate	15 %	18 %	19 %	21 %

- Other capital gains that are stated when transfering assets; the tax rate varies according to the year of return (see table).

Year of return	2003-2006	2007-2009	2010-2011	2012-2014
Tax rate	35 %	18 %	19 %	21 %

- Royalties between associate companies, paid to a company resident in an EU Member State or to permanent establishment of said company in another EU Member State, 10%, provided that certain requirements are fulfilled (effective from 1 January 2005 and until 30 June 2011; as of 1 July 2011 it becomes a case for exemption).

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Nominative shares: more anonymous than bearer ones?

URUGUAY

Nearly two years of the entry into force of the law Nº 18.930 and having expired the deadlines to regularize the situations of those societies that were in the dilemma regarding nominating their shares or keeping them bearer, today it could be said that in general terms companies have adapted to the new legal requirements.

Nowadays, nominative shares have gained greater relevance to some investors, and the fear that used to exist regarding the registration of the ownership of the shares has been moved to bearer shares. This insecurity persists even with the obligation to maintain "banking secrecy" to all information that the Central Bank of Uruguay (CBU) has and that arise from the communication of the ownership of the bearer share.

Those corporations that are still in the dilemma weather continuing with bearer shares or switching to nominative shares, should take into account that from May 1st, 2013 all bearer company shares should be registered to the CBU. The procedure laid down in article 17 of the law Nº 18.930 continues in force by which societies which opt for the nomination can use it, since it offers a more agile and economic system. Once the society has complied with the procedure of nomination of shares, it shall communicate the unsubscription of the registry made to the CBU and the Directorate General of Taxes so as the latter takes cognizance of the fact that the shares became nominative.

For those companies that have not complied with this requirement, the last April 2nd the Directorate General of Taxes dictated the resolution No. 1176/014, which establishes a special term to comply with this communication by paying a minimum fine.

It is important to notice that those societies which have not notified CBU the shareholders of the proprietors of the bearer shares, it can be done by each holder personally for his participation in each society.

Besides, it must be taken into account that the breach of communication causes sanctions for both society and holders of the shares.

One of the most serious sanctions for the entity is the suspension of the Certificate that proves the company is current with tax obligations.

Furthermore, there is a fine which amount will be up to one hundred times the maximum value of the fine for contravention established in the Tax Code, which is approximately equivalent to dollars 24.500.

Apart from that, holders cannot receive dividends, profits or remaining in case of liquidation of the society, and in case of perceiving it, they will be punished with a fine up to the amount improperly distributed. Without prejudice to pecuniary responsibility that can correspond to the issuing entity, and its legal and voluntary representatives.

In conclusion, this new record of the CBU makes a lot of people think weather it is really convenient a company with bearer shares or one with nominative shares.

Also remember that from January 1st of the current year, the sale of bearer shares is taxed by, Income Tax non-residents and Personal Income Tax, as well as the sale of nominative shares.

The question then is the following: nominative or bearer shares? Everything suggests that the trend will be towards the former, since there are no benefits from a fiscal point of view, and the fact of having to identify the holders to the CBU, makes the holding of nominative shares most "anonymous" than the holding of bearer shares.

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