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Argentina is wiping its tears away

ARGENTINA

Argentina has not been an easy environment for investors for a long time. For more than 10 years Cristina & Nestor Kirchner's government maintained a strict isolationism policy through monetary exchange manipulations and restrictions, defaulting on its debt and seeking alliances with countries with severe credibility issues.

The new administration made a 180 degrees turn. In the words of the new president, Mauricio Macri "Argentina has decided to take its place in the global landscape". He designated a new cabinet of ministers composed by first rate professionals coming from the private industry. In two months they lifted most of the international capital flow restrictions and eliminated many distortive taxes on exports. After the Davos meeting an inflow of 15Bn USD in direct investments are expected just for 2016.

The Macri administration faces three significant issues in the short term:

- Settle the dispute with the holdouts on the defaulted debt.
- Reduce inflation today in the 25% to 30% range, without generating a recession.
- Consolidate a political base strong enough to maintain the policy changes under way

Even though all these objectives are quite challenging, there are strong indications of advances in all these fronts: Macri made a firm offering to the debt holdouts, a war on inflation is under way in the form of a 4 years plan with inflation targets. At the same time, he achieved a series of alliances with multiple opposition factions that will allow him to face a weaker than expected opposition in congress.

But not all are good news. Interest rates are well over 30% and no long term credit is available. The the owners of small and medium companies have serious difficulties to advance on new projects and adapt their operations to this new context.

Nowadays Argentinean public stocks trade at 4-5 EV/EBITDA in comparison with a 10-11 EV/EBITDA of the region. If we focus on private equity the scenario is similar: they are aware of their potential profitability but are conscious that an investor will only validate a relatively low pricing for the time being.

History shows that those that were able to foresee a "spring" in Argentina's economy and acted accordingly made significant profits. Of course, the key question is whether this is such a time or not.

¿So, is it? Well, I am sorry, I don't know. It seems likely that in the next 4 to 6 months there will be enough indications one way or another. Should you be an investor with interests compatible with the country core businesses (such as agribusiness, mining, Oil&Gas, tourism and probably software) our suggestion will be to get ready, investigate and start generating contacts to be ready should this opportunity get confirmed.

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The Belgian approach for simplifying accounting administration

BELGIUM

With the law of December 18 2015 the new European accounting directive was introduced into Belgian law, which was a delicate operation as the thresholds for defining small entities are not only used for accounting purposes but also for tax purposes. The more entities are shifted into the category of small entities, the more companies can benefit from tax advantages, and hence, the more the Belgian will suffer. Therefore, once again the Belgian government has proven to have an excellent sense for compromise. The existing thresholds were merely indexed and led to the new references applicable as of January 1, 2016: 4,5 Million EUR of balance sheet total, 9 Million € of revenue and 50 FTE.

Another amendment is related to the computation method. Up to 2015, the test was carried out on a consolidated basis, which means that balance sheet and revenue of other group related entities were taken into account to determine whether a company fulfills the requirement for being defined as a small entity. As of January 1, 2016 testing of the thresholds is carried out on an individual basis except for mother companies and entities that are part of a consortium.

As such a test on a consolidated basis requires the preparation of consolidated figures and small groups do not always have such consolidated financial statements available, the new law tolerates a simplified computation method that consists of multiplying the sum of the group entities' figures with 120 % (without any further consolidation exercise necessary).

However, as Belgian legislator had to tackle the problem of the budgetary impact of the increase of thresholds, it was decided that the computation of the thresholds on an individual basis and not on a consolidated basis is not applicable for determining the fiscal definition of a small entity.

Consequently, a small entity as defined by accounting law or corporate law, may not always benefit from the fiscal advantages that are granted to small entities, as the fiscal law may in some cases define such entities as being non- small.

Another example of a typical Belgian compromise is the social balance sheet, a three page appendix that was part of the Belgian financial statements and that provides details on employment, recruitments and lay-offs, employment subsidies etc.

As the European directive forbids national legislators to add to the financial statements of micro and small entities other data than those foreseen by the Directive, the social balance sheet was doomed to disappear as an appendix to the financial statements.

Once again a typical Belgian compromise negotiated under the pressure of the labor unions provides the solution: the social balance sheet will from 2016 be disclosed as a separate document, that is not part of the official financial statements, but that will be part of the set of documents that must be published. Which brings us to the conclusion that the European drive for administrative simplification does not always lead to real simplification, but rather to the contrary.

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Bulgaria and United Kingdom sign a new treaty for avoidance of double taxation

BULGARIA

On 26 March 2015, the Republic of Bulgaria and the United Kingdom of Great Britain and Northern Ireland signed a new Treaty for the Avoidance of Double Taxation which will replace the currently applicable DTT signed in 1987. The new Treaty introduces rules which considerably differ from the provisions in force.

SCOPE OF TAXATION

The existing taxes to which the Convention shall apply are taxes on Interest, Royalties and Gains from the transfer of shares and interests.

TAXATION

Income derived by a resident of one Contracting State situated in the other Contracting State may be taxed in that other State. In case the subject is considered resident of both states, certain tie-breaker rules apply. Pursuant to the new DTT, the source country may tax interest income, but if the beneficial owner of the interest is a resident of the other contracting state, such tax shall not exceed 5%. The same rule and withholding tax rate will apply to income from royalties. The new DTT introduces taxation of the gains acquired by a resident of one contracting state from the transfer of shares and comparable interests deriving more than 50% of their value directly or indirectly from immovable property situated in the other contracting state, in that other state (i.e. where the property is situated). This rule does not apply to trading on a stock exchange shares.

DOUBLE TAXATION AND TAX AVOIDANCE

Double taxation in Bulgaria shall be eliminated through deducting an amount equal to the amount of tax paid on the respective income in the United Kingdom but not through exempting the income from taxation in Bulgaria.

Per the Treaty, each of the contracting states will notify the other state of the completion of the procedures required by its law for the bringing into force of the DTT. The new DTT will enter into force on the date of the later of these notifications and will be effective as of 1 January of the calendar year following the one during which the DTT enters into force.

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The importance of cash flow for a Manager

COLOMBIA

For an administration according to the vision and mission of a company, it is very important to define different time frame of supervision that allow a permanent control. Among the controls that enable immediate decisions making to be more competitive and to fix financial weaknesses, the CASH OF FLOW is an important tool. Cash Flow matrix helps to lighten the sudden loads of financial commitments and maintain the viability of the business through financial management.

Through the following text, we will perform a descriptive analysis of cash flow and its importance according to some authors, in this way, you can structure and make a critical position in this regard.

First we find the following description:

... to assess the decision to budget capital, the consequences that will happened in the cash available of the company should be reviewed. The incremental effect of a project on the available cash of one are free cash flows"(Berg & Demarzo, 2008, p. 186).

The same analysis of cash is vital for the financial health and it helps us take the right decisions to observe the growth and management of the company. In the book "Corporate Finance" of Berg & Demarzo, we found a section of evaluation of cash flows to own capital which indicates the decisions we can make with the actions of the company:

The flow of free cash to own capital of the project, shows the expected amount of additional flow that the company will have to pay dividends (or share repurchases) each year. Therefore, cash flows represent payments to shareholders. (Berg & Demarzo, 2008, p. 587)

After having a clear idea on how the cash flow can help up, it is important to go a little deeper and understand the importance of the flow of money to the financial evaluation:

Financial evaluation of a company means to build the projected flows of money that would be hypothetically generated over a temporary horizon to discount them at an adequate rate so that we can measure (quantify) the generation of added value and the amount. (Sarmiento, 2002)

The Manager of accounting and financial operations of Auren Bogota (Samuel Charry, tells us the following about this concept of cash flow:

Cash flow is more important than the results, it helps the company to know the funds with which we can plan, determine the surplus or deficit and thus be able to take decisions. For example, of indebtedness (Samuel Charry, 2016).

At the end of the research on the importance and the meaning of cash flow, we conclude how valuable this tool can be for the decision-making process of an enterprise. In this way, it helps us to plan, organize, manage (lead), control and coordinate all the company and thus contribute to the growth of the economy and the generation of shareholder value.

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Automatic Exchange of Information & the end of the Bank Secrecy era

CYPRUS

A landmark Agreement ending the Bank Secrecy era and introducing an International Automatic Exchange of Information [AEoI], namely the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information [MCAA] prepared by the OECD, has been signed in Berlin on 29th October 2014 at the 7th meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

This Global Forum is the international body safeguarding the implementation of the internationally agreed standards of transparency and exchange of information in tax matters, while the distinct importance of this agreement is that it adds automatic reporting to the already existing International Exchange of Information processes.

THE GENESIS OF THE AUTOMATIC EXCHANGE OF INFORMATION

The Automatic exchange of information is not a new notion, but it wasn't until recent years that there have been increased efforts for this to transform into a system that would be more global in scope.

The EU has also been actively addressing it, but again it wasn't before the past few years that more focus was achieved.

Originally there was the U.S. FATCA, enacted by the United States in 2010, and which introduced a multidimensional AEoI by requiring non-U.S. Financial Institutions to furnish the U.S. tax authorities on an annual basis with information on financial accounts kept directly or indirectly by U.S. citizens.

Then there was the E.U. revised DAC [Directive 2011/16/EU on administrative cooperation in the field of taxation] given rise by the initiative of G5 [France, Germany, Italy, Spain and the U.K.] which announced their purpose of developing a multilateral AEoI based on the FATCA codes.

Furtherafter, the G20 Finance Ministers and Central Banks Governors endorsed in 2013 the European initiative and in September 2014 they proceeded to approving the global AEoI standard, namely the 'Standard for Automatic Exchange of Financial Account Information - Common Reporting Standard" [CRS] developed by the OECD, which actually will be used as well as the standard for the DAC reporting purposes, and parallel to these, the MCAA is in fact the international agreement activating the OECD AEoI.

WHICH COUNTRIES ARE INVOLVED IN THE OECD AEOI?

Currently over 90 jurisdictions have committed to implement this via the CRS, with some for first exchanges in 2017 and others in 2018, inclusive of countries which were traditionally well-known for their culture of bank secrecy like Switzerland, Luxembourg, the United Arab Emirates, and others.

Specifically: 56 Jurisdictions have committed to undertake first Automatic Exchanges of Information by 2017, with these being:

Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Curaçao, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom ; and 41 Jurisdictions have committed to undertake first Automatic Exchanges of Information by 2018, and these are:

Albania, Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Marshall Islands, Macao (China), Malaysia, Monaco, New Zealand, Panama, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Turkey, United Arab Emirates, Uruguay

Additionally, the U.S.A. has also indicated that it undertakes automatic information exchanges pursuant to FATCA as from 2015 and has entered into intergovernmental agreements [IGAs] with other jurisdictions to do so. As a note, the Model 1A IGAs entered into by the U.S.A. address and acknowledge the need for the USA to achieve such equivalent levels of reciprocal

automatic information exchange with partner jurisdictions. Moreover, the United States is also adhering to a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve these equivalent levels of reciprocal automatic exchange.

VARIOUS COUNTRIES WHICH ARE CURRENTLY NOT COMMITTED TO THE AEOI

Further, although many countries proceeded to the commitment to start the AEoI as presented above, there are also several jurisdictions which have not and amongst these are some countries of the general European region and other near-to Europe countries, currently not committed to automatically exchanging financial accounts information, with these being:
- Armenia, - Azerbaijan, - Belarus, - Bosnia and Herzegovina, - Former Yugoslavian Republic of Macedonia,
- Georgia, - Holy See (Vatican City State), - Kazakhstan,
- Lebanon, - Moldova, - Montenegro, - Serbia, - Ukraine

THE OECD COMMON REPORTING STANDARD [CRS]

In order to meet therefore this new single global Standard for the Automatic Exchange of financial account Information between Tax Authorities around the world, the participating countries will need to gather the relevant information from financial institutions and exchange it automatically with partner countries on an annual basis.

Further, to make sure all relevant taxpayers are covered, the CRS has been drafted with a very broad scope on four pillars, similar with FATCA's intergovernmental nature:

- Reportable Income
- Financial Institutions
- Reportable Accounts
- Due diligence procedures

In more detail:

I) Reportable Income:

All kinds of investment income [interest, dividends, income from certain insurance contracts, annuities and such] as well as account balances, and sales proceeds from financial assets that give rise to this type of income.

II) Financial Institutions:

These being not only banks, but also custodians, brokers, various collective investment vehicles, and specified insurance companies.

Further, the exact terminology of a 'Participating Jurisdiction Financial Institution' extends to:

> I) any Financial Institution that is resident in a Participating Jurisdiction, but excluding any branch of that Financial Institution that is located outside such Participating Jurisdiction, and
>
> II) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.'

III) Reportable Accounts:

Accounts held by individuals and entities inclusive of trusts and foundations, while also there exists the necessity to examine the accounts of passive entities as well, in order to gather and provide information on reportable controlling persons if applicable.

IV) Due Diligence Procedures:

Strong due diligence procedures will need to be in place to facilitate the recognition of reportable accounts and gather the Accountholder Identifying information that needs to be reported for such accounts.

RATIONALE

CRS has tax residency as its basis, and unlike FATCA it does not withstand on citizenship.

Thus, reportable accounts are financial accounts held by tax residents of CRS committed countries., and a person will be deemed to have a tax residence in a particular country if , under the laws of that country, is liable to tax due to domicile, residence, place of management, or any other similar parametre.

Also for an account holder that is a reportable person in respect to a multiple of participating countries, the entire account balances / value, and the total amount of income or gross proceeds etc, will be reportable to each CRS participating country.

TECHNICALITIES OF REPORTABLE ACCOUNTS AND REPORTABLE PERSONS, AS PER THE CRS

Reportable accounts are: accounts held by individuals and entities.

For Individuals' Accounts: an account held by an individual / individuals is a reportable account if the account holder[s] is a tax resident of a reportable jurisdiction, and the account holder in this case is called a reportable person.

Pre-existing financial accounts held by individuals [i.e. accounts that are in place before the jurisdiction joins the convention] will be reportable as well as any new financial accounts.

Further, each holder of a jointly held financial account will be attributed the entire balance or value of the jointly held account when it comes to these reporting purposes.

FOR ENTITY ACCOUNTS

Pre-existing financial accounts held by entities are not considered reportable if their aggregate account balance is not above USD 250.000 as of December 31 of a reportable year. Yet, the account[s] can become reportable if the account balance exceeds USD 250.000 as of December 31 of any subsequent calendar year.

Any new financial accounts to be held by entities, will all be considered reportable irrespective of the account balance.

An entity account will further be reportable if it is held by one or more reportable persons, or it is held by a passive non-financial entity [NFE] that has one or more controlling persons who are reportable persons. A Passive NFE is defined as a non-financial entity that has more than 50% of its gross income for the previous calendar year being passive income, or if more than 50% of its assets generate, or are held towards production of, passive income.

INFORMATION TO BE REPORTED

For each of any reportable accounts the following information is to be reported:

- Account holders details:

Name / Address / Jurisdiction[s] of Residence / Taxpayer Identification Number [TIN]

If a reportable account holder is an individual, date and place of birth.

If a reportable account holder is an entity, for each of the controlling persons the account holder details listed above are reported.

- Account details: Account Number or its equivalent if there is not one.

- Financial Institution details: Name and Identifying number.

- Financial information: Account balances, sales proceeds from financial assets, investment income [interest, dividends, income from certain insurance contracts etc] and currency in which each amount is denominated.

AUTOMATIC AND OTHER INFORMATION EXCHANGE IN PRACTICE

As mentioned, the information will be exchanged on a yearly basis in accordance to the reporting standard, and furthermore the information will be exchanged only between the jurisdictions which the Information Exchange convention is in force and in effect.

Apart from the automatic exchange though, information may be also exchanged in other ways as follows:

- On Request: Being a situation when a competent authority of one jurisdiction asks for information from a competent authority of another jurisdiction, with the request relating to a specific tax investigation, [criminal or civil]. As a side note, this is a type of exchange conducted in accordance to the Tax Information Exchange Agreements (TIEAs).
- Spontaneously: While this is a situation when there is an actual provision of information to a competent Authority of one jurisdiction that is forseeably relevant to a competent Authority of another jurisdiction although it has not been previously requested of!

Moreover, if a jurisdiction did not sign the convention, this jurisdiction will neither automatically report nor automatically receive financial account information from the jurisdictions which signed the convention, although the absence of the automatic information exchange between a pair of jurisdictions cannot be interpreted as to that there cannot or will not be any information exchange at all, as the information may instead be exchanged either on request or spontaneously as described above.

EUROFAST'S TAKE

Conclusively, as the global map on bank secrecy is altering in such speedy manner, Eurofast is alert in assisting clients with any requests they may be presenting reference to the upcoming introduction of the AEoI.

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Obstacles companies face establishing a subsidiary company in Germany

GERMANY

For doing business in Germany, it might be a good economical decision to start a place of business directly in Germany and found a German subsidiary company. The reason to do so is that in Germany business people are familiar with German company forms and sometimes does not know foreign company forms.

The GmbH ("Gesellschaft mit beschränkter Haftung") is the German form of a limited liability company. It is the most widely used legal form for corporations in Germany. The GmbH combines high flexibility with relatively few limitations.

ESTABLISHMENT OF THE COMPANY

Founding a GmbH though should be carried out carefully by foreign companies.

For establishing a subsidiary company in Germany the parent company must prove its actual existence. It also must state who is legally entitled to represent the company.

a) If the origin country of the parent company has a commercial register comparable to the German commercial register "Handelsregister" (e. g. in Spain and Italy), the commercial register abstract of the parent company will be needed to be translated into German language and to be acknowledged. Further details for acknowledging foreign public documents are stated below. Other countries however, do have a commercial register but do not state the person who is legally entitled to represent the company (e. g. Turkey). For these countries other proof for the legal entitlement of the representative is needed.

b) Even more complicated are things for parent companies who's origin countries do not have a commercial register. This is mostly the case in countries with common law system, e.g. England or USA. For these companies, other proof is needed e. g. a "certificate of incorporation" and a "certificate of good standing". The kind of proof differs from country to country. Details should be checked accordingly.

c) The new GmbH also needs a name. But not every name is suitable. Some are already taken, others are considered offensive or some just do not fit for doing business. The German Commerce Chambers provide services for checking names of future companies. This checkup should be made in advance to avoid later difficulties.

THE NOTARY APPOINTMENT

The most important part for establishing a GmbH is the notary appointment. This appointment must be prepared thoroughly.

In the notary appointment the company is founded. To do so, the new GmbH's articles of association must be notarized.

a) The new company's shareholders are obliged to attend the appointment meaning the parent company, as it will be holding the majority of the subsidiary company's shares, will have to send a person to attend the meeting. This person must be a person with legal power of approval. The representative can be for example a managing director of the parent company or in some cases an authorized signatory. The new company's managing director must also attend the notary appointment. He must register the company and confirm that he has not committed certain crimes.

Proving ones entitlement of representing a country works the same way as proving the company's existence: If the commercial register names the person which has power of authority, the acknowledged commercial register abstract is enough. In other cases, further proof is required.

b) Still, it is also possible to send a representative to the appointment. This might be an option, if the representative speaks German and is to be the managing director of the new GmbH. The advantage is that the parent company does not need to send a representative to the appointment. In this case, the representative must present a power of authority to the German notary. This power of authority itself must be notarial certified and acknowledged by the court of registration. Note that in this case, two public documents are required and to be acknowledged: The proof of the existence of the company ant the power of authority.

c) Yet another way to found the company is, in a first step, to found a GmbH by a German without the parent company taking any part in the process. Then in a second step, after the GmbH is founded, the ownership of the company's shares is transferred to the parent company. This way of founding the company could be recommended if the parent company's commercial register does not state the person with legal authority as e. g. in Turkey. On the other hand, if this way is chosen, the person who founded the company is not the parent company but somebody else.

ACKNOWLEDGEMENT OF DOCUMENTS

Yet, German notaries do not acknowledge foreign public documents such as Commercial register abstracts or power of authority automatically. Dependent on the origin country, documents are acknowledged one way or another.

a) For documents from most countries, an Apostille is required. The Apostille is based on an international treaty, The Hague "Convention abolishing the requirement of legalization for foreign public documents" signed by more than 50 states. Most of the larger industrial countries are part of this treaty. The Apostille is therefore the most common form for acknowledging foreign documents in Germany. It is a 9 X 9 cm big stamp, which is to be filled in by a country's authority in which the document is issued initially. The authority may differ from each country.

b) With some countries, Germany has signed bilateral treaties for acknowledging documents. Public documents from these countries do not need further approval after being translated. Such bilateral treaties exist with Belgium, Denmark, France, Italy and Austria. Nonetheless, the treaty with Belgium is not always applied. With Greece and Switzerland there are also bilateral treaties concerning the approval of documents, but these treaties exclude public documents.

c) For documents from all other countries Legalization is obligatory. The Legalization of foreign public documents that are to be used in Germany is carried out by German foreign representations (diplomacies or consulates) in the states the public document is issued initially. The Legalization proofs only, that the person which has certified the document is entitled to do so. Note that for some countries, German foreign representations do not acknowledge local notary certifications and therefore do not carry out Legalizations, because too much forgery of documents has occurred in these countries. Documents from theses countries should be certified directly by German consular officers before the Legalization.

This step of acknowledgement of the foreign public documents needed should be taken seriously: The process takes time and money. Mistakes are therefore costly in both time and money.

LANGUAGE

The official legal language in Germany is only German. Therefore, all documents for founding the GmbH must be provided in German. A Translation in German by a sworn in German interpreter is recommended.

Also the notary appointment will be held in German. For legal purposes it is required that all persons attending the appointment understand what is happening there. Therefore an interpreter is required in case someone does not understand German. This can be the case, if the CEO himself founds the company. An interpreter is not necessary if the German notary himself can translate.

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Greece introduces tax changes; hikes up CIT

GREECE

Following discussions with its creditors and the agreement with the European Stability Mechanism, Greece has agreed to introduce a significant reform in its tax regime in order to meet the targets assigned.

By virtue of the Laws 4334/2015 and 4336/2015, several tax aspects have undergone amendments. Specifically, these changes include:

- An increase in the corporate income tax rate (from 26% to 29%);
- A 100% prepayment (instead of the previously applicable 80%) of the corporate tax due for the respective financial year (also applicable to individual business income);
- An increase of the special solidarity tax rates calculated on the total reported income;
- Application of the standard VAT rate 23% has been imposed on categories of goods and services which used to have lower or nil VAT, including – among others - sugar, salt, coffee, tea, herbs, oils, vinegar, cinema tickets, restaurant services, and educational services;.
- Extension of the application of tax on "luxury living" to private recreational boats with a length exceeding 5 meters.

The relevant tax changes are planned to be applied within 2016 and they will be based on the results that Greek Government will achieve from the measures it undertakes.

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Withholding tax in Israel for non-residents

ISRAEL

Israeli companies and foreign companies operating in Israel with Israel-sourced income are required to pay withholding taxes. When an Israeli resident transfer payment to a nonresident vendor via a bank, the bank automatically deducts 25% withholding tax payment, which is levied a duty of income tax on all foreign suppliers, unless it holds a certificate of exemption or deduction from the tax assessor.

Foreign company which sells services or goods in Israel might meet "Permanent Establishment" definitions according to double taxation treaty signed between its country of residence and Israel or might not. If the company is determined as a permanent establishment in Israel, please see the article about the foundation and taxation of fiscal representative in Israel. If the company or project is defined as a temporary establishment, it is not required to pay income tax to Israel tax authorities and, therefore, the company can get the exemption from withholding tax payment.

But, Israeli CFO, while paying for the services or goods to the foreign vendor are required to transfer withholding tax to tax authorities in Israel and the rest 75% of total payment to the vendor, otherwise the foreign company submit an exemption from withholding tax to Israeli company. Then the foreign company gets the whole payment. Once the withholding tax has been made, but the foreign company discover that it is exempted from it, a foreign company should apply for the refund to ISR.

According to Section 170 (a) by the IRS Ordinance in Israel, any Israeli business which obtains services or goods from foreign vendor which does not have a permanent establishment in Israel is required to deduct of income tax at source. According to sections 161 and 164 of the Ordinance withholding tax should be deducted from income when paying tax of 25% if the payee is an individual, or another tax rate imposed under sections 126 and 127 if the payee is a group of individuals.

The tax assessor may confirm the payment of income without deduction of tax, if there is a double taxation treaty between Israel and the country of residence of

permanent establishment. If the financial institution which collects withholding tax, or Israeli CFO, who transfers the payment to authorities actually holds approval from the assessing officer exempting it from the obligation of withholding tax payment, 25% of income will not be deducted in advance but at the end of the year as regular income tax.

When tax has been withheld at source, but according to double taxation treaty the tax rate should be less than the paid amount or zero deducted, the foreign vendor should apply to tax authorities in Israel by himself or via local representative and demand the refund. Refund process might last few months or even a year depending on specific company and tax assessor who deal with the company's payment.

In order to avoid complication regarding tax refund on withholding tax we strongly recommend to use local accountant services. Angel & Angel CPA expertise in procedures which involve tax authorities in Israel before and after demands for tax payments.

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Tax incentive for investments in new tangible assets in Italy

ITALY

The Law no. 208/2015 introduced a tax incentive for investments in new tangible assets in Italy.

The details:

Who can benefit: Sole commercial traders, freelancer, partnerships, corporations, permanent establishments of non-resident entities.

Investments: The investments have to be referred to new plant and machinery, equipment, hardware and other tangible goods with a depreciation rate of at least 6.5%% according to the official depreciation rates of the Italian Tax Authority published in the Ministerial Decree of 31st December 1988.The incentive is also applicable for the acquisition of tangible goods with lease contracts. Investments in real estate are excluded from the benefit.

Tax benefit: The incentive consists in an additional depreciation of 40% for tax purposes. In other words: for tax purposes the acquisition cost of the new tangible good is increased by 40%.

Investment period: The investments have to be performed in the period 15th October 2015 – 31st December 2016.

Example: Acquisition of a new machinery for 100,000 Euro on 15th December 2015 (depreciation rate 20%)

Acquisition cost	Acquisition cost (for tax purposes)	year	Depreciation (profit and loss account)	Depreciation (for tax p urposes)	Additional deduction for tax purposes
100,000	140,000	2015	20,000	28,000	8,000
		2016	20,000	28,000	8,000
		2017	20,000	28,000	8,000
		2018	20,000	28,000	8,000
		2019	20,000	28,000	8,000
		Total	100,000	140,000	40,000

For corporations, the additional tax saving is 11% of the investment (40% of the acquisition cost x 27.5% corporate income tax rate).

In case of disposal of the assets, the taxable gain on disposal has to be calculated without taking into account the extra depreciation for tax purposes of 40%.

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Major interventions of the Stability Law 2016

ITALY

These are some of the dispositions introduced by the law 208/15 (stability law for 2016), published on the *Gazzetta Ufficiale* n. 302 of 30.12.2015.

In the next few days, the Income Revenue Authority *(Agenzia delle Entrate)* will issue a newsletter that will explain the way these rules should be applied.

We are available for any necessary clarification or in-depth analysis.

PROPERTY TAX (IMU) AND TASI

The IMU about the real estate units is reduced by 50%, the only exception being those classified in the A/1, A/8 and A/9 cadastre categories, given on an extended loan by the passive subject to his or her relatives that use them as the main residence.

The TASI is not applied on the real estate units addressed as residence of the owner or his family, the only exception being those classified in the A/1, A/8 and A/9 cadastre categories. The rate of the TASI is reduced at 0,1% for the buildings constructed and prepared to be sold by the building enterprise, with the possibility for the districts to increase the rate up to 0,25%, or decrease it up to 0%.

PURCHASING THE FIRST PROPERTY AND STAMP DUTY

The stamp duty can be applied at a 2% rate when purchasing a property, even if it has been purchased with the same facilitation of the main property, provided that this one is being sold within a year of the purchase of the new main residence.

FISCAL BONUSES

The increased deduction to realize interventions about energetic efficiency, assets recovery and mobile goods purchasing is extended until 31st December 2016. Young couples that constitute a family composed by spouses or cohabitants "more uxorio"

(i.e. husband and wife) that have been living together for three years at least, that want to buy real estate units that will be used as the main residence, can have their expenses used to buy pieces of furniture reduced by 50%, staying in the limits of 16000 euros, from 1st January 2016 to 31st December 2016.

STARTUP AND BRANDS INCREASED VALUE

Referring to business aggregation operations starting on 1st January 2016, the values defined by art. 15 D.L. 185/2008 and conferred in the balance sheet to the start up, to the business brand and to other commercial activities, can be amortized over five years.

PROPERTIES AND REGISTERED MOBILE GOODS GIVEN TO ASSOCIATES, BUSINESS PARTNERS AND ENTREPRENEUR

There are facilitations for companies that give or sell personal or registered properties to their business partners (existing since 30th September 2015), by 30th September 2016. The rate applied to these operations, done with a payment that substitutes IRAP and other direct taxes, is 8% (up to 10.5%) for all the companies that are not operative during two of the three periods of taxes preceding the one in progress. The facilitation is extended to all the transfers, even if the company has changed into an informal partnership.

The individual businessman who used to have personal properties until 31st October 2015 can choose to exclude those from the company's assets, by paying a substitutive tax of 8% of the total value.

There's nothing about the tax on the value added, that has to be applied in the ordinary way; there's a difference instead between this one and the stamp duty, that can be reduced by 50%, and there's a difference as well between those and the cadastral and mortgages taxes, that have a fixed value.

SHAREHOLDINGS AND APPRECIATION OF THE COMPANY'S PROPERTIES

Limited companies that don't use international principles about drafting financial statements can reassess business properties and their shareholdings (excluding properties that are the object of production or trading by the company itself, resulting after the balance sheet after 31st December 2014) by paying a substitutive tax of 16% for the amortizing goods, or 12% for non amortizing ones. This tax has to be paid in one payment only, by the end of the deposit of the taxes' incomes.

The appreciation of properties of the same category has to be done in the first balance sheet after 31st December 2014; its term of approval expires after the first day of the stability law, and has to be registered in the inventory and in the integrative note.

The appreciation active rate can be liberated (completely or only partially) with the imposition of a tax that substitutes IRES, IRAP or any other additional tax, whose value doesn't exceed 10%.

The increased value of all the properties starts being recognized starting on the third consecutive period (2018), the only exception being immobile properties whose increased value is recognized starting on 1.12.2017.

TERRAIN APPRECIATIONS AND SHAREHOLDINGS

Natural persons, companies, non commercial corporations and other equal subjects can reassess terrain and participation values by paying a substitutive tax of 8%. These properties must be possessed starting by 1st January 2016 and there must be a sworn evaluation within 30th June 2016.

Substitutive taxes can be paid with three different payments of the same amount, starting on 30th June 2016.

MODIFICATION OF VERIFICATION TERMS

Limits for the issue of taxes check notices are increased:

- by 1 year, when checking IVA and taxes on the incomes: the deadline has changed now from 31st December of the fourth year to 31st December of the fifth year since the presentation of the statement;
- by 2 years, when checking IVA statements and omitted or invalid tax payments: the deadline is now 31st December of the seventh year starting on the one in which it should have been presented. These new rules apply on communications on the tax period until 31st December 2016 and on following periods, even if there's still a debate regarding the accuracy of this interpretation.

BLACK LIST COSTS

The rules on costs that can be deducted for operations between subjects operating in nations with privileged tax regime (previously present on clauses from 10 to 12-bis of art. 10, T.U. for income taxes, DPR 917/1986) have been removed.

ONEROUS REVIEW

Starting on 2016, the onerous review becomes lighter, and the cost to remedy forgetfulnesses or omissions on payments is greatly reduced.

Penalties have been reduced, as well as legal rates, and those will be applied with different percentages depending on the date of deposit or on the deadline.

This reduction, respecting the legality precept, is applied to past omissions as well, that haven't been still rectified.

FISCAL PENALTIES – FAVOR REI

Administrative penalties reform starts being operative on 1st January 2016, one year before the date originally established by D. Lgs. N. 158/2015.

The 2016 stability law has anticipated the entering into force of this disposition that was expected to start on 2017; this choice raised some doubts when connected on the immediate effectiveness of the modifications of tributary crimes established by D. Lgs. n. 74/2000.

STARTING ON 2016, ALL THE PENALTIES FOR OMITTED AND MISREPRESENTED PRESENTATION OF THE DECLARATION, AND FOR OMITTED AND LATE DEPOSIT OF TAXES WILL BE FULLY OPERATING.

However, these modifications can be applied not only for any violation committed since the entering into force of those rules, but also for those committed before, because of the "favor rei" principle.

AMORTIZATIONS

The stability law for 2016 has predicted fiscal identification of an amortization cost for the companies and for professionals, that is bigger than expected and calculated; in particular it is allowed to detract an amount of 140% of the ordinary amortization share, that has been calculated on the material assets bought between 15.10.2015 and 31.12.2016.

MODIFICATION OF THE LEGAL RATE OF INTEREST

Starting on 1st January 2016, the legal rate of interest as art. 1284 C.C, is no longer 0.5% but 0.2%.

This regulation is not included in the stability law, but in the D.M. 11st December 2015.

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Money Laundering Prevention in México

MEXICO

After the commitment of Mexico internationally and as a member of the Financial Action Task Force on Money Laundering (GAFI, for its acronym in French), authorities in Mexico, through the Office of Finance and Public Credit (SHCP) have established standards applicable to financial and non-financial institutions to prevent and combat money laundering and terrorist financing.

Given the importance of this matter on June 17, 2013 a Law on the Prevention and Identification of Transactions with Illicit Resources (LFPIORPI) was enforced.

According to the 2th article, the objective of this law is to protect the financial system and the national economy, by establishing measures and procedures to prevent and detect acts or transactions involving illegal proceeds through interagency coordination between the Office of Finance and Public Credit (SHCP) and the Attorney General the Republic.

Regarding this situation, the law allows the Financial Intelligence Unit to collect useful items in order to prevent and identify allegedly linked operations with the crimes of operations with illegal founds.

Although this prevention practices have been active for a couple of years there are still many taxpayers that

don't consider this matter as important, there for they have not implemented the necessary controls to gather documentation and prevent money laundering.

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Buy-to-let properties in Spain

SPAIN

WHAT TAXES WILL YOU PAY ON BUYING AND ON INCOME IN SPAIN?

The transfer of properties when they are second-hand will normally attract Transfer Tax (ITP) at the applicable rate depending on the region in Spain where the property is located (currently the 10% in Catalunya). The tax applicable could be VAT (4%, 10% or 21% as applicable) and AJD (Stamp Duty on Legal Documents at the rate of 1,5%) in case of newly built properties and land. The tax has to be paid by the Purchaser.

The tax rates need to be checked at the moment of conducting the transaction due to the tax laws permanent changes.

Once the property is purchased, there would be taxes associated to the ownership of the property; Non-Residents Income Tax or Residents Income Tax and Wealth Tax payable by Tax Residents and Non-Residents in Spain, with an exemption which varies from 500.000.-€ to 800.000.-€. Both taxes are due to be paid once a year.

The tax on income in Spain is a progressive rate; in Catalunya the applicable rate is from 15% to 49%. The rates vary depending on the taxable income and if it is applicable to a Tax Resident or a Non-tax Residents in Spain and to which type of income; income derived from rents, income from work, amongst other.

DO YOU HAVE TO PAY UK TAX TOO?

Purchaser does not have to pay tax in the UK for the purchase of real estate in Spain, on the contrary, under certain circumstances and cases, a Purchaser could deduct taxes paid in Spain in the UK Tax Returns. However, each case has to be analyzed carefully as special regulations can apply to wealth taxed for worldwide assets; in any case, this would be applicable after the purchase.

WHAT EXTRA COSTS WILL THERE BE?

The Purchaser will have to pay taxes, Notary and Land Registry costs as costs associated with the purchase of real estate. Extra costs could be derived from the request of a loan mortgage, the need or wish to have a valuation or the property checked by an Architect, amongst other.

WHAT LOCAL RULES AND REGULATIONS WILL YOU HAVE TO UNDERSTAND?

There is a broad variety of rules and regulations which are important to bear in mind, depending on what type of property is purchased; if it is a single country house, flat in a building, business premises, plot of land. However, common regulations will apply regarding Council Tax or IBI (Impuesto sobre Bienes Inmuebles) which is a yearly tax payable to the City Hall for the ownership of the real estate.

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Spain

Mandatory obligation of having a Compliance Department under the Spanish Companies Act and the Spanish Criminal Code

SPAIN

First. The reform of the Criminal Code in December 2010 included for the first time the liability of legal entities; they will be liable for crimes made in the name or on the account of legal entities and for its benefit, by the legal representatives or directors in fact or in law, as well as those crimes occurred in the exercise of the corporate activity and on behalf and for the profit of the legal entity, committed by persons under the authority of the above mentioned individuals, due to a lack of due control in the circumstances of the case.

In said reform, the fact that before the starting of the criminal proceedings the company had established efficient measures in order to prevent and discover crimes in the future that could occur with the means or under the cover of the legal entity was included as a circumstance reducing the criminal liability.

Second. The reform of the Companies Act in December 2014 establishes the good corporate governance obligations of the management bodies of companies not listed in the stock exchange; it requires that meetings of the board of directors are held quarterly, and also list the authorities that cannot be delegated by the management body, including legal, tax and criminal prevention, among others.

Third. The last reform of the Criminal Code, which entered into force on 1st July 2015 provided more precision on the type of preventive measures to be adopted by companies and included the exemption of criminal liability in the event that the company is able to show that it has implemented systems and means of control which comply with at least the following requirements:

- The management body has adopted and implemented with efficiency, before the crime occurred, models of organization and management including measures of supervision and control which are suitable in order to prevent crimes of the same type, or to significantly reduce the risk of said crimes.

- The overview of the performance and compliance with the model of prevention implemented has been entrusted to a body of the legal entity with autonomous powers of initiative and control, or that has been legally entrusted with the role of overviewing the effectiveness of the internal controls of the legal entity; and there has not been an omission or an insufficient exercise of their role of overview, vigilance and control.

- The individual should have committed the crime by fraudulently avoiding the model of organization and prevention of crimes.

- The model of organization and prevention should comply with the following requirements:

    - Identify the activities where crimes can be committed and that should be prevented.
    - Establish the protocols of procedures for adoption of decisions, and for the implementation of the same.

- Having a management model for the financial resources which is adequate in order to avoid crimes that should be prevented.

- Impose the obligation of reporting possible risks of breach to the body entrusted with the vigilance of the good working of the prevention model.

- Establish a disciplinary system in order to impose adequate fines in case of breach of the measures established in the prevention model.

- Carry out a periodical verification of the prevention model and its eventual amendment when there are relevant breaches of its rules or procedures, or where there are changes in the organization, the structure of control or the activity performed by the legal entity.

Four. Circular 1/2016 of the General Public Attorney of the Spanish State interprets that the body of the legal entity which has autonomous powers of initiative and control referred to in the previous section refers to a compliance body (compliance officer) that, depending on the size of the legal entity, can be formed by one or several individuals, with sufficient authority and specific knowledge on the matter.

The law does not establish the content of the supervisory role of the Compliance Officer. However, the General Public Attorney mentions that the Compliance Officer should participate in the creation of the model of organization and management of risks and should ensure its adequate working, establishing adequate systems of audit, vigilance and control in order to verify at least that the requirements mentioned in the previous section are observed. This is very relevant, because an insufficient exercise of the compliance role may cause that the legal entity does not qualify for the exemption from criminal liability. In order to do that, the compliance officer should have staff with knowledge and professional experience, have the adequate technical means, and have access to the internal processes and the required information.

In summary, the current legal framework in Spain orders that legal entities, whether or not listed in the stock exchange, should create and implement, at least as from 1st July 2015, an independent department of compliance, funded with sufficient financial resources, to avoid that crimes that should be prevented occur. This is the only way in which the legal entity and its directors and managers may be exempted from, or may see reduced, their criminal liability.

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Can taxation be regarded as stealing?

THE NETHERLANDS

Many people feel that the obligation to pay taxes equals more or less stealing. Recent developments in the Netherlands may confirm that this may indeed be the case in certain situations.

BOX 3 INCOME TAX

In the Netherlands annually a capital tax is levied from individuals. This so-called Box 3 tax is based on the economic value of one's worldwide assets and amounts to 1.2% of this value, regardless of the actual income stemming from the assets.

Example

If you have a bankaccount of € 200,000 that generates annually € 1,400 of interest, in the tax return you do not report an income of € 1,400. Instead you are faced with a tax of € 2,400 (1.2% of € 200,000). That means a taxation of € 170%.

BACKGROUND ON THE 1.2%

In 2001 the Box 3 tax was introduced as the new method of taxing assets assuming a 4% interest rate to be taxed at 30%. At that time nobody could have predicted how low the interest would be today. The Dutch Government has however never amended the 4% rate to the market rate, based on budget motives.

The resulting situation now is that taxpayers are taxed on income that they did not receive. As a result, several taxpayers went to court to protest against this tax.

CASE LAW

Thanks to the trias politica of De Montesquieu, in the Netherlands it is not up to a court to amend the laws. Only the legislator is entitled to do so. However, a court can deny the application of a law when it is in conflict with a treaty; in this case the European Convention on Human Rights. The advisor to the Supreme Court has advised this court to rule that the law in some cases is indeed in conflict with the Convention and that the Box 3 tax results in more or less 'stealing' by the government. Especially when the return on investment during many years is much lower than 4%, this could be the case.

GOING FORWARD

The Supreme Court still has to decide whether they agree with their advisor. If they do, this could have some severe consequences for the budget. In the past the Dutch government has solved such issues simply by amending the law.

CONCLUSION

In some situations taxation may be in conflict with the European Convention on Human Rights. The final outcome is however not certain yet.

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UK Government Brings in New Rules to Discourage Buy to Lets and Second Homes

UNITED KINGDOM

The UK government announced in the Autumn Statement changes to the stamp duty rules to discourage second homes and buy to let properties. From 1 April 2016 there will be a 3% uplift in the existing rates in stamp duty land tax on the acquisition of additional residential properties. The charge will be on the portion of the value of the property that falls into each band.

Band	Existing residential SDLT rates	New additional property SDLT rates
£0* - £125k	0%	3%
£125k - £250k	2%	5%
£250k - £925k	5%	8%
£925k - £1.5m	10%	13%
£1.5m +	12%	15%

*Transactions under £40,000 do not require a tax return to be filed with HMRC and are not subject to the higher rates.

The higher charge will not apply to acquisitions of residential property by corporates and funds making significant investment in UK residential property, although there was a consultation, which closed on 1 February 2016, on whether the exemption from the higher charges should apply in these cases. Any changes to the proposed rules will most likely be announced in the forthcoming Budget on 16 March.

The higher charge will also not apply to replacement of main residences where an individual may temporarily own another residence whilst he/ she is trying to sell their main residence.

The changes announced are on top of the announcement in last year's Summer Budget that there will be a restriction of the interest relief on mortgages on let properties to the basic rate of 20%. The restriction will be phased in over a four year period from 6 April 2017. Therefore if you are a higher rate tax payer you should expect a fall in return from your rental income from that date.

There is scope for some planning to avoid the higher stamp duty rates and I would recommend that you seek professional advice.

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VAT in the land freight transport

URUGUAY

This time we will review the main aspects related to treatment of VAT applicable to the land freight transport, following the recent Query no. 5900 published by the DGI (General Tax Directorate).

APPLICABLE REGULATIONS

Import freight

In the case of import freights, it is taxed the route of freight carried out within the national territory, constituting the rest of it a service provided abroad, not being included in the scope of VAT.

To the extent that the VAT legislation has adopted the criterion of pure territoriality, the criterion for determining the part of the service which is taxed by VAT is the distance in kilometers within the national territory.

Therefore, it must not be taken into account for the determination of the route within national territory other variables, such as the average time that takes the service in each country, as DGI has expressed in the Query no. 5845.

It should be noted, in relation to the deductibility of VAT purchases included in taxed acquisitions, that: "land freight transport enterprises shall not provide services performed outside the country for the purpose of providing the tax included in its purchases of goods and services".

That means that these companies do not apply the general rule of providing VAT purchases to taxable transactions to total, but that they should not considered the ride outside the country, which means that they will be able to recover a greater percentage of indirect VAT purchases.

Export freight

In accordance with the provisions of article 34 of Decree no. 220/998, they are included within the concept of export services, the freights for the transport of goods outside the Republic – they are also included the freights to free trade zone, customs facilities, port customs facilities and transport provided into national customs territory, in relation to goods expressed as being in customs transit.

If it is so, such freights are taxed at zero rate, which means that the company that provides the service can recover direct and indirect VAT purchases associated with such income.

Retention agents

In the case of companies of land freight transport from abroad that are not installed in our country, the VAT which corresponds to the Uruguayan journey of a freight of import shall be retained by who receives the service, who must turn it over to the DGI as a tax withholding agent.

Query no. 5900

By this Query, a taxpayer dedicated to international land freight transport consults the treatment regarding corresponding VAT taxed to the freights of import of goods along the journey in national territory.

It advances opinion stating that national companies dedicated to international transport that provide the referred services should not be attained with the tax, assimilating it to foreign international transport companies which are not established in our country. It understands that this should be like this, since the Uru-

guayan companies see its income decreased by the fact of having to deal with the VAT included in the service provided in national territory.

The DGI properly, in our opinion, does not share the treatment proposed by the consultant, in so far as the import freight provided within the national territory is taxed in both cases, as it is a provision of service on national territory, and the two entities are designated as taxpayers of VAT by the article 6 of title 10 of the 1996 TO - in the case of the foreign companies, the difference lies in that the tax is paid via withholding-.

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