Tax Jurisdictions AroundtheGlobe

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1. PAYING TAXES IN ANDORRA

Brief Introduction of the Andorran Corporate Income Tax Regime

Taxable Person

Corporate income tax is levied on all legal entities resident in or having a permanent establishment in Andorra. In this respect, resident corporate taxpayers are all types of commercial companies, including corporations (SA) and limited liability companies (SRL).

Partnerships are not considered a company for corporate income tax purposes and therefore, its income is attributed to each partner depending on the participation percentage.

In accordance with the above mentioned, an entity would be considered Andorran resident for tax purposes if it meets one of the following conditions: (i) It is incorporated under Andorran law; (ii) its legal seat is located in the territory of Andorra; or (iii) its place of effective management is in Andorra.

Taxable Income

Resident companies are liable to corporate income tax on their worldwide income and capital gains. The taxable income is generally calculated using a direct method of computation based on the taxpayer's accounting records.

Non-Deductible Expenses

Business-related expenses are generally deductible for CIT purposes. Non-deductible items include dividends and similar distributions, the income tax itself, local taxes, penalties and fines and related surcharges and certain gifts.

Depreciation and Amortization

Depreciation is allowed in respect of all tangible fixed assets (except land) and intangible fixed assets on the basis of their normal useful life. Depreciation may be calculated in accordance with the straight-line method, the declining-balance method (excluding buildings, furniture and fixtures) or the sum-of-the-years'-digits method. Rates for depreciation are contained in official tables.

Depreciation applies from the date the underlying asset enters into effective service and it must be calculated on each separate asset and not on groups of assets unless these are attached to specialized complex installations.

At this stage, it is important to underline that assuming that certain requisites are met, goodwill is tax depreciable on an annual basis of 20%.

Losses

Ordinary losses and capital losses are generally treated in the same manner and may be set off against all income of the same financial period. Losses that have not been offset on its generation period can carried forward for 10 years.

Tax rate

The general CIT rate is the 10% of the taxable basis. Notwithstanding, under certain special tax regimes (i.e. ITR) certain qualified entities are entitles to benefit from a reduction on its taxable base.

Exemptions

There is no general list of exempt income. However, certain items of income may be exempt in some cases:

Exemption on Dividends

On a general basis, Andorran and foreign-source dividends received by an Andorran company are exempt if the following requisites are met:

- The Andorran company has, directly or indirectly, a participation of at least 5% in the company distributing the dividends.
- The company distributing the dividends must be subject to Andorran CIT or, in case it is a foreign entity, to a tax comparable to the Andorran CIT.
- The participation in the entity distributing the dividends has been maintained continuously during a one-year period. The exemption is also granted if the distribution is made before the conclusion of such period, provided the resident parent continues to hold for the remaining period.

Exemption on Capital Gains

Capital gains derived by a resident company on the sale of shares in a resident or non-resident company are exempt provided that the abovementioned requisites for dividends are met.

Tax Credits

According with the Andorran CIT Law, the main applicable deductions are the following:

Deductible Local Taxes

Certain local taxes that are not deductible on a first stage might be deducted from the taxable quota. (i.e. Local Tax on Rental Income, Business Activity Tax and Urban and Land Appreciation Tax).

Relief for International Double Taxation

Under the Andorran CIT Law, an Andorran company can credit the withholding tax borne abroad with regards to any funds received. Notwithstanding the aforementioned, the CIT

Law does not provide to a direct deduction of the whole quantity paid abroad. It is set to be deductible the lower of the following two amounts: (i) the amount paid abroad by reasons of equal or similar nature of the Andorran CIT; (ii) the amount of the total quota that would be payable in Andorra for the aforementioned income should it have been earned in Andorra (i.e. income obtained minus directly related expenses).

Other Tax Credits

Subject to the fulfilment of certain requisites, the Andorran CIT Law establishes some other deductions (i.e. for creating employment, investments… etc.)

The abovementioned tax credits can be carried forward for the following 3 years from its generation tax period.

2) Special Tax Regime for International Trading Entities

Introduction

Under the Andorran CIT Law, certain qualified entities whose main activity consists on international trading can benefit from the Andorran Patent Box dispositions.

In broad terms, the Andorran Patent Box is an optional regime subject to the prior approbation of the Andorran Tax Authorities that provides for an 80% reduction on the taxable base. According with the abovementioned, Andorran Patent Box regime is also granted for entities whose main activity consists on international trading.

Characteristics of the Andorran Patent Box Regime

The Andorran CIT Law establishes on its article 23 a Patent Box regime applicable to Andorran resident entities. Under this special tax regime, the taxpayer may benefit from a reduction of 80% of the corresponding income tax base resulting from the concessions, provision of services, license, and transfer of assets, property or rights as follows:

- Patent, designs, models and industrial draws.
- Trademarks, domain names and any other business distinctions or industrial rights.
- Copyrights on literally artistic or scientific work including audio-visual productions, application and systems.
- Image rights under certain conditions.

For the purposes of applying the Andorran Patent box regime, the Andorran entity must act on its own and within its economic activity.

3) Personal Income Tax

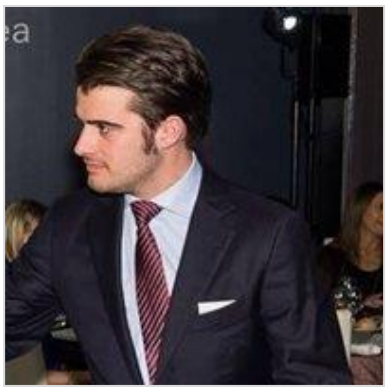
As from 2015, Andorra has introduced Personal Income Tax (PIT). Broadly speaking, he who spends more than ½ a year in Andorra is considered tax resident. Andorran tax residents are taxed on their worldwide income at a rate of 10%.

Passive Income and Capital Gains

PIT Law establishes a minimum exempt of €24,000 for working income, raising the limit to €40,000 if the taxpayer has a dependent spouse. For passive income (interest, dividends and capital gains), an exemption for the first €3,000 is granted.

Full exemption would be applicable for dividends whose origin is an Andorran entity.

Author Profile



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2. INCOME TAXATION IN ANGOLA

Overview

With an economy normally associated with its natural resources, it is easy to overlook the importance that general taxation has in Angola.

In recent years, however, the government has put together a significant tax reform in order to further adapt the legal system to a growing economy. The recently approved tax reform package, which was being discussed since 2011, has finally progressed into the publication of the new personal income tax code, the new industrial tax code, the tax collection enforcement code and the general tax code. Additionally it is also important to refer the revised stamp duty code as well as the investment income tax code.

Special regimes apply for the oil and gas industry and the mining industry.

Our comments below already summarize the new legislative framework.

Corporate Income Tax

As of January 1st 2015, taxable income of non-oil business in Angola (e.g. companies carrying out industrial and commercial activities) is subject to Industrial tax (the country's corporate income tax) at a rate of 30%.

In general, taxable income refers to the difference between all yearly gains and revenues and tax-deductible losses.

Resident entities are subject to Industrial tax on worldwide income, while foreign entities with PE are only taxed on profits imputed to the said PE.

The recent changes also had a significant impact on taxpayers groups by eliminating the third group (C):

- Group A: General corporate taxation applied to public and private companies and PEs of non-resident companies with a share capital equal to or in excess of AKZ 2,000,000 or annual revenue equal to or in excess of AKZ 500,000,000;
- Group B: Generally small companies (where tax is based on profit that the taxpayer could obtain in normal circumstances). The concept of "*acto isolado*" (isolated act) is clarified as any commercial or industrial activity that, in a continuous or interpolated manner, doesn't have a duration exceeding 180 days during a tax period.

Companies may carry forward tax losses for a three-year period. No carry back is allowed. The reform also clarified that tax losses arising during periods in which the taxpayer benefitted from a more favourable regime (e.g. exemption or reduced tax rate) may not be offset against taxable income arising in periods subsequent to the end of the exemption.

It is also relevant to mention the autonomous taxation, a separate taxation mechanism incorporated in the Industrial Tax and that applies to several deductible and non-deductible expenses (e.g. incompletely documented costs are taxed at 2% of the gross

value, confidential expenditures are taxed on 30% or 50% of the gross value, while donations not in compliance with the donations law are taxed on 15% of the gross value).

A tax neutrality regime for mergers or demergers through incorporation was also introduced with the new reform. This regime only applies to Group A. Tax losses from the merged/demerged companies may be transferred to the new/continuing company as long as it presents a taxable income within the following six tax periods.

Legal persons without representation in Angola (e.g. no registered office, effective management or PE) who either sporadically render services on Angolan territory or sporadically render services to entities with registered office, effective management or PE on Angolan territory, are taxed through withholding tax at 6.5%.

Investment Tax

Investment tax was associated with taxation of dividends, interests, royalties and other income of similar nature. Rates go from 5% to 15%.

As per above, the new tax reform had a significant impact on Investment Tax and broadened the incidence base in order to also include premiums on the amortization or reimbursement and other forms of remuneration of securities issued by any company, as well as of securities issued by some public entities. Repatriation of profits by an Angolan PE to its offshore head-office is also included in the scope of Investment tax.

Capital gains tax is due over the positive balance, assessed on an annual basis, between obtained capital gains and losses (expenses incurred with the purchase and sale of securities are deductible for purposes of this computation). In addition, the actual capital gains and capital losses assessed from the sale of bonds or other similar securities issued by any entity, benefit from 50% relief of capital gains taxation, to the extent the transaction is carried out on a regulated market and the securities are issued with a maturity of at least 3 years. Capital gains/losses arising from the sale of shares also benefit from 50% relief of capital gains taxation provided that the transaction is carried out on a regulated market.

Personal Income Tax

Within the scope of the tax reform, the Angolan tax authorities introduced relevant changes to the Personal Income Tax Code.

The CIRT reform foresees, with the respective specificities, the segmentation of income into Groups, namely:

- Group A – income earned by workers employed by others;
- Group B – income earned by self-employed workers or by company managers, as well as board members;
- Group C – income earned by workers carrying out industrial and commercial activities listed in the Minimum Profits Table in force.

The following income is not subject to Personal Income tax:

- Social allowances paid by the National Social Security Institute under the mandatory Social Security protection scheme;
- Family allowance up to 5% of the base salary;
- Compensation paid to workers for contractual rescissions up to the limits set in the General Labour Law;
- Daily food and transportation allowances up to AKZ 30.000 per month;
- Reimbursements of expenses paid upfront by company's employees while traveling for the employer's benefit;
- Holiday and Christmas allowances up to 100% of the employee's base salary.

The previous taxable income limit of AKZ25.000 has increased to AKZ 35.000.

Taxpayers included in Group A are taxed on a progressive tax rate basis, being that the maximum rate is 17%.

Taxpayers included in Group B are subject to a flat rate of 15%.

Group C's income is subject to a rate of 6.5% (where taxable income is higher than the deemed income as per the chart or for taxpayers that provide services subject to withholding tax) or 30% (where the taxable income is given by the deemed income chart).

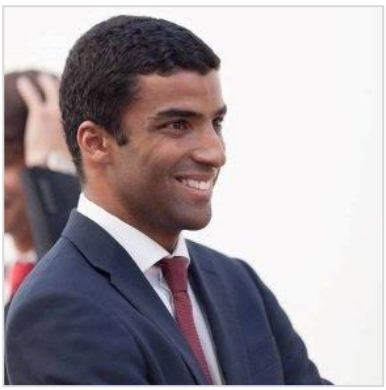
With the exception of Social Security contributions, no deductions from employment income are allowed.

As for business deductions (Group B and C), taxpayers may deduct the following expenses if properly documented:

- Wages (up to three employees), commissions and fees paid for services;
- Rent for business premises and depreciation of the business premises;
- Insurance premiums;
- Water, gas, telephone, electricity and other necessary expenses that are considered to be essential in order to carry out a business.

If the taxpayer doesn't have an organized accounting regime, deductions are limited to 30% of the total income.

Author Profile



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3. TAXATION IN BULGARIA

Brief Overview of the Bulgarian Tax System

The Republic of Bulgaria offers one of the lowest levels of corporate and personal taxation in the European Union of 10%. The corporate and personal income tax rates have not undergone significant changes in recent years and are relatively stable.

The country has standard taxation system compared to the ones effective in the other Member States of the European Union. The Bulgarian taxation system can be generally classified in two categories: direct taxation (corporate and personal income taxation, withholding tax) and indirect taxation (value added tax and excise duties).

Taxes in Bulgaria are collected on national and local level. National taxes (corporate and personal income taxation, withholding tax, social and health security contributions) are determined by the Bulgarian Parliament and collected by the National Revenue Agency, while local taxes (property, vehicle, inheritance, donation and transfer tax) are determined and collected by the Municipal Councils within limits prescribed by law.

Bulgaria has entered into tax treaties for avoidance of double taxation (DTAAs) with more than sixty countries, among which the EU countries, Switzerland, the USA. Being a member of the European Union since 2007, Bulgaria has fully transposed the European tax legislation.

Corporate Taxation

The Corporate Income Tax Act ("CITA"), governing the taxation of business profits, recognizes as Bulgarian tax residents (i) companies, partnerships and unincorporated companies established under the Bulgarian law, as well as (ii) entities established under Council Regulation (EC) №2157/2001 and cooperative societies established under Council Regulation (EC) № 1435/2003, in case their registered office is within Bulgaria and they are entered in a Bulgarian register.

Tax resident entities are liable for Bulgarian corporate tax determined for the fiscal (i.e. calendar) year at the rate of 10% on their worldwide income. Annual tax return should be filed until March 31 of the respective following year. If filed electronically and due tax is paid within same term, 1% discount (but up to BGN 1,000) would apply.

Non-resident will be all other entities, which conduct business activities in Bulgaria through a permanent establishment (PE) or receive Bulgaria-sourced income. Any non-resident organizationally and economically distinct formation (trust, fund and similar), which independently carries out economic activity or performs and manages investments in Bulgaria, will also qualify as taxable person, when the beneficial owner cannot be identified.

Non-residents are liable to corporate tax in Bulgaria only for their Bulgaria-sourced profits and for withholding tax on certain types of income originating from Bulgaria.
Thus the passive income of non-resident investors, without a PE in the country, such as interest and royalty income (save for interest and royalties paid to a EU/EEA-based associated* company, as noted below), rentals, fees for technical services, franchising

and factoring fees, management fees, capital gains, are subject to withholding tax at the rate of 10%. Dividends and liquidation quotas (unless paid to a EU/EEA-based company) are subject to a lower tax rate of 5%. Withholding tax is to be handled by the payer of the respective income, save for the capital gains (from sale of financial or real estate assets), for which it would be the income recipient liable to transfer the tax. The applicable withholding tax rates could be differentiated, as follows:

Withholding Tax For	Dividends (Liquidation Quotas)	Interest & Royalty	Rentals, Fees for Technical Services, Franchising & Factoring Fees, Management Fees, Capital Gains
EU/EEA Beneficiaries	0%	0%*(if associated)	10%
Third Country Beneficiaries	5%	10%	10%

Those withholding tax rates will apply unless treaty relief or reductions could be enjoyed under a relevant DTAA following completion of a tax clearance procedure.

Otherwise, in addition to the corporate income tax applicable to the business profits of tax resident companies and the Bulgarian PEs of non-resident companies, there is also alternative corporate tax of 10% levied on certain business expenses booked, such as out-of-pocket expenses, social expenses in-kind made to the benefit of employees and expenses related to the use of motor vehicles for management activities. Social expenses for additional social and health security, life insurance and food vouchers up to BGN 60.00 per employee are exempt from such tax on expenses. The social expenses for transportation of employees and managers from their home to the workplace are exempt as well.

Tax losses may be carried forward over five consecutive years. Pursuant to the thin capitalization rule, applicable when the debt-to-equity ratio exceeds 3:1, interest expenses deductibility is limited up to 75% of the company's EBIT.

There are no tax holidays in Bulgaria. No specific holding company regimes apply either. However, collective investment schemes and special investment purpose companies (REITs) are exempt from corporate income taxation.

Tax incentives are available in the form of reductions of the taxable amount or tax deferral. Under certain conditions, reduction of taxable amount is applied to companies hiring unemployed people as well as companies granting scholarships. Tax deferral is available to companies hiring people with disability, if certain conditions are met, as well as to manufacturers located on the territory of municipalities exposed to unemployment rates exceeding the country's average one for the previous year with 25% or more. The amount of tax deferred should be used for specified purposes (i.e. further integration of disabled people, investment in long-term assets,etc.).

Personal Taxation

The personal taxation in Bulgaria is based on a flat rate applicable to the overall annual income reported by tax resident individuals from various sources. Further to the Personal Income Tax Act ("PITA"), Bulgarian tax resident individuals (regardless of nationality) are those who either: 1) have permanent address in the country, 2) reside on the territory of Bulgaria for more than 183 days during any 12-month period (days of entry and departure count), 3) have been sent abroad by the Bulgarian State, its bodies or organizations or a Bulgarian enterprise, or 4) have their centre of vital interests in Bulgaria. The centre of vital interests is considered to be in Bulgaria if the individual's interests are closely related to Bulgaria, such like family members residing in the country, place of work or real estates owned. An individual who has permanent address in the country, but the centre of vital interests is located outside Bulgaria is not considered as tax resident.

Tax residents are liable for Bulgarian personal income tax of 10% for their worldwide income received. The annual tax return should be filed until April 30 of the respective following year. If filed electronically until March 31, a 5% discount would apply.
Sole entrepreneurs are taxed at 15% personal income tax rate levied on the taxable base determined in accordance with the CITA.

Non-resident individuals are those who could not qualify as tax residents and are taxed at same rate of 10% but levied on their income from Bulgarian source only.

Taxable employment income covers the employment remuneration and any other payments in cash or benefits in kind, made by or on behalf of the employer. Certain items of employment income like travel and accommodation expenses and the twofold of per diem expenses as determined by legislative act and some social benefits are exempt from income tax.

Special allowances in the form of reductions for recognized expenses could apply to rental (incl. from operational leasing and franchising and factoring) income of tax residents at the rate of 10%. Same reduction is available for capital gains from sale of real estates. Freelancers could apply 25% reduction for such expenses as to their taxable income.

Final one-off tax of 8% is charged to interest income on bank deposits received by tax residents. 7% tax is levied on Life insurance amounts received after expiry of the term (of 15 or more years) of the insurance contract.

Both residents and non-residents receiving dividend payments would be subject to a final withholding tax of 5%.

For all other types of passive income of non-residents from rent, operating leasing rentals, franchising and factoring fees, royalties and interest, if not generated through a fixed establishment in Bulgaria, the withholding tax is 10%. Capital gains generated from sale of shares and other financial assets are also taxed at such rate. Capital gains from disposal of real estates are levied such withholding tax as well.

However, alike resident individuals, EU/EEA resident persons realizing capital gains from sale of a Bulgarian real estate would benefit from a tax exemption, if sold several years following acquisition.

Exemption from tax is also provided for interest income from bonds or other debt securities, issued by the Bulgarian State or its municipalities and paid to residents or EU/EEA residents, while if paid to other non-residents, only if the securities are traded on a regulated market in Bulgaria or other EU/EEA State.

Other Taxes and Levies

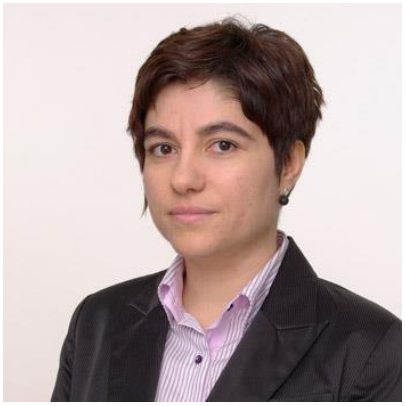
Owners of real estates in Bulgaria (whether corporate entities or individuals) are subject to property tax and garbage fee, paid locally to the respective municipality, where the real estate is located. Owners of vehicles are also subject to vehicles tax.
The acquisition of real estates and vehicles is subject to local transfer tax. Donations and remission of debt are subject to such tax as well.

Inheritance tax is levied upon successors of i) the local and foreign estate of Bulgarian citizens as well as to ii) property of foreign individuals located in Bulgaria. The surviving spouse and lineal successors are exempt from inheritance tax.

The respective Municipal Council, within limits prescribed by law, determines property, transfer and inheritance tax.

Social and health security contributions are additional financial burden split between the employing entity and the employee, where the employer's portion of 60% is the higher one. The maximum income base for such levy is the employee's remuneration, but for such contributions purposes for year 2015 it could not exceed BGN 2,600 per month.

Author Profile



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Company Profile

DGKV is one of Bulgaria's largest and oldest independent business law firms, known for its solid record of pioneer projects and major business transactions, as well as for impeccable reputation with both clients and partners. It provides a full range of legal services on the establishment of all types of local operations and on all corporate-related matters. For more information on the firm please visit the website www.dgkv.com.

4. TAXATION IN CANADA

Income Tax

There are five main forms of tax return filings in Canada – **T1, T2, T3, T4 & T5**

The returns all work together when you have owner managers and investors calculating and reporting their income tax. It is common for businesses and their owners to file all of these different types of returns each year. Please read about each type and then at the end we will tie it all together

T1 (Personal Income Tax)

The first is a T1 or personal income tax return. Only individuals who owe tax are required to file a T1. This can mean that you are not required to file a tax return if you do not owe tax. However, this can lead to confusion as the only reliable way to know if you owe tax is to prepare a tax return and once prepared it would seem silly not to file it. If you are operating your business as a proprietorship or personal partnership, your business earnings and expenses are reported on your personal income tax return. A sole proprietorship is considered an extension of yourself, and is taxed as a part of your personal income and losses. In the first year of business, it is important to ensure that the business is correctly included on your personal income tax return and that all assets and liabilities are considered in the calculation of the income from the business.

The majority of partnerships are recognized by the federal taxation authorities as a separate entity and must file information returns that describe the income and/or losses allocated to each partner. The partners are then responsible for reporting this income on their personal or corporate income tax returns and pooling the income and losses with other sources of income and losses. The information slips that the limited partners receive are often complex and it is wise to consult Gilmour Knotts, Chartered Accountants when filing your personal or corporate income tax return.

Personal tax returns are always filed based on a calendar year. Personal income taxes are due by April 30th each year (you may be requested to pay quarterly instalments during the year as well). The deadline for filing your T1 is also April 30th. If you have a sole proprietorship, then the deadline is extended to June 15th but your taxes are still due on April 30th. Therefore, you must ensure that if there are taxes owing they are fully paid by April 30th to avoid penalties and interest.

General partnerships are also required to file a separate information return. As well each partner includes his share of income and losses in his personal income tax return. As with a sole proprietor, the partners should take care to plan the reporting of the impact of assets and debts of the business. Partners should be particularly careful to ensure that all partners report the business consistently and that each partner is reporting his share accurately. It is best to have a partnership statement of income prepared and attached to each partner's income tax return. This statement of income should clearly allocate the income/loss of the partnership to the partners. Some partners may have additional expenses that should also be reported. For example, the interest on a loan to buy into the partnership.

Personal income tax rates can be found on Canada Revenue Agency's (CRA) website at: www.cra-arc.gc.ca (search for individual tax rates)

There are both federal tax rates and provincial tax rates as each province's rates are different. Tax rates are set by tax brackets in Canada; the higher your income, the higher your tax rate.

T2 (Corporate Income Tax)

The second type of tax return is a T2 or corporate tax return. Incorporated businesses are separate legal entities and therefore need to file a separate return for each corporation called a T2. A professional should prepare the T2 for the chosen year-end date of the company. The deadline for filing with CRA is six months after the company's year-end date and the deadline for topping up or finalizing paying the corporation's income taxes is two months after the year-end (three months for most Canadian owned Private Corporations). Generally corporate income taxes are due during the year as instalments.

The first year that a corporation owes taxes though there is an exception and the full payment for the year can be made without penalty after the year end and within the two month window. The T2 reflects the company's total financial picture. Financial statements are typically prepared to aid in the preparation of the corporate tax return. In all T2s a special schedule called The General Index of Financial Information (GIFI) is required. This GIFI contains information that is almost identical to a traditional accounting income statement and balance sheet. The company's assets, liabilities, income and expenses are all listed in detail in the return on this GIFI. From this GIFI there is reconciliation between income as calculated by the enterprise and taxation standards for accounting.

The usually accepted accounting standards are International Financial reporting standards or Canadian Accounting standards for private enterprises. Certain items are add backs because they are non-deductible for income tax purposes or pro-rated such as personal life insurance and meals. The income tax return is filed using the corporation's legal registered business name and its business number. Some provinces use a combined return so that only one return is filed to calculate both provincial and federal taxes and other provinces require separate tax returns to be filed federally and provincially.

If your corporation owes taxes upon filing, CRA will require the corporation to pay monthly tax instalments the next year.

The T2 income tax return uses as its starting point the accounting financial statements of the company. There is a central schedule in the T2 return that reconciles income for tax purposes with income for accounting purposes. This means that accounting profit can have a direct link to the tax paid and any differences are clearly reconciled.

Corporate tax return rates can be found at CRA web site:
www.cra-arc.gc.ca (search for corporate tax rates)

All corporations that qualify as Canadian Controlled Private Corporations (CCPC) are eligible for the small business deduction. This means they are eligible to pay the lowest net tax rate before surtax on their earnings up to the small business limit ($500,000 in 2015). The corporation must identify all associated corporations on their corporate tax returns as the Canadian small business limit is allocated between them. Any earnings above the small business deduction limit within any associated corporations are taxed at the higher surtax rates. For example, in British Columbia the CCPC small business federal tax rate is 11% and the provincial rate is 2.5% for a total of 13.5%.
Canadian Controlled Private Corporation (CCPC)

For a corporation to be a CCPC, it has to be a privately held corporation that is resident in Canada or incorporated in Canada. It must be owned and controlled by Canadian residents. Its shares must not be owned by a Canadian resident corporation that lists its shares on a designated stock exchange.

If the corporation is owned primarily by non-residents of Canada the rates are 15% federally and 11% provincially.

Salary (Management Fee) vs. Dividends

There are two methods of paying the shareholder's income from the corporation. You can take your earnings out of the company by receiving a salary (management fee) or a dividend. If you are taking a salary, payroll taxes must be withheld and remitted by the corporation monthly on the salary you are paid. Your gross salary and tax withholdings are reported to you each calendar year on a T4 that you then report on your personal income tax return. If you take a management fee the management fee must follow normal commercial terms for payment of invoices and is usually paid to a related resident or non-resident corporation for services rendered. The management fees (generally paid to a related corporation) are reported on a T4A (special type of T4 described below) or on specific schedule of the T2. The shareholder's salary and withholdings are a deduction or expense for the corporation and the corporation is taxed on profits after these expenses.

Because corporate tax rates are declining, it is becoming more advantageous for shareholders to take their earnings out of the company by receiving a dividend. Dividends are reported on a T5 (see below) each calendar year. The corporation is taxed on its income level before distributing the dividends to the shareholders. If it is a Canadian resident individual shareholder a dividend tax credit to reflect the tax paid at the corporate level is also acknowledged. The dividend and dividend tax credit are each included on the T5 issued to the shareholder. The shareholder reports the amounts on their T5 when they file their personal income tax return. If it is a connected (this is a tax term for owning 10% or more) corporate shareholder the dividend is generally transferred tax-free. This "free" transfer is not "free" when there is a Canadian company owned by a non-resident company. There is often a withholding tax on this dividend.
The rates vary but a common rate is 5%. This extra 5% can make it important to really compare and contrast the results of paying salaries or management fees to non-resident owners as compared to paying them dividends.

T3 (Trust Tax Return)

The third type of tax return filing is called a trust tax return or a T3. If you have created a trust for advanced corporate structuring, or to protect your family assets; you will need to file a T3. Filings of trust returns are due 90 days after year end (almost all trusts have December year ends). Trust taxes are due by instalments during the year.

T4 (Payroll Tax Return)

The fourth type of tax return reports payroll and other payments to employees and subcontractors. There are various subcategories but the most common are T4's and T4A's. These are always on a calendar year basis.

T5 (Investment Income Reporting)

The fifth type of tax return is an investment income information return or a T5. This reports investment income. For example, the dividends described above are considered investment income and are reported on a T5.

There are various other returns for partnerships and other reporting. The returns are interconnected. Thus the employee income on a T4 will reconcile with the employment salary expense on a T2, and the same T4 will reconcile with employment income on a T1.

Tying It All Together

To help the reader understand how the whole system integrates. Let me give an example. If an owner manager is earning income and living in Canada this is how they would report their earnings and pay taxes.

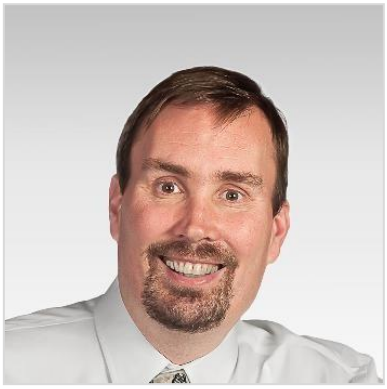
1) The corporation they own would earn the income. Perhaps $100,000. The corporation would file a T2
2) The corporation would have paid the owner a salary and reported that on a T4.
3) The corporation might also have paid a dividend to the owner and perhaps also some interest on money the owner lent the company. These would be reported on a T5.
4) The owner would report the T4 and T5 as income received personally and that would be reported on a T1.
5) If the owner had used some advance tax planning they might have a family trust and there would also be a T3 to file.

The situation is similar if the owner is a non-resident but there likely would be no need to file a T1 unless they had remained in Canada long enough to be personally subject to Canadian taxes. We would need to consult the treaty for each individual case. Also they might voluntarily file a T1 to claim a refund if taxes were withheld in error.

The whole system in Canada is integrated such that each of the returns and the tax rates work together to make the ultimate tax rate when calculated as a whole the same regardless of what returns you filed and whether you paid taxes personally or corporately or in a trust. The design of the system is to allow owner/managers and investors to choose their corporate structure for business reasons primarily as opposed to tax reasons primarily. Even so we as your tax advisors can help you find the best structure for you. Some structures will have you pay tax early and others will have you pay tax later. So

structures that let you wait to pay taxes let you keep your money longer and reinvest it to earn more money before paying taxes.

Author Profile



Grant Gilmour is the founding partner of Gilmour Group Chartered Professional Accountants – a firm with over 20 years in business and still going strong. Grant specialises in tax planning, scientific research and experimental development tax credits, international tax (import and export tax issues), corporate audit defence work, corporate tax returns, and financial statements for private corporations.

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5. CYPRUS TAXATION IN BRIEF

Brief Overview of Cyprus' Taxation System

Cyprus has developed into a popular platform from where international investors and multinational companies hold and manage their trans-border investments.

This is mainly due to:

- The favourable Cyprus tax regime, being one of the most attractive in the European Union;
- The broad tax exemption system for overseas dividends and profits of overseas permanent establishments;
- The general tax exemption for profits from the sale of titles;
- The absence of withholding tax over dividends paid to foreign shareholders, interest and royalties;
- The excellent double tax treaty network Cyprus has with around 50 countries;
- The applicability of the European Union Directives to Cyprus entities, and;
- The existence of a favourable intellectual property regime.

Corporate Income Tax (CIT)

Residence:
A company is resident in Cyprus if the management and control of the company is exercised in Cyprus.

Rate:
The standard corporate income tax rate for companies is 12,5%.

Taxable Income:
Resident companies are subject to income tax on their worldwide income.

Corporation tax is imposed on business profits, active interest, rents, royalties, remuneration and other profits from property.

Non-resident companies are taxed in Cyprus only on profits attributable to a permanent establishment in Cyprus. In addition they are taxed on rental income from real estate situated in Cyprus.

Exceptions

- Profits from the sale of titles. Titles include shares, debentures, bonds, founders' shares and other securities of companies or other legal persons, incorporated under a law in Cyprus or abroad, including options thereon.
- Dividend income (see under Special Contribution for the Defence).
- Interest not arising from the ordinary activities or closely related to the ordinary activities of the company (see under Special Contribution for the Defence).

- Profit from permanent establishment abroad (see under Special Contribution for the Defence).

Deductions

In general, expenses incurred wholly and exclusively for the production of taxable income and supported by documentary evidence are allowable for tax purposes.

- (a) Interest expense in connection with an asset used in the business

  Interest expense incurred for the direct or indirect acquisition of 100% of the share capital of a subsidiary company will be treated as deductible expense for tax purposes provided that the 100% subsidiary company does not own any assets that are not used in the business. In case the subsidiary owns (directly or indirectly) assets not used in the business the interest expense deduction is restricted to the amount that relates to assets used in the business. This law is applicable for subsidiaries acquired in 2012 and onwards.

- (b) 80 % of net royalty income from owned intangible assets and 80% from the net profit generated from the disposal of the intangible asset.
- (c) Donations or contributions to approved charities.
- (d) Employer's contributions to social insurance and approved funds.
- (e) Entertainment expenses for business purposes. The deductible amount is restricted to 1% of the gross income of the business and €17.086 – whichever is lower.

Set-Off of Losses

Carry Back:	Not allowed.
Carry Forward:	Losses can be carried forward for a period of 5 years.
Set-Off of Group Losses:	Allowed provided that both companies are Cyprus tax resident companies of the group.

Foreign Tax Credit
A unilateral tax credit is granted for tax paid abroad, regardless of the existence of a tax treaty. When a treaty applies, the treaty provisions apply if more beneficial.

Anti-Avoidance
Cypriot tax law contains a general provision according to which the conditions of transactions conducted by Cypriot companies with certain affiliated parties should be at arm's length.

Thin Capitalization
There are no "thin capitalization rules." The arm's length principle applies.

Controlled Foreign Companies
There are no special provisions for controlled foreign companies

Special Contribution for the Defence (SDC)

The below types of income are subject to special defence contribution. Non Cyprus tax residents are generally exempt from special contribution for defense:

a) Dividend Income

Dividends received or deemed to be received by any individual resident in Cyprus are in principle subject to a 17% SDC over the gross amount of the dividend. The dividend income is collected as a withholding tax.

Dividends received or deemed to be received by a resident company from another resident company are exempt from SDC.

A resident company that receives dividends from a company that is not resident in Cyprus shall also be exempt from SDC, provided that at least one of the following conditions is met:

- The company paying the dividend does not directly or indirectly engage more than 50% in activities which lead to investment income*; or
- The foreign tax burden on the income of the company paying the dividend is at least 6.5%.

*Investment income is narrowly defined

b) Passive Interest Income

Interest which is not derived from the ordinary carrying on of a business and which is not closely connected to the carrying on of a business is subject to 30% SDC. Usually this applies to interest income earned from fixed deposit accounts.

c) Rental Income

75% of rental income is subject to SDC at the rate of 3%.

Withholding Taxes

- There is no withholding tax over dividend payments made to foreign shareholders
- There is no withholding tax over interest payments made to foreign creditors.
- Royalties paid to a non-resident for the use of rights in Cyprus are subject to a withholding tax of 5% on film royalties, and 10% on all other royalties. These rates may be reduced under a tax treaty or the EU interest and royalties directive. Royalties paid to a non-resident for the use of rights outside Cyprus are exempt from withholding tax.

Personal Income Tax

Residence

An individual is a tax resident of Cyprus if he stays in Cyprus for a period/periods exceeding in aggregate 183 days in a calendar year.

Taxable Persons

Taxable persons are individuals resident within Cyprus and non-resident individuals that have certain Cypriot source income, e.g. income from employment exercised in Cyprus.

Foreign taxes paid can be credited against the personal income tax liability.

Personal Tax Rates

- Up to € 19.500 Nil
- From € 19.501 to € 28.000 20%
- From € 28.001 to € 36.300 25%
- From € 36.301 to € 60.000 30%
- Over € 60.000 35%

Taxable Income

- Profits or other benefits from any business
- Profits or other benefits from office or employment
- Interests
- Pensions
- Rents, royalties, remunerations and other profits arising from property
- Any amount in respect of any trade goodwill
- Benefits in Kind are included in taxable income
- In case a company director or individual shareholder (or spouse or relatives up to second degree) receives a loan or financial assistance from the company, the person is deemed to have received a benefit in kind equal to 9% per annum of the loan/assistance

Exemptions

Certain income is exempt from personal income tax

- Dividends (1)
- Passive interest income (2)
- Profits from the sale of titles. Titles include shares, debentures, bonds, founders' shares and other securities of companies or other legal persons, incorporated under a law in Cyprus or abroad, including options thereon
- 50% exemption on the remuneration from any employment exercised in Cyprus from an individual who was not a resident of Cyprus before the commencement of his employment in Cyprus. The exemption applies for a period of 5 years commencing on the year of employment as from 1 January 2012 provided that the annual remuneration exceeds €100.000
- 20% of the remuneration from any employment exercised in Cyprus by an individual who was resident outside Cyprus before the commencement of his employment, or €8.550, whichever is lower. This exemption applies for a period of 3 years commencing from the 1st January following the year of commencement of the employment
- Remuneration from salaried services rendered outside Cyprus for more than 90 days in a tax year to a non-Cyprus resident employer or to a foreign permanent establishment of a Cyprus resident employer
- Any lump sum received by way of retiring gratuity, commutation of pension, death gratuity or as consolidated compensation for death or bodily injury

(1) Dividend income is subject to SDC at a rate of 17%

(2) Passive interest income is subject to SDC at the rate of 30%

Deductions

- Donations to approve charities
- Contributions to trade unions or professional bodies
- Social insurance, provident fund, medical fund, pension fund contributions and life insurance premiums, with maximum up to 1/6 of the chargeable income
- Special contribution
- Expenses suffered for the production of taxable income
- 20% of rental income

Capital Gains Tax

Capital gains derived from the disposal of Cypriot immovable property are subject to 20% capital gains tax (when the disposal is not subject to income tax). Capital gains from the disposal of non-listed shares in companies (indirectly) owning Cypriot immovable property are also subject to 20% capital gains tax to the extent that such gain reflects the profit upon the sale of the underlying Cypriot property.

Disposals such as gifts made from parent to child, transfers arising on death, reorganisations, expropriations, exchange of properties, disposals under agricultural land law, gifts to charities and some other gifts are exempted from capital gains tax.

Social Insurance Contributions

The rate of 7.8% applies for the employer and the employee as well.
The rate of social insurance contributions is applied to a maximum level of emoluments.
The maximum level for 2015 and 2014 is €54.396.

Other Taxes

Immovable Property Tax	Progressive rate of up to 0.19%
Inheritance Tax	None
Gift Tax	None
Stamp Duty	0,6% over the authorised capital of a Cyprus company at incorporation or later increase thereof. 0,15-0,2% over certain other Transactions

Author Profile

Panayiotis Frangeskides is a Tax Manager with Consulco Limited in Cyprus. He specialises in International Tax Structuring and Cyprus Tax Compliance mainly within the Financial Services, Energy and Real Estate sector. He has been involved in reorganisation projects, domestic and international transactions, the interaction of various Double Tax Treaties with the Cyprus tax laws and the agreement of clients tax affairs with the Cyprus Tax Authorities.

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Company Profile

Consulco Group has been established since 1993 and is one of the most successful and largest tax consultancy firms in the European and CIS markets for over 20 years.

Our goal is to exceed the expectations of every client by providing superior and reliable international tax planning and corporate services. Over 200 associates provide their most effective and professional services to more than 4,500 companies through 9 countries around the world. Consulco group strives to be a leader in corporate and tax planning, company registration and administration services. As experts in our field, we incorporate companies in over 20 jurisdictions and ensure we are involved in every stage offering continual support until smooth functioning is reached. Our extensive skills encompass all aspects of effective solutions for any tax, corporate rights or wealth management issues. We are continually expanding upon our knowledge and services to assist clients at all levels in any jurisdiction throughout various locations.

The group has expanded into UK based real estate since 2010, currently managing assets over STG £65 million, and spread over commercial and residential properties as well as bridge finance. The firm continues to be owner operated.

6. CORPORATE AND PERSONAL TAXATION IN GREECE

Overview

The Greek taxation system has been through many changes over the years, especially the last five years during which Greece has entered an Economic Adjustment Program. Because of the severe debt and the large deficits in the Greek budget, the Greek government (in cooperation with E.C.B., E.C. and I.M.F.) has implemented an austerity program. The Greek government had to cut down on public spending and also find ways to collect more taxes.

There have been many reforms of the taxation system in this period and the most recent one (and probably the most innovative) is the introduction of the new Code of Income Tax (Law no.4172 introduced on July 2013 and active for periods beginning after 01/01/2014).

It is important to note that inside the Greek Legal System are a large number of Laws that deal with different types of taxes (such as income, property, VAT, inheritance etc.) and social security contributions. Due to this fact the Greek taxation system is supposed to be a very complex one. For the purpose of this article, I will try to explain the most important aspects of it.

The Greek taxation system separates income into four fundamental categories:

a) Wages and Pensions
b) Profits (from doing business)
c) Investment income
d) Capital Gains

Corporate Taxation

An entity is treated as a tax resident of Greece if it:

a) Was incorporated in Greece (under the Greek Law),
b) Has its headquarters in Greece, or
c) Its "true" management is performed in Greece.

If these preconditions are met then the entity is subject to domestic tax for its global income. Otherwise, if the entity is not considered a tax resident, is only subject to tax for income generated inside the Greek economy.

The tax rates for entities are:

I) For "small sized" entities (such as partnerships):

Income < 50.000,00	26,00%
Income > 50.000,00	33,00%

* The first 50.000 will be subject to 26% and the remaining income to 33%

For these types of entities there is no withholding tax on dividends.

II) For "large sized" entities (such as limited and anonymous companies): 26,00%.
However, there is a 10% withholding tax on distribution of any form of dividend.
*Withholding tax is not imposed on dividends paid to non-resident group companies.

Only specific types of entities are excluded from taxation (such as public entities and international organizations).

There are only a few incentives in the taxation system:

a) Entities in the agricultural sector face a tax rate of 13%
b) The tax rate decreases by 40% if the entity is functioning inside a small island.

A major factor of the Greek taxation system, especially during the latest period, is property tax. Property tax has dual implementation. On the one hand, there is a basic tax on every property owned in Greece, calculated according to the surface, designated area, property status and age. On the other hand, there is a subsequent tax based on the aggregate value of the total property owned by each entity under consideration. The subsequent tax is calculated as a percentage (0,5%) of the total value of the property. The property used by one entity for its business purposes is excluded from taxation.

Personal Taxation

An individual is treated as a tax resident of Greece if he or she spends over 183 days of the year in Greece. Also, anyone who has his permanent residency in Greece or has the base of his social and business function in Greece is deemed to be a tax resident. There are some exceptions to this fundamental rule, mainly considering people (Greek) working for international organizations abroad. All tax residents are subject to taxation for their entire global income. On the contrary, non-tax residents are only subject for income generated inside Greece.

As mentioned in the overview of this article, there are four designated categories of taxable income. For each one there is a different tax treatment.

a) Wages and Pensions: Every income gained during and after a labour agreement.
Tax is calculated on net wages/pensions (gross wages/pensions minus employees' social security contributions). Mandatory social security contributions for the employee and the employer are around 15% and 25% of employee's gross wage respectively.

The progressive tax rates are:

Income < 25.000,00	22,00%
25.000,00 < Income < 42.000,00	32,00%
Income > 42.000,00	42,00%

* The first 25.000 will be subject to 22%, the next 17.000 to 32% and the remaining income to 42%

Especially for sailing crew of commercial ships tax rates are 10% and 15%, according to their rank.

b) Profits (from doing business): Revenue minus Costs.

The tax rates are:

Profits < 50.000,00	26,00%
Profits > 50.000,00	33,00%

* The first 50.000 will be subject to 26% and the remaining income to 33%

For newly established businesses the tax rate for the first 10.000,00 of profit is 13%. Also, businesses in the agricultural sector face a flat tax rate of 13%.

c) Investment income: Generated from various types of investment, such as stocks, bonds and leasing (of Rights/Property).

Source of Investment Income	Applicable Tax Rate
Dividend	10%
Interest	15%
Royalties	20%
Property	11% if income is <12.000,00 33% if income is >12.000,00

d) Capital Gains: Income from the disposal of capital such as property, stocks, bonds and derivatives.

Gains are calculated as the differential between the disposal value and original cost. The tax rate is 15%.

The dual taxation system on property applies also to individuals. The basic tax is calculated as mentioned above for entities, but the subsequent tax is calculated using the following scale for total value of property.

0< Property value < 300.000,00	0,00%
300.000,00 < Property value < 400.000,00	0,10%
400.000,00 < Property value < 500.000,00	0,20%
500.000,00 < Property value < 600.000,00	0,30%
600.000,00 < Property value < 700.000,00	0,60%
700.000,00 < Property value < 800.000,00	0,70%
800.000,00 < Property value < 900.000,00	0,80%
900.000,00 < Property value < 1.000.000,00	0,90%
Property value > 1.000.000,00	1,00%

There are a few "special" exceptions, both regarding income and property tax on individuals, but it would be impossible to highlight them during a short analysis.

Finally, it is crucial to note that there are some other less important taxes, levies and social security contributions spread across the Greek taxation system, which consists of a large number of Laws and Regulations. Some of them have been introduced recently (due to the Economic Adjustment Program) and others have existed since the beginning of the 20th century. This framework along with the constant reforming process makes the taxation system very complex.

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7. DIRECT TAXATION IN HONG KONG

Hong Kong ("HK") is one of the Special Administrative Regions of Mainland China ("Mainland") with its own legal and tax systems different from those of the Mainland. It is one of the top global financial centres with 135 new listings during the year 2014. Not only the local residents but also a large number of multi-nationals and expatriates choose to set up business entities here to conduct their businesses. There are more than 1.2 million companies remaining registered with the Companies Registry.

The tax system of HK is simple and the tax rate is low. There is no withholding tax, no capital gain tax, no sales tax, no estate duty nor VAT. Although there is a stamp duty tax of 0.2% on the transfer of shares, application for exemption is available for intra-group transfer. Transfer of landed properties is subject to stamp duty payment, which is calculated on a progressive basis depending on the value of the landed properties. The bulk of the tax revenue comes from corporate tax and salaries tax.

Corporate Tax on Companies

HK's tax regime is on a territorial basis. Profits derived in or from HK are taxed at a rate of 16.5%. Profits made outside of HK are not taxable in HK and therefore the related expenses are treated as not tax deductible. The amount of offshore profits has to be agreed with the Inland Revenue Department ("IRD"), and such consent is not known to be withheld unreasonably.

It is important to engage a firm of HK qualified accountants to audit the company's financial statements for submission to the IRD in order to comply with the statutory requirements of the Companies Ordinance. Companies can choose any date as their financial year-end dates. Once the taxable amount is agreed upon, a tax demand note will be issued by the IRD, which also includes the provisional tax for the following year. Provisional profits tax is estimated on the basis of the current year assessable profits less any loss available for deduction in the following year. If a company is of the opinion that the taxable profits for the subsequent year will substantially diminish, an application can be made to the IRD to holdover the provisional tax before the payment is due.

Offshore companies carrying on business in HK are subject to the same principle and tax rate with HK incorporated companies. Whether a company is subject to the HK corporate tax depends on the nature and extent of its activities performed in HK. The corporate tax return form requires a company to report its business transactions on behalf of or with non-resident individuals/offshore companies.

In case royalties are paid by a HK company to an offshore company not carrying on business in HK, the assessable profits are taken to be 30% of the payments provided that the receiving company is not an associate company of the HK company. Tax rate is at 16% on the assessable profits unless the recipients enjoy double tax treaty benefits. If the transaction is done with an associate company, there may be a chance that 100% of the payments are assessable to tax. The HK company has a duty to withhold sufficient amounts for the tax payment.

HK has double taxation agreements with more than 30 jurisdictions. As long as the requisite criteria are met and the HK companies can prove their substance and commercial justification for being the interposing entities in the group structures, double taxation relief could be given to these companies.

Corporate Tax on Non-Incorporated Entities

The other entities, which could be used for business transactions, are sole proprietorship, partnership and to a much smaller extent, limited partnership. Tax rate for these entities is 15% and audited financial statements are not required to be submitted to the IRD. These entities are, by comparison, much smaller in size.

Salaries Tax

Residents in HK who have HK sourced employment have to pay salaries tax. This tax is on a territorial basis. The current tax rate is from 0%-15% calculated on a progressive basis depending on the taxable income of the individual. Each person is entitled to basic allowance deduction and, depending on his/her familial status, allowances on spouse, children, parents, grandparents and brothers/sisters. There are other tax deductions e.g. donations, home loan interest etc. For a married couple, the husband and wife are taxed separately unless they elect joint assessment. Provisional tax payment also applies but the taxpayers have the right to apply for holdover of the provisional tax and the IRD may, subject to the submission of the necessary evidence, re-assess the provisional tax payment.

If residence is provided to an employee, the housing benefits are deemed to be 4%-10% of the employee's income, depending on the size of the residence provided. Employees can also rent their own residences with rental receipts to be given to their employers. Some companies endorse their employees to buy properties through a company and then rent the properties to themselves. How the employees could enjoy the housing benefits should be worked out by the employers with predefined rules and regulations.

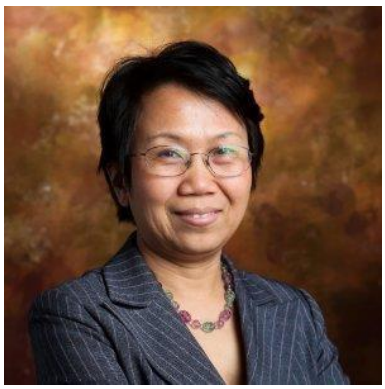
For expatriates working in HK, they need to have work visas. If they have frequent business travels, they may elect to be taxed on a day-in-day-out basis. Before opting for this arrangement, they should check if they are also liable to pay individual income taxes where they usually travel to and perform services there.

If fees are paid to directors of HK companies, they are usually subject to salaries tax irrespective of the fact that service is not rendered in Hong Kong.

Before coming to HK, the corporate and salaries tax implications should be considered carefully to maximize the benefits of doing business here. Consultations with professionals may be necessary.

Note: Tax rates are applicable for the financial year 1 April 2014 to 31 March 2015

Author Profile



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8. TAXATION IN HUNGARY

Corporate Taxation – General Rules

In Hungary the profit originating from activities that are aimed at generating or increasing income and/or assets of a corporate entity is subject to corporate income tax. The two most important laws regulating the corporate income taxation in Hungary are the following: Act LXXXI of 1996 on Corporate Tax and Dividend Tax ("CTA") and Act XCL of 1990 on the Rules of Taxation ("ART").

Both the Hungarian and the foreign taxpayers are subjects to CTA, however while the Hungarian taxpayers are taxed on their worldwide income, the foreign taxpayers are only taxed on two types of income. These are: i) the income generated through a Hungarian permanent establishment and ii) the capital gain realized on selling a Hungarian subsidiary which has a real estate ratio of 75% compared to its total assets. The tax base is calculated from the profit before tax indicated in the financial statement of the current financial year, which is emended with the correctional items set forth in the CTA. These items, especially the decreasing ones, make the Hungarian tax system competitive globally; therefore, the important one will be described below in more detail.

The rate of the corporate income tax is 10% of the positive tax base up to a HUF 500 million (approximately EUR 1.58 million on 20 January 2015) tax base and 19% of the tax base exceeding the indicated amount.

There are certain types of tax allowances listed in the CTA; these are special allowances that can be deducted from the payable amount of the tax. The most commonly utilized allowance is called development tax incentive. The taxpayer is eligible for such an allowance if it performs one of the special types of investments listed in the CTA.

Tax Base Modifying Items

Below, I will list and describe several tax base decreasing and increasing items which are important for businesses that are planning to use a Hungarian company in order to make their structure more effective from taxation point of view. The list is not extensive as there are other correctional items, which are not significant or affecting only companies with local activities in Hungary.

1) Tax Losses Carried Forward

Tax losses of the preceding years can be carried forward for five years. The tax losses can be offset against the positive tax base based on the taxpayer's decision however with the limitation that it can be used up to 50% of the positive tax base.

2) Received (Receivable) Dividends

The whole amount of dividends received or receivable can be deducted from the company's tax base with the exemption of dividends originating from a controlled foreign company.

3) Capital Gains

The capital gains can be deducted from the tax base, although there are certain limitations applicable. The disposing entity should have at least 10% share in the subsidiary and hold it for a minimum of 1 year.

4) Royalty Income

50% of the royalty income can be deducted from the tax base, which results in an effective tax rate of 5% up to a tax base of HUF 500 million. Furthermore, the gains on the disposal of intangible assets can also be tax exempt with the same conditions as the capital gains.

5) R&D Costs

The direct costs of basic research, applied research and experimental research carried out for the taxpayer's own activities can be fully deducted from the tax base, which results in a double deduction because these costs are already accounted during the ordinary activity of the company.

6) Prices Applied for Transactions with Related Parties

The prices applied for related party transactions have to be in line with the arm's length principle. Should the parties agree in prices that are different from the market prices, the Hungarian taxpayer should increase or decrease its tax base depending on how a comparable transaction would affect its tax base.

7) Fines & Penalties

As a general principle, fines and penalties are not tax-deductible expenses; therefore the taxpayer should increase its tax base with such items.

Anti-Avoidance Rules

The most important anti avoidance provisions in the Hungarian legislation are connected to controlled foreign companies ("CFC"). The CFC definition states that a foreign company is considered to be a CFC if: i) it has a Hungarian tax resident beneficial owner, or ii) the majority of its incomes are generated from a Hungarian source. If any of the above criteria is met, than the ratio of the tax paid and the tax base should be lower than 10% to be qualified as a CFC. Companies with registered seat, tax residency in the EU, OECD and countries Hungary concluded a treaty on the avoidance of double taxation with are exempt provided that they have real economic presence in that state.

Withholding Taxes

There are no withholding taxes in Hungary at all; therefore the Hungarian companies are commonly used to pay out holding type incomes to countries against which other countries impose withholding taxes.

Individual/ Personal Taxation in Your Jurisdiction

The following summary is based on the provisions of Act CXVII of 1995 on Personal Income Tax ("PITA") and OECD Model Tax Convention on Income and on Capital ("Convention") as the basis of all Hungarian treaties with other countries on avoidance of double taxation ("DTT"). Hungary has more than 80 DTT with various countries, among these all EU member states can be found.

General Rules

Hungary imposes personal income tax ("PIT"') on the worldwide income of Hungarian tax residents and on incomes originating from Hungary of foreign tax residents. If a DTT has a provision contrary to the local legislation, than the wording of the DTT should be applied, therefore the taxation of the worldwide income is usually limited by the DTTs.

Tax Residency

Hungary has unique rules for tax residency of individuals, which is slightly different from the international standards. According to the provisions of PITA an individual is Hungarian tax resident if he/she is:

- Citizen of Hungary,
- Staying more then 183 days in Hungary,
- In the possession of a residency permit,
- Stateless.

In addition to the above the individual is Hungarian tax resident if none of the above criteria met, but:

- Has a permanent address only in Hungary,
- His/her centre of vital interests are in Hungary,
- Has a habitual abode in Hungary.

From the above it can be concluded that the internal rules of Hungary in connection to the private individual's tax residency are different from the international standards. Nonetheless, resulting from the numerous DTTs in many cases when there is uncertainty regarding somebody's tax residency, the OECD rules are applicable.

A very important exemption has been enacted to the residency rules of Hungary connected to the Hungarian Residency Bond Scheme ("Scheme"), namely the applicant who receives the permanent residence with participating the Scheme is not considered to be tax resident in Hungary, unless he/she spends more than 183 days in Hungary in any given calendar year.

Tax Base

Hungarian tax residents are subject to PIT on all types of income, unless expressly exempt by PITA. The law distinguishes numerous types of income, which are the following:

- Aggregate income:
    - Income from independent personal services,
    - Income from independent personal services, and
    - Other aggregate income;
- Entrepreneurial income;

- Capital gains on movable and immovable property;
- Income from capital:
    - Interest,
    - Dividend, and
    - Capital gains on securities;
- Benefits in kind;
- Income from the receipt of securities, options and similar rights, and
- Miscellaneous income.

The aggregate income is subject to a flat 16% tax rate; income from other categories is calculated separately. Apart from the PIT, various types of contributions are payable both, on the side of the payer and payee depending on the type of the income.

Author Profile

Gábor Kiss, TEP, is Business Development Director at Walsh Worldwide, a citizenship and residency service provider in the CEE/CIS region. Gábor has over seven years of experience in Hungarian and international taxation with special respect on corporate taxation and information exchange rules. Gábor graduated as an Economist from the Budapest University of Technology and Economics. He started his carrier at PWC as a Corporate Tax Advisor, after working for almost four years at PWC, he joined Crystal Worldwide Hungary and works there as an International Tax Manager. Parallel to his current job at Crystal, Gábor is heavily involved in the operation of Walsh Worldwide. Gábor is a trust and estate practitioner (TEP) and registered Hungarian Tax Advisor, FATCA expert, personal immigration and citizenship counsellor. He speaks fluent English, Russian, Ukrainian and Hungarian.

Company Profile

Crystal Worldwide Group has twenty years of experience in the field of international tax and asset planning, and registering and operating companies. Our goal is to provide legal tax saving and asset protection opportunities for our clients by apply tailor-made international tax planning solutions.

We believe that knowledge and expertise are inevitable conditions of success. In order to provide our customers with the well-founded information needed to make the right decisions, our experienced colleagues give detailed information on the tax planning opportunities to be considered during face-to-face consultation sessions. Our colleagues from our various offices are fluent in the following languages: Hungarian, English, Russian, Greek, German, Italian, Polish, Ukrainian, Armenian and Arabic.

Crystal Worldwide Group has offices in Liechtenstein, Cyprus, Hungary, the Seychelles and Anguilla. We are also licensed to provide corporate services in Switzerland, Liechtenstein, New Zealand, the Seychelles and Anguilla.

Our extensive network of branch offices and our close and established relationships with international law offices, counselling agencies and financial institutions enable us to provide the highest standards of services to our clients at competitive prices all over the world. Our clientele include private individuals, family enterprises as well as large multinational companies. Thanks to our high-quality services in this industry, we have managed to earn the respect and trust of our clients.

Business issues of our clients are handled with the highest level of discretion and unrivalled professional standards.

9. PAYING TAXES IN KAZAKHSTAN

Overview

Kazakhstan is the second largest country in CIS. It is geographically diverse, comprised of extensive grassland, semi-desert, and mountainous areas covering almost three million square kilometres (km). Kazakhstan lies in the north of the Central Asian republics and is bordered by Russia in the north, China in the east, Kyrgyzstan and Uzbekistan in the south, and the Caspian Sea and part of Turkmenistan in the west. It has almost 1,894 km of coastline on the Caspian Sea.

Kazakhstan has an estimated population of 16.2 million. The capital of Kazakhstan is Astana. Other principal cities are Almaty, Karaganda, Pavlodar, Aktobe, and Shymkent. Kazakh is the official language, and Russian is the language of international communication. The national currency is the *tenge* (KZT).

Tax system in Kazakhstan consists of the Tax Code and Normative Regulative Acts and is subject to regulation by international treaties ratified by Kazakhstan.
Tax legislation is in effect on the whole territory of Kazakhstan and covers taxation for individuals and legal entities.

Kazakhstan taxation is based on principles of nature of mandatory payment of taxes and other mandatory payments to the State budget, certainty and equality of taxation, unity of tax system and publicity of tax legislation.

The Kazakhstan Tax Code defines taxes, levies and other payments to the State Budget as well as general taxation principle.

Taxes such as corporate income tax, value-added tax, personal income tax and excise duty constitute the largest part of the revenue.
General taxation period in Kazakhstan is a calendar year.

Taxation on Corporate Income

Tax Residence

In general, legal entities incorporated in Kazakhstan that have their place of effective management (e.g. if their central management and control are exercised in Kazakhstan) in Kazakhstan are treated as Kazakhstan tax residents. Kazakhstan tax residents are subject to the worldwide income taxation. Foreign legal entities are treated as non-residents from Kazakhstan tax perspective and subject to taxation on Kazakhstan source income or on income derived from business activities in Kazakhstan.

In accordance with the provisions of Kazakhstan Civil Code, local and foreign entities may work through a number of legal and organizational structures, including the following forms:

- General Partnership;
- Limited Liability Partnership;
- Partnership with Additional Liability;

- Joint-Stock Companies;
- Representative Offices, and;
- Branches.

Permanent Establishment

Non-resident legal entities having business activities in Kazakhstan may create a permanent establishment (hereinafter – PE) in the following cases:

- 'Fixed place PE': a non-resident corporation conducts business activities in Kazakhstan through a fixed place, including, but not limited to, through a place of management.
- 'Services PE': a non-resident corporation provides services in Kazakhstan through employees or other personnel engaged by the non-resident for such purposes, provided that these activities continue for more than 183 days within any consecutive 12-month period for the same or connected projects.
- 'Agency PE': a non-resident corporation conducts business activities in Kazakhstan through a dependent agent. A dependent agent is an individual or legal entity that meets all of the following criteria simultaneously:
    1. Is not an independent agent.
    2. Has the contractual authority to represent the non-resident's interests in Kazakhstan and makes use of this authority by acting and signing (negotiating) contracts on behalf of the non-resident.
    3. Conducts business activities that are not limited to those of preparatory and auxiliary nature.
- 'Construction PE': a construction site, in particular a shop or an assembly facility, performance of projecting work, forms a PE, notwithstanding the timing of performing operations.

Corporate Income Tax

General corporate tax rate for legal entities is 20%. The tax period for corporate income tax (hereinafter – CIT) is a calendar year. Taxable income is defined as a difference between aggregate annual income of a legal entity and allowable deductions.

Determination of Income

Kazakhstan legal entities are subject to taxation on worldwide income. Non-resident legal entities, conducting business in Kazakhstan through a PE, are subject to taxation on income attributable to the activities of such a PE. Income recognition is defined by the accrual method.

Capital Gains

Capital gains are subject to general CIT rates. An exemption exists for capital gains realised from the sale of shares and participation interests in Kazakhstan legal entities or consortiums that are not engaged in subsurface activities.

Dividends

Generally, dividend income is exempt from CIT, except for dividends paid by certain types of investment funds (i.e. closed pie investment funds of risky investments)

Interest Income
Interest income is subject to taxation at the CIT rate.

Royalty Income
Royalty income is subject to taxation at the CIT rate.

Inventory Valuation

For the tax purposes, inventory is subject to valuation in accordance with International Financial Reporting Standards (IFRS) and Kazakhstan financial accounting legislation. Permitted inventory valuation methods include first in first out (FIFO), weighted average, and specific identification methods.

Foreign Income

Foreign income is subject to taxation at the CIT rate.

Deductions

In general, allowable deductions include expenses associated with activities to generate income, unless specifically restricted for deduction by tax legislation. All expenses require supporting documentation.

Depreciation and Depletion

Tax depreciation is calculated using the declining-balance method at depreciation rates from 10% to 40%, applied to the balances of four basic groups of assets:

- I. Buildings and facilities: 10%.
- II. Machinery and equipment: 25%.
- III. Computers and equipment for information processing: 40%.
- IV. Fixed assets not included into other groups, including oil and gas wells, transmission equipment, oil and gas machinery and equipment: 15%.

Thin Capitalisation

Deduction of interest paid to related parties, or to unrelated parties under related parties' warranties, or to parties registered in a country with a privileged tax regime depends on the borrower's capital structure; as such that deductible interest will be limited with reference to an 'acceptable' proportion of debt to equity (7:1 for financial institutions, 4:1 for all other entities). The list of jurisdictions with privileged taxation, the so-called 'black list' established by the government, includes 63 jurisdictions (e.g. British Virgin Islands, Hong Kong, Macao)

Controlled Foreign Companies (CFCs)

In accordance with the CFC rules, if a Kazakhstan resident holds directly or indirectly 10% or more ownership in share capital or voting rights in a non-resident company registered or located on a territory of a country with a privileged tax regime, such resident is subject to Kazakhstan CIT on the portion of undistributed profits from the non-resident company.

Transfer Pricing

Effective from 1 January 2009, Kazakhstan adopted a separate Transfer Pricing Law. This Law in certain terms differs significantly from the key principles outlined by the OECD Guidelines.

Kazakhstan transfer pricing legislation, focusing on cross-border transactions, it expands in scope to certain transactions between unrelated parties. The appropriate state authorities are entitled to take control over transfer prices applied to number cross-border transactions (e.g. barter transactions, transactions between related parties, with parties registered in tax havens, etc.)

The control also may be implemented in respect of transactions executed within the territory of Kazakhstan in case they are directly related to cross-border trade (e.g. subsurface use transactions, if one of the parties has tax exemptions).

To determine market prices under transfer pricing regulation, five of the following methods are used:

- Comparable uncontrolled price (CUP) method
- Cost-plus method
- Resale price method
- Profit split method
- Net [comparable] profit method

Withholding Taxes

Income of non-residents sourced in Kazakhstan and the proceeds from the sale of shares in subsurface users are subject to withholding tax (WHT).

A non-resident legal entity is exempt from dividend WHT if:

- The holding period of shares or participation interest is greater than or equal to three years, and
- 50% or more of the charter capital value of the entity paying the dividends is not the property of a subsurface user.

Property Tax

Property tax is calculated annually at a general rate of 1.5% of the average net book value of immovable property.

Taxation on Personal Income

Type of Income	WHT % Rate
Dividends, capital gains, interest, royalties	15
Any income of an entity registered in a tax haven	20
Insurance premiums under risk insurance agreements	10
Income from international transportation services; insurance premiums under risk reinsurance agreements	5
Other income	20

Kazakhstan tax residents are taxed on worldwide income, whereas tax non-residents are taxed only on their income sourced in Kazakhstan non-taxable at source (i.e. capital gain, rental or property income etc.).

The administration of payment and declaration of personal taxes in Kazakhstan depends on the existence/non-existence of a tax agent in Kazakhstan. Generally, the tax agent is an employer or Kazakhstan entity paying / calculating the income to the individual. If there is a tax agent, then the individual income tax should be paid through payroll withholding. If there is no tax agent, the individual is liable to self-reporting, i.e. to filing of personal Declaration on personal income tax by 31 March of the year following the reporting one, and paying the tax by 10 April of the year following the reporting one.

The definition of employment income provided by the Kazakhstan tax legislation is wide and basically covers any income paid or accrued to the employee, including any benefit in kind or service/goods provided by the employer for free or for lower than market price.

Tax Residence

Tax residents are defined as individuals who permanently reside in Kazakhstan or have their centre of vital interests in Kazakhstan even if they do not permanently reside in Kazakhstan.

Kazakhstan Tax Residents

Individuals who have spent 183 or more days in Kazakhstan in any 12 consecutive month period, or, those who spent less than 183 calendar days in any 12 consecutive month, but whose centre of vital interest was located in Kazakhstan during a calendar year are consider tax residents under this category.

Centre of vital interest will be deemed as located in Kazakhstan during a calendar year, if the following criteria were simultaneously met:

- An individual hold Kazakhstan citizenship or a residence permit during a calendar year;

- An individual's family and (or) close relatives were living in Kazakhstan during a calendar year;

- An individual and (or) his/her family members had real estate in Kazakhstan in accordance with owners' rights, which was available for stay in Kazakhstan at any time for the individual or his/her family members.

Kazakhstan tax residents are obliged to file tax returns:

- Indicating their worldwide income received during the 2013 tax year, i.e. income received for the activity(ies) in other countries; or

- To report funds on foreign bank account(s) together with respective balances as at the end of the reporting period; or

- To report income non-taxable at source, e.g. capital gain, dividends, interests, property income, rental income from sources in/outside of Kazakhstan etc.; or

- Based on other applicable criteria stipulated by Kazakhstan tax legislation.

Kazakhstan Tax Non-Residents

Those individuals who do not fall under definition of "Kazakhstan tax resident" mentioned in previous page, OR, those who provided a Certificate of Tax Residency in the other country in accordance with effective DTT fall under this category.

Under the Tax Code requirements such certificate should be *apostilled* and a notarized translation into Russian/Kazakh should be enclosed. Finally, this should be provided by the filing deadline of Tax Return (i.e. 31 March of the year following the reporting one).

Personal Income Tax

A flat rate of 10% is applicable to most types of personal income; 5% is applicable for dividends received in and outside of Kazakhstan.

Social Tax

Social tax is payable by employers in respect of its employees (both, locals and expatriates) at 11% on the top of employee's gross remuneration.

Social Security Taxes

Obligatory social insurance contributions are payable by employers at the rate of 5% to the State pension centre on pension payments. Only Kazakhstan citizens and foreigners holding a residence permit in Kazakhstan are subject to obligatory social insurance.

Obligatory Pension Contributions

Obligatory pension contributions are withheld at a rate of 10% out of employees' gross income and paid to the State Pension Centre of pension payments. Only Kazakhstan

citizens and foreigners holding a residence permit in Kazakhstan are subject to pension contributions.

Author Profile

Damir Atchibayev is an experienced taxation expert with more than 5 years' experience both in Kazakhstan and international taxation being involved in Big4 consultancy business. In 2009 Damir obtained a Masters degree from the University of Birmingham (UK) in International Accounting & Finance. Damir is a scholar of the Kazakhstan Presidential Scholarship. At the moment, Damir works in logistics business being responsible for general taxation issues, consulting on tax optimisation and implementation of tax planning and tax structuring.

Damir Atchibayev

Tax Manager at Eastcomtrans LLP Kazakhstan

10. TAXATION IN LATVIA

Corporate Taxation – Tax Rates and General Features

Standard Latvian corporate income tax (CIT) rate is 15% (flat rate). Resident companies are taxed on their worldwide business income. Non-resident companies are taxed on their Latvian - source income. Only expenses that are directly related to company's business activity are deductible for CIT purposes.

Dividends are exempt from CIT (no particular shareholding threshold) except for dividends paid to or received from blacklisted zero or low tax jurisdictions.

Capital gains from sale of shares are non-taxable and losses are non-deductible for CIT purposes except for gains derived from shares in a company registered in a blacklisted zero or low tax jurisdiction.

Gains from disposal of fixed assets are not taxable if the assets are substituted by similar new ones within 12 months.

Latvia has concluded tax treaties with 57 countries.

Withholding Tax

No withholding tax (WHT) is imposed on dividends, interest and royalties; except for payments to blacklisted zero or low tax jurisdictions (15% or 30% WHT applies).

Management and consultancy fees paid to non-resident companies are subject to 10% WHT, which can be further reduced to 0% by virtue of double tax treaties.

Payments made by Latvian resident companies to non-resident companies for lease of property located in Latvia are subject to 5% WHT.

Non-resident companies are taxable in Latvia on their Latvian-sourced profits only if they maintain a permanent establishment in Latvia. Sale of Latvian immovable property, including sale of shares in companies having 50% of assets comprised of Latvian immovable property, by a non-resident is subject to 2% WHT from the sale price.

The WHT paid from management, consultancy, lease fees and sale of immovable property mentioned above may be recalculated as 15% CIT from capital gains, and the excessively paid WHT amount may be requested back from Latvian state budget.

Investment Incentives

A tonnage tax regime is an option allowing Latvian registered shipping companies to select to have their taxable profits from certain shipping activities calculated at fixed income rates based on net tonnage of the ship(s) exploited rather than calculating CIT from business profits.

No CIT payable up to 25% of the amount invested (minimum investment – EUR 10 million) in specified industries. The incentive must be applied for and granted by 2020,

investments must be made in 5 years as of acceptance by the government, and tax savings must be claimed within 16 years.

In Special Economic Zones or Free Ports, tax rebates can be obtained (after investing in production for exports) on: property tax (80-100%), CIT (80%), VAT (0%).

Use of Tax Losses

Tax losses arising in 2008 and consecutive taxation years can be carried forward for an unlimited period.

Thin Capitalisation

Thin capitalisation rules are as follows: debt-to-equity ratio of 1:4 or 1.57 times short-term interest rate as provided by the Bank of Latvia. The "less favourable" of the two criteria applies. Exemption for credit institutions established in the EU/EEA or tax treaty country.

Transfer Pricing

Transactions with related parties must be arm's length. Transfer pricing (TP) rules are set in accordance with Organisation for Economic Cooperation and Development (OECD) TP Guidelines.

As from 2013, taxpayers with an annual turnover exceeding EUR 1.43 million and having transactions with specified transaction partners exceeding EUR 14,300 must prepare TP documentation. The TP documentation must be presented within 30 days after receipt of request from the State Revenue Service (SRS). Companies not reaching these thresholds must also be able to prove that their related-party transactions are arm's length in case of tax audit.

Advance Pricing Agreements (APA)

Taxpayers whose annual turnover exceeds EUR 1.43 million have the option to enter into an APA with the SRS on determining the market price for a transaction or certain type of transactions with a related foreign company if the transaction amount (actual or planned) exceeds EUR 1.43 million annually. The SRS charges a fee of EUR 7,114 for evaluating a taxpayer's application for APA.

Microenterprise Tax Regime

Microenterprise tax is introduced for qualifying registered micro-enterprises as an alternative to CIT and payroll taxes. The following reduced rates apply on turnover of qualifying micro-enterprises:

- 9% from turnover for income below EUR 7,000;
- 11% from turnover for income between EUR 7,000 and EUR 100,000.

The following criteria should be met by a taxpayer (a company or self-employed person) in order to qualify for micro-enterprise tax regime:

- Annual turnover must be below EUR 100,000, and

- Number of employees should not exceed five persons, and
- Monthly net remuneration of each employee should not exceed EUR 720.

Anti-Avoidance Provisions

There is a statutory anti-avoidance rule in Latvia. Tax administration is entitled to determine the amount of tax payment, taking into account the economic substance of the taxpayer's transactions, not only the legal form.

Payments made to entities located in nil or low tax jurisdictions are subject to 15% - 30% WHT. For certain payments the State Revenue Service may grant a relief.

Personal Taxation

Domicile and Residency Requirements

According to Latvian tax law an individual is considered a Latvian resident for personal income tax (PIT) purposes if the following conditions are met:

- An individual permanently resides in Latvia;
- An individual stays in Latvia for 183 days or longer in a twelve month period;
- An individual is a Latvian citizen employed by the Latvian Government abroad.

Income Tax Base and Tax Rates

Resident individuals are subject to PIT on their worldwide income. Non-residents are subject to tax on their Latvian-source income.

Standard PIT rate is 23%. Dividend, interest and other income from capital is subject to 10% PIT. Capital gains are subject to 15% PIT rate.

According to the stock option exemption scheme, the individuals are exempt from payroll taxes on qualifying stock options. Only the sale of shares attracts 15% capital gains tax.

PIT return submission date is from 1 March until June 1 of the year following the taxation year.

Social Security Contributions

Employee rate is 10.5% of gross salary; employer rate is 23.59% on top of gross salary. Annual salary exceeding EUR 48,600 is not subject to social security contributions.

Deductions and Allowances Given to Individuals

Certain deductible expenses and allowances are applied to resident's taxable income. Allowances are available to resident individuals in 2015 are as follows:

- Allowance for each dependant (for example, children, an unemployed spouse) EUR 165 per month, and;

- A personal allowance at amount of EUR 75 monthly.

The allowances are also applicable to non-residents, who are other EU or EEA country residents and whose Latvian-source income makes 75% or more of their total income.

The following expenses are deductible from a resident's taxable income:

- Social security contributions (employee's part);
- Qualifying education and medical expenses (up to EUR 213.43 per year);
- Certain amount of expenses incurred in course of work subject to royalties;
- Donations to listed public benefit organizations;
- Payments made to EU/EEA private pension funds (max 10% of the taxable income);
- Accumulative life insurance premiums paid to EU/EEA insurance companies (max 10% of the taxable income).

The last three groups of deductible expenses in total cannot exceed 20% of the individual's annual taxable income.

Author Profile

Jānis Taukačs

is a partner and regional head of the Tax & Customs Team. He has been practising law (with focus on tax & customs) since 1995.

Jānis has been involved in many large-scale projects, and his portfolio of tax and legal clients includes over 200 local and international businesses. Seven years with professional services firm KPMG Latvia symbolise his highly valuable expertise in tax and customs law matters.

Jānis has published over 100 articles, blogs and other publications mostly on taxation and customs law in Latvian and international business publications, and has lectured at Latvian and international conferences and seminars, and at Stradiņa University on tax and customs. As a high profile specialist, he is frequently interviewed by the Latvian and international media.

Jānis Taukačs

SORAINEN Latvia

For further information about Jānis Taukačs please visit our website:
http://www.sorainen.com/lv/People/21/Jānis.Taukačs

Company Profile

SORAINEN is a leading regional business law firm with fully integrated offices in Estonia, Latvia, Lithuania and Belarus. Since its establishment in 1995, SORAINEN has been advising international and local companies on most business law and tax issues involving the Baltic States and Belarus.

SORAINEN team of over **130 lawyers and tax advisers** provides top expertise and the widest experience in the **Baltics and Belarus**. Our strengths include:

1. **Fully integrated offices** in Estonia, Latvia, Lithuania and Belarus;
2. First law firm in the region to implement a quality management system **certified in line with ISO 9001 standards** (certified by Lloyd's Register Quality Assurance);
3. Integrated **knowledge management system** involving all offices and specialisations;
4. **10 integrated regional teams** covering all areas of business law;
5. **Experience from over 37,000 transactions**.

This enables us to achieve maximum efficiency and top quality legal and tax solutions.

The firm's strongly developed tax practice was awarded as "Baltic States Tax Firm of the Year" in four consecutive years – 2010, 2011, 2012 and 2013 at the annual International Tax Review European Tax Awards. In 2013 SORAINEN received the title of "Baltic States Transfer Pricing Firm of the Year" and was nominated among five finalists for both awards in all four years at the International Tax Review European Tax Awards.

11. PAYING TAXES IN LEBANON

Overview

Lebanon continues to be a vital crossroad between the West and the Arab World, rendering it as multilingual haven of culture and diversity where the most common languages spoken are Arabic, English, French & Armenian with some Spanish & German. The Republic of Lebanon maintains a free-open market economic system with full currency convertibility. Its major industries are service-oriented mainly:

- Banking with non-restrictive policy towards foreign investment, long standing bank secrecy laws and an active Central Bank continuously ensuring the soundness of the sector.
- Tourism with renowned landmarks, beach shoreline, ski resorts and Mediterranean moderate climate.
- Medical, where the highest rate of GDP percentage in the MENA region is spent on healthcare allowing for world-class standard quality healthcare, growing health tourism and cosmetic surgery sector.
- Education by hosting several of the top universities in the MENA region creating a highly knowledgeable, technical and skilled labour force.
- Construction and development that strongly continues even long after the end of the civil war allowing for substantial growth in the real estate sector.
- Agriculture and food products.

Information on countries having Dual Tax & Investment Treaties with Lebanon can be found here:

http://www.finance.gov.lb/en-US/finance/InvestmentTaxAgreements/Pages/TaxConventions.aspx
http://www.finance.gov.lb/en-US/finance/InvestmentTaxAgreements/Pages/InvestmentProtectionAgreements.aspx

Corporate Taxation

Residency	An entity is resident if it is registered in accordance with Lebanese law.
Basis	As a territorial tax system, an entity is subject to tax in Lebanon on income generated from activities in or through Lebanon.
Taxable Income	Related to all business activities, unless exempt by law and must be calculated as revenue less eligible expenses. For insurance companies, public contractors, oil refineries and international transport taxable income is calculated as a percentage of total revenue.
Losses	Taxable losses may be carried forward for three years. The carry back of losses is not permitted.
Income Tax Rate	15%.
Capital Gains	Capital gains derived from the disposal of tangible and intangible assets and financial instruments are taxed at a rate of 10%.

Surtax	N/A
Dividends*	Dividends paid to a resident or non-resident entity are subject to a 10% withholding tax.
Interest*	Interest paid on bank deposits or bonds is subject to a 5% withholding tax; other interest paid is subject to a 10% withholding tax.
Royalties*	Royalties paid to a non-resident are subject to a 7.5% withholding tax.
Technical service fees*	Such fees paid to a non-resident are subject to a 7.5% withholding tax.
Branch Remittance Tax	Branches of a foreign entity are subject to the normal corporate income tax rate of 15% afterwards net profits are automatically deemed as distributable dividends and therefore subject to 10% dividends tax.
Incentives**	Offshore companies are exempt from tax on profits and dividend distributions yet only subject to an annual lump sum tax of US$ 667. An offshore company may only carry on activities outside Lebanon or through the free zone and may invest in Lebanese treasury bills, but it may not carry on banking or insurance activities. Holding companies are exempt from tax on profits and dividends distributions, yet are subject to annual tax on capital capped at US$ 3,333. Capital gains, derived from the sale of an investment in a Lebanese subsidiary or associate, are exempt if the investment is held for more than two years. No capital gains tax applies on gains derived from the disposal of an investment in a foreign subsidiary.
Capital Increase Duty**	A one-time stamp duty is levied on an increase in the capital of a company, at an average cost of US$ 4,000.
Transfer Tax	A 6% tax is levied on the transfer of real estate.

*This rate may be reduced under a tax treaty.
**Rates used: US$ 1 equals LL 1,500.

Personal Taxation

Residence	The current tax law does not clearly state the applicable individual residency; however, an applicable tax treaty may define a period for residency, in which case the treaty would supersede. For licensed professionals practicing the profession automatically triggers residency; however, a person who is not registered as a professional also can be a resident.
Basis	Resident and non-resident individuals are taxed only on Lebanese-source income.
Filing Status	Married persons are taxed separately; joint assessment is not permitted.
Taxable Income	Taxable income comprises income from employment and income from a profession, personal establishment or partnership. Personal taxable income does not include dividends or interest and is subject to family allowances and deductions.
Capital Gains	10% i.e. dividends or sale of assets.
Income Tax Rates	Progressive rates from 4% up to 21%.
Inheritance/Estate Tax	Inheritance tax is levied at rates ranging from 12% to 45%, depending on the level of family connection.
Capital Acquisition Tax	N/A
Net Wealth/Worth Tax	N/A

Other Indirect Taxes & Duties

VAT Rate	The standard rate is 10%; however basic foods, health, education, financial, insurance and banking services and the leasing of residential property are exempt.
Payroll tax	Payroll tax is applied on tax brackets ranging between 2% to 20%, where the employer withholds these amounts from the salary and remits the tax quarterly to authorities.
Social Security	Total social security contributions are 23.5% where 21.5% are the liability of the employer and 2% of the employee.
Stamp duty	A stamp duty of 0.3% is levied on most contracts..
Property tax	A tax is levied on rental income from Lebanese real property at rates ranging between 4% and 14%.

Author Profile

Mr. **Abousleiman** is a certified public accountant in Lebanon (LACPA) and since 2009 is the acting Managing Director of Abousleiman & Co., an audit and assurance Firm established in 1971 that practices assurance, enterprise risk management, and tax advisory services.

Over the course of his 15 year career, Mr. Abousleiman has gathered experience in accounting & financial management, cost & financial accounting, internal &

external audit, financial reporting & tax advisory services. Mr. Abousleiman has audited private companies, financial institutions, social welfare funds, public institutions, grant funded projects; in addition, he has carried out tax and social security compliance audits, valuated businesses, developed accounting & budget reporting functions as well as internal policies and procedures manuals and oversaw the restructuring of several ventures.

Over the course of two years, Mr. Abousleiman, lectured at the CLET – Kafaat Institute University in Internal Control and Auditing practices. He has also given a wide range of workshop seminars on International Financial Reporting Standards (IFRS), International Standards on Auditing (ISA), audit working papers, advanced accounting, financial reporting, etc.

Mr. Abousleiman graduated from the Lebanese University – Faculty of Business Administration in Accounting & Finance where he obtained his Maitrise degree and thereon pursued a Masters in Business Administration (MBA) from the Lebanese American University (LAU).

Company Profile

We at Abousleiman & Co. have offered our professional expertise and services to a continuously growing number of clients for almost 45 years now. Through our commitment to high moral standards and ethical values we have been successful in establishing strong ties with our clients, while our technical expertise has continuously allowed us to satisfy our client's growing needs through hands on consultations and recommendations to optimize managing their businesses.

Our Firm's experience lies in both the public and private sectors where we have engaged in audits as well as special assignments to develop, and in other cases to assess, internal controls adopted by those organizations.

Currently, our three major focus areas of expertise lie in: (1) assurance services, whereby we carry out audits in accordance with International Standards on Auditing and verify compliance of financial statements with International Financial Reporting Standards (IFRS), (2) enterprise risk management, which allows us to understand the administered control measures within an organization with a view to optimizing them and addressing their evident weaknesses, if any, and (3) taxation, whereby we propose effective tax structures for clients as well as handling tax claims and objections with local tax authorities.

Feel free anytime to contact our Managing Director, Wissam Abousleiman – wissam@abousleimangroup.com.

In Lebanon

Abousleiman & Co. is a member of the Lebanese Association of Certified Public Accountants (LACPA) and the Arab Federation for Accountants and Auditors. We are also registered as sworn auditors with the Judiciary Courts of Lebanon.

Our Services

Business Start-Ups	Advanced Business Solutions	Assurance & Compliance	Trainings
Incorporation	Enterprise Risk Management	External Audits	Forensic
Accounting Setup	Internal Audits	Forensic Audits	Tax & Social Security
Tax Planning	Budgeting & Cash Flows	Due Diligence	IFRS & ISA
Feasibility Studies	Financial Advisory	Taxation & Objections	Leadership
Intellectual Property	Valuation Services	Corporate Governance	Strategic Planning
		Arbitration	E-Fraud

Industries Served

Professional Services	Legal, design, actuarial, IT
Media & Entertainment	Media & advertising, magazines, news reporting agencies
Manufacturing & Trading	Packaging, clothing, electronics, automotive
Medical	Hospitals, clinics, doctors
Hospitality Management & Leisure	Clubs, restaurants, pubs, ticketing agencies
Construction	Contracting, architectural
Oil, Gas & Energy	Refineries, water management & electricity utilities
Public	Ports, transport, municipalities, pension funds
Funds	Syndicates, associations, pension & retirement
Non-Profit	Local & international NGOs, orders & syndicates

12. LUXEMBOURG'S TAX SYSTEM

Personal Income Tax

In Luxembourg, individuals are subject to personal income tax and social security contributions.

Tax regime, tax rates and income subject to taxes differ whether the individual tax payer is an:

- Individual resident taxpayer
- Individual non-resident taxpayer

The concept of residence is absolutely fundamental to the extent that it will condition the application of double tax treaties that Luxembourg has signed and also the taxation in the country of residence. According to article 2 of the law of 4 December 1967 on income tax, « *Individuals are considered resident taxpayers if they have their tax domicile or habitual residence in the Grand Duchy. Individuals are considered non-resident taxpayers if they do not have their tax domicile or habitual residence in the Grand Duchy (…) ».* In the context of the application of the aforementioned article 2, the *tax domicile* is defined as a permanent place of residence that the individual uses and intends to maintain.

Individual taxpayers who do not have their tax residence in Luxembourg will be qualified as resident if they have a usual abode there. A usual abode exists after a continuous presence of six months in Luxembourg. Conversely, an individual taxpayer will be qualified as a non-resident if he has neither his tax domicile nor his usual abode in Luxembourg. Generally, individual non-resident taxpayers are those who commute from a neighbouring country, where they do have their habitual residence, to Luxembourg in order to work.

Tax rules will not be the same depending on whether the taxpayer is a resident or not. Resident taxpayers are subjects to unlimited taxation on their worldwide income regardless of the source of the concerned income. On the other hand, non-resident taxpayers will only be taxable on their income achieved in the territory of Luxembourg. However, if the non-resident taxpayer is only taxable on his Luxembourg source income, he is not exempted from taxation in his country of residence. This situation can lead to a double taxation that may or may not be addressed in tax treaties between countries to avoid double taxation.

The calculation of Luxembourg income taxes depends on the individual's personal situation and annual income. In order to determine the personal income tax rate, each individual is classified into a specific class. Thus, income tax rates are progressive and vary from 0% up to 40%. A 7% surcharge for an unemployment fund applies on the income tax due. This surcharge can be raised to 9% depending on the declared income.

Taxable employment income generally includes benefits in cash or in kind earned from an employment activity. Stock option plans are considered as benefit in kind and taxed as employment income. If options are traded, tax is levied when the option is granted. If options are non-traded, the tax is levied at the time the option is exercised. Taxpayers

can also obtain deductible items. For example, professional expenses related to employment income are tax deductible. In some cases, special expenses such as mandatory State, social, gifts or voluntary contributions to an occupational pension scheme can also be deductible.

Luxembourg residents are also subject to inheritance tax which applies to their Luxembourg and overseas financial investments and properties. The rate of the inheritance tax depends on whether the deceased person and the heir are relatives or not. Non-residents are also subject to specific inheritance tax or estate duty on properties located in the territory of Luxembourg. The rates are the same as those paid by residents except the minimum rate for direct heirs of 2%. Residents and non- residents shall pay a tax on investment income and capital gains.

Corporate Income Tax

All companies are subject to corporate income tax in Luxembourg. Regarding the law in force in Luxembourg, companies are subject to three kinds of taxes:

- Corporate income tax
- Communal business tax
- Net wealth tax

Given the territoriality of tax as set forth in articles 159 and 160 of the Luxembourg Law of 4 December 1967 on income tax, only companies that have a sufficiently strong attachment with Luxembourg have unlimited tax liability. Thus, according to article 159 of the Luxembourg Tax Law, «*are considered as resident taxpayers subject to corporate income tax, companies who have their registered office or their centre of effective management in the territory of the Grand-Duchy*».

As for personal income tax, the tax residence remains the fundamental criteria governing the application of tax rules toward companies. Consequently, resident companies will be taxable on their worldwide income provided that a double tax convention is not applicable. Indeed, if the foreign income is collected in a country with which Luxembourg has concluded a tax agreement thereby eliminating double taxation, the foreign income will be exempt from Luxembourg tax to the extent set forth in the tax convention. Concerning companies who do not fall within the scope of article 159 as mentioned above, i.e. which do not have their registered office or centre of effective management in Luxembourg, article 160 provides the taxation of Luxembourg income as soon as it was achieved in Luxembourg through a permanent establishment.

Corporate income tax as communal business tax is based on the companies' taxable income. Net wealth tax is calculated on net assets as shown in the company's balance sheet at the end of a given tax period. Corporate income tax is a special proportional tax levied on gains made by a company, and the rate varies depending on how much the company declares at the end of the tax period. Thus, if the company's income exceeds 15,000 Euros, the rate applicable will be set at 20%. This rate will be set at 21% if the company's income exceeds 15,000 Euros. An additional charge of 7% is levied on corporate income as a contribution to the unemployment fund.

Communal business tax is levied only on the profits of commercial companies. It is set and collected by the Luxembourg Inland Revenue *(Administration des contributions directes*) on behalf of the communes based on the company's tax filing. Communal business tax is calculated on a general base that is determined according to the business profit made by the company at the end of a given tax period.

Net wealth tax is levied on taxable wealth as it appears on the company's tax declaration at the end of the tax period.

Holding Income

A. Holding

1. SOPARFI

A SOPARFI (« *Société de participations financières* ») is a fully taxable commercial company whose corporate purpose is limited to the holding of participations and related activities. A SOPARFI takes advantages of the participation exemption and may benefit from double taxation treaties signed by Luxembourg.

1. Legal Framework

SOPARFIs fall within the scope of the Law of 10 August 1915 (as amended) on Commercial Companies. The SOPARFIs' tax system is regulated by the General Tax Law of 22 May 1931 (as amended). Due to the fact that SOPARFIs' primary activity is holding and/or financing activity, its activities fall under the Parent-Subsidiary European Directive of 30 November 2011 (2011/96/EU).

The EU Directive of 30 November 2011 was designed to eliminate tax obstacles for profit distributions between parent companies and subsidiaries based in different Member States. Therefore, the Directive gives a tax exemption for dividends and other profits distribution paid by subsidiary companies to their parent companies.

2. Legal Form

SOPARFIs can adopt one of the following legal forms:

- Société anonyme (S.A.), which corresponds to a Public Limited Company.
- Société à responsabilité limitée (SARL), which corresponds to a Private Limited Company.
- Société en commandite par actions (SCA), which corresponds to a Partnership Limited by shares.
- Socété coopérative (S.C.), which can also be incorporated as a public company.
- Société européenne (S.E.), which is a Société Anonyme incorporated in conformity with article 2 of the European Council regulation (CE) no. 2157/2001 dated 8 October 2001 on the articles of incorporation for a European company.

A public company can be managed either by a single organ of direction (*monistic form*) through a Board of Directors, or within the *dualistic form* through a Management Board

and a Supervisory Board. There are no legal requirements relating to residence or nationality of the directors.

A SOPARFI may be used to:

- Hold participations in private Equity.
- Finance others entities.
- Hold real estate in Luxembourg or overseas, directly or through a company.
- Hold financial assets (financial instruments and bonds, for instance).
- Own intellectual property rights to receive royalties.
- Exercise management control over others entities.

SOPARFIs are subject to the General Tax regime. Therefore, the overall rate of corporation taxes is 29,22%, which includes the corporate income tax (21%) on which a 7% solidarity surcharge is added and the municipal income tax at a rate of 6,75%.

Since 2013, SOPARFIs are subject to a minimum tax of 3,210 Euros (including a solidarity surcharge) if two requirements are cumulatively fulfilled:

- SOPARFIs have their statutory seat or effective place of management in Luxembourg.
- SOPARFIs own at least 90 % of financial assets.

A SOPARFI is also subject to an annual net wealth tax at a rate of 0,5% on its worldwide income.

SOPARFIs benefit from the exemption regime because of their holding activities. Dividends and liquidation surpluses received by a Luxembourg taxable company from a subsidiary company are tax-exempt if the two following conditions are cumulatively met:

- Subsidiary is an entity that falls within the scope of Article 2 of the EU Parent-Subsidiary Directive[1] or a capital company subject in its country of residence to a profit tax similar to the Luxembourg corporate tax income.

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[1] According to Article 2 of the EU Parent-Subsidiary Directive, « *For the purposes of this Directive the following definitions shall apply:*

(a) 'company of a Member State' means any company which:
(i) takes one of the forms listed in Annex I, Part A;
(ii) according to the tax laws of a Member State is considered to be resident in that Member State for tax purposes and, under the terms of a double taxation agreement concluded with a third State, is not considered to be resident for tax purposes outside the Union;
(iii) moreover, is subject to one of the taxes listed in Annex I, Part B, without the possibility of an option or of being exempt, or to any other tax which may be substituted for any of those taxes;

(b) 'Permanent establishment' means a fixed place of business situated in a Member State through which the business of a company of another Member State is wholly or partly carried on in so far as the profits of that place of business are subject to tax in the Member State in which it is situated by virtue of the relevant bilateral tax treaty or, in the absence of such a treaty, by virtue of national law".

- At the time of the dividend distribution or liquidation distribution or a capital gain realized, the SOPARFIs must have held, or intend to do, for an interrupted period of at least 12 months, a direct participation of 10% of the share capital of subsidiary or which has been acquired at a cost of at least 1.2 million Euros.

Provided the two previous conditions are fulfilled, SOPARFIs are exempted from Luxembourg corporate taxation on capital gains realized on a disposal of shares in Subsidiary and from the 0,5% net wealth tax. The exemption also applies to participations held through a Luxembourg tax-transparent entity, which may or may not have a legal personality.

Dividends distributed by a Luxembourg company are, in principle, subject to a withholding tax at a rate of 15%. However, SOPARFIs may be exempted from this tax under the application of a Double Tax Treaty. Moreover, a full withholding tax exemption will be applicable under domestic rules if the distributing company is a fully taxable entity resident in Luxembourg, which has adopted one of the legal forms as required.

SOPARFIs are exempted from the withholding tax in case of a full or partial liquidation of a fully taxable company. Likewise, there is no withholding tax on fixed or floating rate interest payments made to corporate lenders and on royalty payments. As a Luxembourg resident, SOPARFIs benefit from the Double Tax treaties[2]. In principle, companies are subject in their country of residence to taxation on their worldwide income except in the case where a company, while having its registered office in a country, has a permanent establishment in another country. Thus, in this case, the profits from that permanent establishment are taxed in the other country. Under the benefit of those Double Tax Treaties, foreign companies that have a permanent establishment in the territory of Luxembourg are not subject to taxation on their Luxembourg profits. A SOPARFI is a useful financial tool for any entrepreneur, chief executive or group of companies who would develop their economic growth.

2. SPF

The Luxembourg SPF (*Société de gestion de patrimoine familial*) refers to a special tax regime applicable to companies whose sole purpose is management of private wealth of individuals.

1. Legal Framework

[2] Luxembourg has signed Double Tax Treaties with 64 countries: Albania, Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Island, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Macedonia, Malta, Moldavia, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovakia, Slovenia, Spain, Sweden, Serbia, Montenegro, Switzerland, Turkey, UK, Ukraine, Argentina, Barbados, Brazil, Canada, Mexico, Panama, Trinidad and Tobago, USA, Uruguay, Mauritius, Morocco, Seychelles, South Africa, Tunisia, Armenia, Azerbaijan, Bahrain, China, Georgia, Hong Kong, Indonesia, India, Israel, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Malaysia, Mongolia, Oman, Pakistan, Qatar, Saudi Arabia, Singapore, South Korea, Sri Lanka, Syria, Tajikistan, Thailand, Uzbekistan, UAE, Vietnam.

SPF is authorized to carry out all activities normally conducted by an individual but limited to the acquisition, holding, administration and sale of financial instruments, cash and other types of assets[3].

An SPF is allowed to hold equity stakes from the moment that it does not interfere in the management of the company in which it holds those stakes. An SPF may not perform any type of commercial activity. Likewise, an SPF is not allowed to acquire immovable property since direct investment is deemed similar to a commercial activity.

SPFs are governed by the Law of 11 May 2007 on Creation of a Private Wealth Management Company.

According to the Law, an SPF may be able to create, acquire, manage and sell securities (as shares, bonds, stocks options) issued by public or private organisations in Luxembourg or overseas.

An SPF may adopt one of the following legal forms:

- A private limited liability Company (SARL).
- A public limited Company (*Société anonyme*).
- A partnership limited by shares (*Société en commandite par actions*)
- A cooperative (*Société coopérative*) organized as a public limited company.

The name of the company should include a designation « SPF ». An SPF is available only to investors managing their private wealth. Thus, shares of an SPF cannot be used for public placement and cannot be quoted on a stock exchange. Within the meaning of SPF Law (article 3 of the Law), eligible investors are:

- Individuals managing their private wealth.
- Managing entities acting in the interest of one or several individuals (for instance, trust).
- Intermediaries acting on behalf of the above-mentioned eligible investors.

2. Tax Framework

An SPF is exempt from corporate income tax, municipal business tax and net wealth tax.

An SPF is subject to an annual registry tax at the rate of 0,25%, subject to a minimum of 100 Euros and a maximum of 125,000 Euros. The tax base is the amount of the paid-up capital plus any existing share premiums. The portion of debts that exceeds eight times the amount of the paid-up capital and share premium is included in the tax base for the registry tax.

As an SPF cannot have a commercial activity, it will not pay VAT. The distribution of dividends by an SPF to its shareholders is exempt from withholding tax at source in Luxembourg.

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[3] According to article 1 of the Law of 11 May 2007 on Private Wealth Management Company (Société de gestion de patrimoine), « *For the purpose of this Law, a Private Wealth management company, in abbreviation SPF, shall be any company (…) whose exclusive object is the acquisition, holding, administration and sale of financial assets as defined by article 2 of this Law excluding all commercial activities (…)* ».

Due to its special tax status, an SPF cannot access benefits granted under double tax treaties. Local withholding rates of the jurisdiction of the entity paying out the income apply.

3. Intellectual Property Holding (IP Holding)

With the goal of making the country a good place for research and innovation, a special tax regime for income and capital gain generated by intellectual property (IP) was introduced by the Luxembourg Law of 21 December 2007,[4] which was amended in 2009. The new tax treatment is very advantageous for residents, companies and individuals who owned, licensed or used intellectual property rights. The intellectual property rights covered are:

- Software
- Copyrights
- Licences
- Patents
- Brands
- Designs
- Models
- Internet domain names

According to article 50bis, the IP Law is applicable to all individuals or companies either residing or carrying on activities in Luxembourg. The following fall within the scope of article 50bis:

- Author's computer software rights
- Patents
- Trademarks
- Design and models
- Domain names

The following rights do not fall within the scope of the IP Law:

- Copyrights of literary or artistic works
- Secret formulas and processes.

An IP right may not be acquired from a person that is assimilated to an « affiliated company ». Within the meaning of the Law, a company is considered as affiliated to another company if:

- It directly holds at least 10% of the share capital of the other company; or
- The other company holds at least 10% of its share capital; or
- At least a third company directly holds 10% of the share capital of both companies.

[4] The Law introduced article 50Bis in the Luxembourg Income Tax Code.

In accordance with the IP tax regime, 80% of the net income and capital gains produced by or issued from the activities mentioned above are exempted from tax, whereas only 20% might be taxed at the ordinary combined rates.

Companies that are subject to the corporate income tax combined to the municipal business tax (29,22%) are eventually subject to an overall tax rate of maximum 5,84% for any net income or capital gain on eligible IP. The 80% exemption applies to the net income.

The IP regime provides a perfect framework to establish an entity, or holding, developing and operating any intellectual property covered by the law.

B. Funds Tax Regime

1. SICAR

The investment company in risk capital (*Société d'investissement en capital à risque – SICAR)* is a regulated, fiscally efficient structure designed for private equity and venture capital investments.[5] A SICAR is formed to combine attractive tax status with lighter regulatory requirements.

According to the Law, « *Venture capital* » is defined as the capital put at the disposal of the companies that have just been incorporated, or companies from sectors of activities with high potential for development. « *Private Equity* » is an investment in an unquoted private company. Those are investments in risk transactions, however with very high potential in return.

The purpose of the SICAR was to facilitate fund-raising and investment in risk-bearing capital.

A SICAR invests its assets in securities representing risk capital in order to make its investors profit from results of assets management in consideration for the risk encountered. This kind of structure enables or facilitates entities' launch, development or their listing on a stock exchange.

1. Legal Framework

A SICAR may be incorporated in one of the following legal forms:

- A private limited liability company (*Société à responsabilité limitée*).
- A public limited liability company (*Société anonyme*).
- A corporate partnership limited by shares (*Société en commandite par actions*).
- A limited partnership (*Société en commandite simple*).
- A cooperative company in the form of a public limited liability company (*Société coopérative sous forme de société anonyme*).

[5] According to Article 1 of the Law of 15 June 2004 as amended, « *For the purpose of this Law, an investment company in risk capital, in abbreviation « SICAR », shall be any company (…) whose object is to invest its assets in securities representing risk capital in order to ensure for its investors the benefit of the result of the management of its assets in consideration for the risk which they incur (…)* ».

A SICAR must be authorized by the Luxembourg supervisory authority for the financial sector *(Commission de Surveillance du Secteur Financier – CSSF).*

According to article 4 of the Law of 15 June 2004 as amended, the minimum capitalization for a SICAR is 1,000,000 Euros that has to be reached within 12 months of its approval by the CSSF and at least 5% of each share must be paid up at subscription. SICARs are governed by the Law of 15 June 2004, amended by the Law of 24 October 2008.

Regarding the nature and the purpose of SICARs, its shares may only be offered to investors with high level of expertise such as professional, institutional investors or investors who declare to be aware of the risks incurred. [6]

2. Tax Framework

SICARs are resident companies subject to the corporate and municipal taxes at an aggregate tax rate of 29,22%.

Income derived from securities held by a SICAR, as well as income resulting from the transfer, the contribution or liquidation of such assets, is exempt from Luxembourg income tax. Under the application of the Taxation rules, the term « securities » has to be defined in the largest sense, encompassing shares, bonds and other debt instruments that give right to require any of the above-mentioned securities.

Nevertheless, SICARs derive their income from the activities mentioned above. Consequently, in practice, the taxation could be close to 0%. Moreover, as the company is considered a commercial company, it falls within the scope of EU Parent-Subsidiary Directive and Double Tax Treaties signed by Luxembourg.

Income on cash held by a SICAR for the purpose of a future investment is also tax exempt for a period of 12 months, provided it can be proved that these funds have been invested in risk-bearing assets.

A SICAR established in the form of a limited partnership will be treated as tax transparent entity for Luxembourg tax purposes. These SICARs are not considered to have a commercial activity and, consequently, they do not pay the municipal business tax. SICARs are not subject to the annual 0,5% net wealth tax. SICARs benefit from an exemption on dividends distributed regardless of the residence and tax status of its shareholders.

2. The SIF

[6] According to article 2 of the Law of 15 June 2004 as amended, « *Within the meaning of this Law, a well-informed investor shall be an institutional investor, a professional investor or any other investor who meets the following conditions:*

1) *he has confirmed in writing that he adheres to the status of well-informed investor and*
2) *he invests a minimum of 125,000 euros in the company, or*
3) *He has been subject to an assessment made by a credit institution within the meaning of Directive 2006/48/EC, by an investment firm within the meaning of Directive 2004/39/EC or by a management company within the meaning of Directive 2009/65/EC certifying his expertise, his experience and his knowledge in adequately appraising an investment in risk capital (…)* ».

A Specialized Investment Fund (SIF) is a regulated, operationally flexible and fiscally efficient multipurpose investment fund regime for an institutional and qualified investor base.

1. Legal Framework

SIFs are governed by the Law of 13 February 2007 on Specialized Investment Fund (SIF Law) as amended.

Within the SIF system, only well-informed investors are authorized to invest. According to article 2[7]of the SIF Law, well-informed investors are:

- Institutional investors (for instance, regulated institutions).
- Professional investors.
- Any other investor who meets certain requirements.

A SIF may be structured as a common contractual fund (*fonds commun de placement* – FCP), an investment company with variable capital (*société d'investissement à capital variable* – SICAV) or fixed capital (*société d'investissement à capital fixe* – SICAF). A SICAV or a SICAF may be incorporated in a:

- Public limited company (*Société anonyme*).
- Private limited company (*Société à responsabilité limitée*).
- Partnership limited by shares (*Société en commandite par actions*).
- Cooperative organized as a public limited company.

A SIF incorporated as a SICAV or a SICAF must have its head office in Luxembourg, though there are no requirements concerning the nationality or residence of the Directors.

A SIF may be set up as an umbrella structure with multiple compartments. The minimum capitalization amounts to 1,125,000 Euros and has to be reached within 12 months after approval by the CSSF.

A SIF may invest in all types of transferable securities, instruments and assets, including but not limited to shares, bonds, derivative instruments, money market instruments, portfolio companies, real estate, hedge funds, private equity funds, commodities, debt instruments and other instruments. A SIF may furthermore be used as a feeder fund or a fund of funds.

The SIF Law does not provide for investment restrictions but refers to the concept of risk-spreading.[8] Thus, a SIF shall not invest more than 30% of its assets or

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[7] Article 2: *« Within the meaning of this Law, a well-informed investor shall be an institutional investor, a professional or any other investor who meets the following conditions:*

a) he has confirmed in writing that he adheres to the status of well-informed investor, and

b) (i) He invests a minimum of EUR 125,000 in the specialized investment fund, or

c) (ii) He has been the subject of an assessment made by a credit institution within the meaning of Directive 2006/48/EC, by an investment firm within the meaning of Directive 2001/39/EC or by a management company within the meaning of a Directive 2001/107/EC certifying his expertise and his knowledge in adequately apprising an investment in the specialized investment fund.

commitments to subscribe in securities of the same nature issued by the same issuer. However, this restriction does not apply to Sovereign securities.

2. Tax Framework

The SIF provides a favourable tax regime. Indeed, SIFs are not subject to Luxembourg income tax. Dividends and capital gains are exempted from the withholding tax unless the EU Savings Directive applies.

A SIF is subject to an annual subscription tax at a rate of 0,01% levied on the fund's net assets. The SIF Law[9] provides exemptions for the:

- Value of the assets represented by units held in other undertakings, provided that such units have already been subject to subscription tax.
- Investments in certain money market funds.
- Investments in certain pension fund schemes.

As of January 1, 2009, the capital duty payable upon incorporation of the SIF was abolished.

If a SIF is organized as a type of contract, it is considered to be transparent for tax purposes. Income is therefore attributed proportionally to its investors, and any investor resident in a jurisdiction having a double tax treaty with Luxembourg may therefore be able to take advantage of certain treaty benefits.

Investors are not subject to capital gains, income or withholding tax in Luxembourg, except for those domiciled, residing or having a permanent establishment in Luxembourg.

3. Securitization Vehicle Fund

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[8] This concept is fully described in CSSF Circular 07/309 relating to risk spreading in the context of SIFs.

[9] According to article 68 of the SIF Law, *« The rate of the annual subscription tax payable by the specialised investment funds referred to in this Law shall be of 0.01%. Exempt from the subscription tax are:*

1. *a) the value of the assets represented by units held in other undertakings for collective investment, provided that such units have already been subject to the subscription tax provided for by this Article or by Article 174 of the Law of 17 December 2010 relating to undertakings for collective investment;*
2. *b) specialised investment funds as well as individual compartments of specialised investment funds with multiple compartments:*
    1. *(i) whose sole objective is the collective investment in money market instruments and the placing of deposits with credit institutions, and*
    2. *(ii) whose weighted residual portfolio maturity does not exceed 90 days, and*
    3. *(iii) that have obtained the highest possible rating from a recognised rating agency;*
3. *c) Specialised investment funds whose securities or partnership interests are reserved for (i) institutions for occupational retirement provision, or similar investment vehicles, set up on one or more employers' initiative for the benefit of their employees and (ii) companies of one or more employers investing funds they hold, in order to provide retirement benefits to their employees.*
4. *d) Specialised investment funds as well as individual compartments of specialised investment funds with multiple compartments whose main objective is the investment in microfinance institutions.*

Securitization is a financing process by which an originator transfers one or more assets or risks to a Securitization Vehicle in exchange for cash. The Securitization vehicle is financed by issuance of securities backed by the assets transferred and the income generated by those assets.

Securitization, in Luxembourg, is a tool which enables the transferor (fund or company or special purpose vehicle) to acquire or assume risks linked to receivables, any type of assets or any commitment assumed by third parties or linked to activities executed by third parties.

Three types of securitization vehicles exist:

- Securitization undertakings, which carry out the securitization in full.
- Undertakings, which participate in the securitization transaction by assuming all or part of the securitized risks (the acquisition vehicles).
- Undertakings, which participate in the securitization transaction by issuing securities to ensure the financing thereof (the issuing vehicles).

1. Legal Framework

The Law of 22 March 2004 on securitization provides the legal framework for the creation of securitization vehicles. In Luxembourg, there are two types of securitization vehicles:

- A securitization company, which is a corporate entity created in front of a notary public.
- A securitization fund, which is an unincorporated joint ownership of assets, created contractually among its unit-holders.

Each vehicle may be divided up into sub-funds whose individual assets and liabilities remain legally separate from those of other sub-funds.

Underlying assets acquired by Luxembourg securitization undertakings include:

- Receivables of any type (loans, customer receivables, commercial receivables, short or long term notes).
- Cash flows linked to receivables contracts.
- Commitments and risks linked with contracts.

A securitization fund has no legal personality and must be managed by a management company, which itself has to be a commercial company. Luxembourg Law on securitization ensures the tax neutrality of securitization vehicles. Securitization funds are treated like investment funds, and the investors are taxed according to the rules in force in their country of residence. Although these funds are exempt from tax, they cannot benefit from double tax treaties agreed by Luxembourg.

2. Tax Framework

In the case the Securitization is incorporated as a fund, it is considered as tax transparent and is not subject to any taxation in Luxembourg. Thus, there are no withholding taxes on payment to share or bondholders, trade tax or net wealth tax.

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13. MALAYSIAN TAX SYSTEM - DIRECT TAXES

Overview

The Malaysian corporate tax system is generally source based with all income accruing in or derived from Malaysia being subject to Malaysian income tax under the Income Tax Act 1967.

In 1990, Malaysia established a *midshore financial centre* within its physical national borders known as the Labuan International Business and Financial Centre (Labuan IBFC). Labuan entities are established under the Labuan Companies Act 1990 and are subject to preferential tax rates in accordance with the Labuan Business Activity Tax Act 1990.

Individuals are taxed based on their residency and source of income. Short-term employees, defined as those whose employment period does not exceed 60 days in any calendar year or two calendar years, are exempt from Malaysian income tax.

Malaysia has a Real Property Gains tax regime, which applies to corporations and individuals alike and is limited to gains arising from the sale of real property in Malaysia.

Malaysia has an extensive tax treaty network and has entered into 68 treaties so far. Its treaty partners include the United States of America, United Kingdom, China and Japan.

Corporate Taxation

Any company that is managed and controlled (i.e. where directors' meetings are held) from Malaysia is considered to be tax resident in Malaysia. Malaysian resident and non-resident companies are subject to corporate income tax on income sourced in Malaysia.

Malaysian resident companies are subject to a flat tax rate, but concessionary tax rates apply to small and medium sized enterprises (SME). SME are defined as companies with paid up capital of RM2.5million or less and which are not part of a group of companies, which includes any company with a paid up capital of greater than RM2.5million. Only Corporate income tax is imposed and dividend distributions to shareholders are exempt.

Foreign companies are subject to different tax rates depending on the nature of income. Foreign companies that carry on business through a permanent establishment in Malaysia will be subject to corporate tax on income derived in Malaysia, subject to the provision of the relevant tax treaty.

The relevant applicable corporate tax rates are provided in Table 1 below.

TABLE 1: MALAYSIAN CORPORATE INCOME TAX RATES

Entity	Scope	Details	Tax Rate	
			2015	Y/A 2016
Resident Company*	All income accruing in or derived from Malaysia	Flat Rate	25%	24%
Resident SME	All income accruing in or derived from Malaysia	Progressive Rates	20% on first RM500,000	19% on first RM500,000
			25% on balance	24% on balance
Non-Resident Companies	Business income accruing in or derived from Malaysia	Flat Rate	25%, subject to relevant DTA	24%, subject to relevant DTA
	Royalties & Rental of movable properties	Flat Rate	10%, subject to relevant DTA	10%, subject to relevant DTA
	Technical or management fees for services rendered in Malaysia	Flat Rate	10%, subject to relevant DTA	10%, subject to relevant DTA
	Interest received from a Malaysian bank and/or finance company; and interest received on any loan granted to or guaranteed by the Malaysian government	Flat Rate	15%, subject to relevant DTA	15%, subject to relevant DTA
	Other income	Flat Rate	10%, subject to relevant DTA	10%, subject to relevant DTA

*The same applies to Trusts, Receivers of Malaysian companies and Executors of individuals domiciled in a foreign country at the time of demise.

Tax Incentives

Malaysian corporate tax incentives include tax exemptions, special allowances, special framework with preferential tax treatment, accelerated deductions and income exemptions. Some of these are:

1) Pioneer Status Corporations – 70% of taxable income will be exempt over a tax relief period of 5 years;
2) Investment Tax Allowances – 60% of prescribed qualifying capital expenditure for industrial buildings and plant and machinery are available for offset against

taxable income over 5 years. Double deductions for expenses to automate manufacturing are also available;

3) Special Incentive Schemes – 70% of taxable income may be exempt for certain specific industries;
4) Increased Export Allowances – Exporting manufacturing and agricultural corporations may be eligible for additional allowances to offset up to 70% of taxable income;
5) Specific Industry Incentives - these are available for Education, Financial Services (especially those that promote Islamic financing), Biotechnology and Healthcare;
6) Special Economic Corridors – Malaysia has designated 5 areas as "economic corridors", being East Coast Economic Region, Iskandar Malaysia, North Corridor, Sabah Development Corridor and Sarawak Corridor of Renewable Energy. Corporations that set up businesses in prescribed sectors in these economic corridors are awarded special tax incentives and allowances.

Generally, the incentives and allowances are available to both foreign and domestic companies and any unused allowances may be carried forward to subsequent years of assessment.

Tax Losses

Losses can be set off against other sources of income in the same year of assessment and / or carried forward indefinitely. However, losses in dormant companies may only be carried forward if there is no significant change in shareholders in the same year of assessment. Related companies may set off up to 70% of the losses from one company against gains in another, under the group relief provision.

Interest Expense

Directors' loans are deemed to be interest earning in the hands of the company. Interest payable to non-residents will incur 15% interest withholding tax but the relevant tax treaty may reduce this. A thin capitalization rule (to limit interest deduction) is expected to be implemented in 2015.

Labuan IBFC

Labuan is an island located in East Malaysia. Since 1990, the Malaysian authorities have been promoting Labuan as a *midshore financial centre* (MFC), which is described as a sophisticated financial centre that offers the protection of confidentiality and benefits of low taxation. Although the Labuan IBFC is under the purview of the Malaysian Federal Government, Labuan business entities are only subject to the Labuan Business Activity Tax Act 1990 (Labuan BTA) unless they elect to be taxed under the Malaysian Income Tax Act 1967. Such an election is irrevocable.

A *Labuan business entity* is a business entity registered under the Labuan Companies Act 1990. In accordance with the Labuan BTA, a *Labuan business entity* will be subject to a 3% tax rate on the net audited profits arising from its *Labuan business activities*.

However, the entity may elect to be charged tax at a flat amount of Malaysian Ringgit 20,000 annually instead. In addition, Labuan business entities are not subject to any capital gains tax, withholding taxes on dividends, interest, royalties or technical fees and/or stamp duties.

Labuan's uniqueness is that although Labuan entities are governed by Labuan's own company and tax laws, Labuan itself is still within the purview of the Malaysian Federal Government and therefore such entities can also possibly benefit from the provisions of the relevant international tax treaties where applicable unless they are specifically excluded (such as in the Japan-Malaysia tax treaty). Labuan business entities are also not subject to the Malaysian foreign exchange controls but can only transact in foreign currencies and are prohibited from using the Malaysian Ringgit for business purposes.

Personal Taxation

Tax resident individuals in Malaysia are subject to tax on income sourced in Malaysia. Foreign sourced income is exempt unless remitted to Malaysia. Taxable employment income includes any cash remuneration, benefits-in-kind and perquisites earned by the individual. Benefits-in-kind and perquisites are assessed in most cases based on prescribed values and/or formulae. The applicable progressive tax rates for resident individuals range from 2% (reduced to 1% in 2015) to 26% (reduced to 25% in 2015).

A foreigner working in Malaysia will be taxed only on income earned in Malaysia at a flat rate of 26% (reduced to 25% in 2015). A non-resident contractor will be subject to withholding tax on contract payments earned in Malaysia and the general withholding tax rate is 10% plus an additional 3%, subject to the provisions of any relevant Double Tax Agreement.

Real Property Gains Tax (RPGT)

RPGT is chargeable on gains arising from the disposal of any interest, options or other rights in or over real property in Malaysia, and/or shares in real property companies. RPGT is imposed on the seller of the property. The applicable RPGT rate depends on the length of time the seller has retained the property and the status of the seller, whether a company, Malaysian citizen and/or permanent resident individuals or foreign individuals. Refer to Table 2 for the applicable RPGT tax rates as from 1 January 2014.

TABLE 2: MALAYSIAN REAL PROPERTY GAINS TAX RATES APPLICABLE FROM 1 JANUARY 2014

Period of Holding	Company	Foreign Individuals	Malaysian Citizens & Permanent Resident Individuals
Within 3 Years	30	30	30
In Year 4	20	30	20
In Year 5	15	30	15
In Year 6 & Onwards	5	5	NIL

Author Profile

Monica Pheny gained considerable tax consulting experience while working for Deloitte Touche Tohmatsu and PricewaterhouseCoopers in England, New Zealand and Papua New Guinea. She left the profession in 1995 to pursue an academic career in Hong Kong Polytechnic University where she worked for the past 9 years.

Monica recently commenced a new employment as a Senior Lecturer with Taylor's University in Malaysia and hopes to utilise her professional background and academic research interests to ignite a passion for taxation and business studies in her students.

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14. DIRECT TAXATION IN MALTA

Brief Overview of Malta's Taxation System

Malta's adopts the concepts of 'domicile, 'residence' and 'source' as connecting factors for the purposes of imposing tax.

A person resident and domiciled in Malta is taxable on their worldwide income. Persons, who are either resident not domiciled or domiciled but not resident in Malta, are taxable on the following;

i. Income and Capital Gains arising in Malta;
ii. Income arising outside Malta that is received in Malta.

Capital gains arising outside Malta are not taxed in Malta even if they are received in Malta.

The corporate tax rate is 35%, whilst the rates applicable to individuals are incremental with a maximum rate of 35% applicable on exceeding amounts of €60,000 per annum.

Apart from its vast treaty network, Malta also adopts relief on a unilateral basis that may be applied where a treaty is not in force.

Some key features:

- Full imputation system;
- Shareholder tax credits and refunds;
- Tax refund system successfully in place since 1994;
- Ratified by EU Commission in 2006;
- Participation exemption on proceeds or profits derived by a Maltese company;
- Refunds to shareholders of tax paid by a Maltese company or an overseas company operating a Malta branch;
- Tax exemptions on various sources of income to non-residents;
- No withholding tax on dividends, interests and royalties;
- Transfer of securities by non-residents (not involving real estate in Malta) are exempt;
- 70 double tax treaties & other forms of double taxation relief, and;
- No thin capitalisation/CFC or express transfer pricing rules.

<u>Corporate Taxation</u>

An entity is considered to be resident in Malta if it is either 'incorporated' or 'managed and controlled' in Malta. An entity that is incorporated in Malta will be deemed to be resident and domiciled in Malta. An entity that is not incorporated in Malta, but has its management and control in Malta, will also be deemed to be resident but not domiciled for tax purposes.

In cases of a dual residence conflict, Malta has a wide network of double tax treaties that solve such residence/resident conflict. Furthermore, Malta ensures that domestic legislation does not override its double tax treaties.

Imposition of Income Tax

All revenue of an income nature is charged to tax. The corporate tax rate of 35% is on imposed chargeable income, which is the result of the difference between a company's income and its tax-deductible expenses.

On the other hand, revenue of a capital nature is charged to tax only if such revenue results from one of the items listed in Article 5 of the Income Tax Act, Cap 123 of the Laws of Malta, which are:

i. Immovable property;
ii. Securities, business, goodwill, copyright, patents, trademarks and trade-names;
iii. Beneficial interest in a trust, and;
iv. Interest in a partnership

Any gains arising on the transfer of the above listed capital assets are charged at the corporate tax rate of 35%, or the personal tax rates applicable to individuals, with the exception of gains arising from the transfer of immovable property. As from 2015, gains arising on the transfer of immovable property are taxable in the following manner:

i. General Rule: A final withholding tax of 8% on the Transfer Value subject to the following exceptions:

    a) Transfers of immovable property acquired before 1 January 2004 will be subject to a final withholding tax of 10% on the transfer value;
    b) Transfers of immovable property by individuals, who do not trade in property, within five years from the date of acquisition, will be subject to a final withholding tax of 5% on the transfer value.

Social Security Contributions and Payroll Taxes

An entity is required to pay social security contributions for each of its employees. The amount of social security contributions paid by the entity as the employer are equal to the amount paid by the employee, calculated at a rate of 10% of the employee's basic salary, capped at a maximum of €2,175 each (for employer and employee).

An entity doesn't pay any additional payroll taxes; the employee will pay income tax at the progressive rates applicable to individuals on his/her employment income.

Tax Rate

The standard corporate tax rate is 35% on the entity's chargeable income that is the result of the difference between the entity's revenue and tax-deductible expenditure.

The effective tax rate can be reduced through the application of the tax refund and full imputation system as can be seen in the below sections.

Malta does not impose any withholding taxes on outgoing dividends, interest and royalties. The only instance when such a withholding tax is imposed is when untaxed profits are distributed to an individual resident in Malta.

Tax Refund System

In addition to the full imputation system, Malta also adopts a tax refund system.

Through the refund system, shareholders receiving dividends from a Malta company are entitled to a refund of the Malta tax paid by the company.

The tax refunds available are:

6/7ths refund: Applies to chargeable income sourced from trading activities;
5/7ths refund: Applies to income derived from passive interest or royalties;
2/3rds refund: Available where the company has claimed double taxation relief;
Full refund: Applies to income derived from a participating holding.

Tax refunds also apply where a company operates through an overseas branch in Malta.

Full Imputation System

Malta is one of the few countries that adopts a full imputation system. Through the system, the amount of tax paid by the company is fully available as a credit in the hands of the shareholder upon a dividend distribution; this results in no further tax being paid by the shareholder on the dividend income.

At Company Level:	
Profit before tax	100
Tax @ 35%	35
Profit after tax	65

At Shareholder Level:	
Gross Dividend	100
Tax @ 35%	35
Tax at Source	(35)
Tax Due	0

Personal Taxation

In accordance with the Income Tax Act, an individual is deemed to be resident in Malta if he/she usually resides in Malta except for such temporary absences as to the Commissioner may seem reasonable and not inconsistent with the claim of such individual to be resident in Malta.

In general, individuals are considered to be resident in Malta if they spend more than 183 days in a calendar year in Malta.

Imposition of Income Tax

All revenue of an income nature is charged to tax. The tax rates applicable to individuals are incremental rates which reach the 35% once the income exceeds €60,000 per annum.

On the other hand, revenue of a capital nature is charged to tax only if such revenue results from one of the items listed in Article 5 of the Income Tax Act, Cap 123 of the Laws of Malta, which are:

i. Immovable property;
ii. Securities, business, goodwill, copyright, patents, trademarks and trade-names;
iii. Beneficial interest in a trust, and;
iv. Interest in a partnership.

Any gains arising on the transfer of the above listed capital assets are charged at the incremental tax rates as explained above with the exception of gains arising from the transfer of immovable property. As from 2015, gains arising on the transfer of immovable property are taxable in the following manner:

i. General Rule: A final withholding tax of 8% on the Transfer Value subject to the following exception:
    a) Transfers of immovable property acquired before 1 January 2004 will be subject to a final withholding tax of 10% on the transfer value;
    b) Transfers of immovable property by individuals, who do not trade in property, within five years from the date of acquisition, will be subject to a final withholding tax of 5% on the transfer value.

Malta doesn't impose any inheritance or property taxes.

Social Security Contributions and Payroll Taxes

An individual is required to pay social security contributions. Such contributions would depend on whether the individual is employed or self-employed. The rates applicable to an employed individual are generally 10% on the basic salary, capped at a maximum of €2,175 per annum. The rates applicable to self-employed individuals vary, and are capped at a maximum of €2,760 per annum.

An individual's employment income is added to his/ her other income and taxed at the rates applicable to individuals as may be seen in the below section.

Tax rates applicable to resident individuals:

Married		Single		Parent	
Income (€)	**Tax Rate**	**Income (€)**	**Tax Rate**	**Income (€)**	**Tax Rate**
0 - 11,900	0%	0 - 8,500	0%	0 – 9,800	0%
11,901 - 21,200	15%	8,501 - 14,500	15%	9,801 – 15,800	15%
21,201 – 60,000	25%	14,501 – 60,000	25%	15,801 – 60,000	25%
60,001 and over	35%	60,001 and over	35%	60,001 and over	35%

(Fig 1.1 – Resident Tax Rates)

Tax Rates applicable to non-resident individuals:

Income (€)	Tax Rate
0 - 700	0%
701 - 3,100	20%
3,101 - 7,800	30%
7,801 and over	35%

(Fig 1.2 – Non- Resident Tax Rates)

Author Profile

Nicholas Gouder is a member of the Association of Chartered Certified Accountants (UK), the Malta Institute of Accountants, the Malta Institute of Taxation and the Institute of Financial Services Practitioners. Nicholas also holds a B.COM (HONS) in Business Management issued by the University of Malta. Nicholas is the Group's Tax Partner and has significant experience in handling a wide portfolio of local and international clients operating in various industry sectors. Nicholas is also responsible for corporate services and client accounting. Nicholas sits on various boards as company secretary and director and also lectures Advanced Taxation within the Malta Institute of Taxation. He holds a Chartered Accountant's warrant issued by the Malta Accountancy Board.

Nicholas Gouder

Tax Partner at Capstone Group Malta

15. TAXATION IN MAURITIUS

Mauritius Overview

Mauritius is a strategic Global Business Center situated in the Indian Ocean region and is one of the most transparent and financially sound economies in Africa. Mauritius, east of Madagascar, lies strategically between Asia and Africa and comprises four islands – Mauritius, Rodrigues, St Brandon and Agalega.

The success of its economy is as a result of its political and socio-economical stability, coupled with good corporate governance and the recent success of its efforts to attract foreign investors.

More and more investors are recognizing Mauritius as an attractive investment opportunity. Its efforts to follow international best business practices and sustainable development, has been acknowledged by international agencies such as the Organization for Economic Cooperation and Development (OECD), the Financial Action Task Force (FATF) and the World Bank (WB).

Ranked 1st in Africa in the "World Bank – Doing Business (2013) Report" Mauritius is a stable, secure, diversified and globally competitive business hub. Strategically located as a gateway to both Africa and the East, Mauritius is fast becoming the domicile of choice not only because of its political and economic stability but strategic location and comparative advantages in areas that are essential to sustaining its presence as a growing financial centre.

Mauritius has in place a number of double taxation agreements (DTA's), Investment Promotion and Protection Agreements (IPPA's) and other Bilateral Agreements with countries in Europe, Africa and Asia. A member of a number of regional African organisations including Southern African Development Community (SADC), the Common Market for Eastern and Southern African (COMESA), providing preferential access to markets in these key African regions.

Mauritius enjoys a solid international reputation as being well regulated and provides for guaranteed confidentiality for those engaged in legitimate business through express provisions and customary laws governing relationships between banks and customers and between professionals and clients.

Mauritius as a jurisdiction for international business activities and asset protection

- Political stability, neutrality & democracy- government is democratically elected.
- Business friendly legislative framework based on best international industry practice with laws facilitating migration of foreign companies, funds, limited partnerships and foundations to Mauritius.
- Low corporate taxes: 0 to 3%
- No withholding taxes.
- No capital gains tax.

- No exchange control - profits can be freely repatriated.
- Low operational costs.
- Well established Financial and Banking Institutions.
- Growing network of Double Tax Agreements with several European, African and Asian countries.
- Availability of high-qualified professionals – population of 1.3 million people bilingual in English & French.
- Efficient Time Zone (GMT+4).
- OECD & FATF compliant. Never been 'black-listed'.
- Security and safety.
- State-of-the-art communication facilities. Connected to SAFE and LION Fibre Optic Cables.

Taxation in Mauritius

The taxation of income of both companies and individuals is governed by the Income Tax Act 1995 that is substantially based on UK tax law.

Mauritius runs a self-assessment system based on the residence concept. A person resident in Mauritius is liable to tax on the worldwide income derived by that person.

A non-resident is taxed on income derived from sources in Mauritius.

As such, under this system, income from all sources is added up and the appropriate tax rate or rates are applied after reckoning all allowable deductions and exemptions.

Mauritius applies a flat income tax rate of 15% to both individuals and corporates.

Corporate Taxation

Residence

For income tax purposes, a company is defined as a corporate body (except a local authority), whether incorporated in Mauritius or abroad. A company is regarded as a separate taxable entity distinct from its shareholders.

The Income Tax Act 1995 defines a resident company as one which is incorporated in Mauritius, or if it has its central management and control in Mauritius. The place where central management and control is located would be determined by such factors as where the board meetings are held and hence where decisions are taken and orders given.

A resident company is taxed on its worldwide income excluding exempt income.

A non-resident company is liable to income tax only on its income arising or deemed to arise in Mauritius, i.e. source income.

A limited partnership or sociéte having its seat in Mauritius with at least one partner or associate being resident in Mauritius is resident in Mauritius.

Corporate Income

Income included in gross income for a company includes income derived from any business, rents, royalties, premium, income derived from property, dividends, interests, etc.

Income tax is imposed on a company's profits that consist of trading or business profits and passive income. Normal business expenses are deductible in computing taxable income.

Exempt Income

There is various type of income which is exempted from income tax, including:

- Income derived by a Freeport company.
- Income derived by the registered owner of a foreign vessel.
- Income derived by the registered owner of a local vessel registered in Mauritius (provided the
- Income is derived from deep-sea international trade only).
- Capital gains on investments.
- First 5 years of income derived by a company registered with the Mauritius Board of Investment (BOI) as a company engaged in the provision of health services.
- Income derived by a resident sociéte or limited partnership (note that each associate of a sociéte/partner of a limited partnership is liable to income to income tax on his share of the income of the sociéte/limited partnership) .
- Dividends received and paid by a domestic company or a Global Business Company or a co-operative society.
- Interests received on call and deposit accounts held with a resident bank.
- Interests payable to a non-resident not carrying any activities in Mauritius by a global business company
- Royalties payable to a non-resident by a global business company or a bank or a trust.
- Interests received on Government securities and Bank of Mauritius bills

Allowable Deductions

In general, expenses are deductible if they are incurred exclusively in the production of gross income, with the exception of expenses incurred in the production of exempt income. Allowable deductions comprise of:

- Annual allowances on capital expenditures.
- Additional investment allowance for manufacturing companies on capital expenditure incurred on the acquisition of states-of-art technology equipment.
- Marketing and promotional expenses.
- Losses incurred in the production of gross income.
- Bad debts and irrecoverable sums.
- Pre-operational expenses of tax incentive companies.

- Donations to charitable institutions.
- Contributions to superannuation fund and employee's share scheme.
- Gains on profits derived from sale of units and securities.
- Expenses incurred in setting up social infrastructure.

Tax Losses

Tax losses may be carried forward and set off against gross income in the following 5 income years. The quantum of losses available for set off or carry forward is determined by the Director General of the Mauritius Revenue Authority.

Other Tax Implications

Mauritius does not have the following tax implications:

- Participation exemption
- Holding company regime
- Capital duty
- Payroll tax
- Real property tax
- Stamp duty
- Transfer tax
- Transfer pricing
- Thin capitalization
- Controlled foreign companies
- Disclosure requirements
- Social security – the employer is required to make pay-related social security contribution equal to 6% of the monthly basic salary.

Personal Taxation

Residence

Residence in respect of an income year means an individual who has:

- His/her domicile in Mauritius unless his/her permanent place of abode is outside Mauritius; or

- Been present in Mauritius in that income year for a period of, or an aggregate period of 183 days or more; or

- Been present in Mauritius in that income year and the 2 preceding income years, for an aggregate period of 270 days or more

Taxable Income

Taxable income of a person comprises the gross income from different sources, derived from Mauritius or remitted to Mauritius, less allowable deductions and reliefs as allowed under the Income Tax Act 1995.

Taxable income of an individual includes principally salaries and benefits derived from employment, pensions, profits from a trade and profession, rent and interest

Tax Year

Mauritius has a self-assessment Pay As You Earn (PAYE) tax system. An individual pays tax on income derived during the preceding year. The fiscal year runs from 1st January to 31st December. The due date for submission of the annual income tax return is the 31st March.

Deductions and Allowance

A single deduction, called the 'Income Exemption Threshold' is granted.

Other Personal Tax Implications

Mauritius does not have the following tax implications:

- Capital duty
- Stamp duty
- Capital acquisition tax
- Real property tax
- Inheritance/estate tax
- Net wealth/net worth tax
- Social security – the employee must make social security contributions equal to 3% of the monthly basic salary.

Taxation of Mauritius Special Purpose Vehicles

<u>Category 1: Global Business Companies ("GBL1")</u>

A GBL1 is used generally when income from overseas is mainly in the form of dividends, interest, royalties and capital gains and when Double Taxation Agreements needs to be accessed for tax planning benefits. A GBL1 is also used for engaging in financial services business such as insurance, investment management, investment advisory, fund management and collective investment schemes.

It is resident in Mauritius for tax purposes and is subject to an effective income tax rate of 0-3%.

Provided that the Company holding a Category 1 Global Business License owns at least 5% of an underlying company, credit will be available on foreign tax paid on the income out of which the dividend was paid ("underlying foreign tax credit").

When a company not resident in Mauritius, which pays a dividend has itself received a dividend from another company not resident in Mauritius (a "secondary dividend") of which it owns either directly or indirectly at least 5% of the share capital, such dividend will be allowable as a foreign tax credit and an underlying foreign tax credit will also be available.

Mauritius has no thin capitalisation rules.

Interest and royalty payments paid by a GBL1 are fully tax deductible in Mauritius.

Deemed Tax credits are available – Under this regime the effective rate of taxation in Mauritius can be reduced as a long stop provision exists whereby the GBL1 may elect not to provide written evidence to the Commissioner showing the amount of foreign tax charged and enjoy deemed taxation at 80% of the normal rate of 15%, i.e. 12%. Thus, use of this longstop provision in isolation would reduce the effective rate of taxation in Mauritius from 15% to 3%. Possibility to avail from Tax Sparing Credits

Category 2: Global Business Companies ("GBL2")

A GBL2 is the most preferred vehicle for holding and managing private assets. It is also commonly use for trading and non-financial consultancy business. It is a non-resident company for tax purposes and therefore fully tax exempt. Such a company cannot access to the Double Taxation Agreements in force in Mauritius.

Protected Cell Companies ("PCC")

Legislation in Mauritius allows the creation of protected cell company (PCC), which is a special legal structure made up of cellular and non-cellular assets. A PCC provides legal segregation of assets attributable to each cell of the company, i.e., creditors of one cell cannot lay claims on assets of another cell. A PCC is required to hold a category 1 global business licence and can be used in a wide range of applications namely insurance (general, long term, reinsurance, captive), asset holding, structured finance business, collective investment schemes and closed-end funds. A PCC is subject to an effective income tax rate of 0-3% and can elect to either (i) be taxed as a single entity or (ii) have its cells taxed separately as separate entities. By holding the category 1 global business licence, the PCC benefits from the tax treaty network of Mauritius.

Limited Partnerships ("LP")

The Mauritius Limited Partnerships Act 2011 allows the creation of limited partnerships in Mauritius, with or without legal personality. The LP is tax neutral and as such each partner is liable to income tax on its share of the LP's income. The Act also allows the LP to hold either a category one or a category 2 global business license.

The LP with a category 2 global business license can elect to be taxed as an entity and as such be tax exempt in Mauritius.

The LP with a category 1 global business licence, will be tax resident in Mauritius and will be subject to an effective income tax rate of 0-3%. Further, it will benefit from the tax treaty network of Mauritius.

Trusts

Trusts in Mauritius are commonly used for:

- Accumulation & Preservation of Wealth
- Succession Planning
- Asset Protection
- Tax Planning

Trusts are usually liable to income tax on its chargeable income at the rate of 15% per annum.

Trusts holding a category 1 global business licence, shall be subject to an effective income tax rate of 0- 3% and shall have access to tax treaty network of Mauritius.

A trust of which the settlor and beneficiaries are non-residents in any income tax year or hold either Category 1 or Category 2 Global business licence can annually elect to be non-resident in Mauritius for tax purposes, hence not liable to income tax in Mauritius.

Any distribution from a trust is deemed to be dividend, hence not taxable in the hands of the beneficiaries in Mauritius.

A non-resident trust is appropriate where the income of the trust is to be accumulated as for example in the case of family trusts. It is also the preferred vehicle in structured finance transactions where the trust will typically be a special purpose trust set up to hold shares in an underlying company.

Foundations

The Mauritius Foundations Act 2012 offers one of the most hybrid and dynamic Foundations available from any jurisdiction and further promote the jurisdiction as a platform for wealth management services, succession and estate planning.

Contrary to a Trust, a Foundation may have legal entity with hybrid features of a company and a trust for (a) the benefit of beneficiaries/class of beneficiaries and (b) for charitable or non-charitable purposes or both. Legal personality is established when the foundation is registered with the Mauritius Registrar of Foundations, which shall then issue a certificate of registration to the Foundation.

Foundations shall be liable to income tax on its chargeable income at the rate of 15% per annum.

Foundations holding a Category 1 Global Business Licence, shall be subject to an effective income tax rate of 0-3%. Such foundations shall have access to tax treaty network of Mauritius.

A foundation of which the founder and beneficiaries are non-residents in any income tax year or hold a Category 1 Global business license can annually elect to be non- resident in Mauritius for tax purposes, hence not liable to income tax in Mauritius.

Distribution from a foundation is deemed to be dividend, hence not taxable in the hands of the beneficiaries in Mauritius.

Author Profile

Neeraj Nawaz specializes in advising international clients relating to tax planning, cross-border investment and wealth management. He is also a specialist in designing new products and services for international clients and has extensive experience in advising high net worth individuals, family business groups and international corporates.

He is a Fellow member of the Association Chartered Certified Accountants of UK (F.C.C.A), as well as Associate Member of Chartered Institute of Secretaries of UK (A.C.I.S).

Neeraj is a Trust and Estate Practitioner (T.E.P) and a Member of the Chartered Institute for Securities & Investment (M.C.S.I).

He holds a Master Degree with specialization in Finance (Msc Finance) and he is also a member of Mauritius Institute of Directors (M.I.O.D) and Mauritius Institute of Professional Accountants (M.I.P.A).

He has more than 15 years of experience in the Mauritius financial services sector, including Global Business sector with significant focus in international business structuring, corporate advisory ,international tax advisory, alternative investment products as well as products/services development, covering legal, tax and regulatory aspects.

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16. TAXATION IN POLAND

Brief Overview of Poland's Taxation System

Poland is the largest economy in Central and Eastern Europe and ranks as the sixth strongest market in the EU.

At the same time, the Polish tax system offers incentives for investors looking for a favourable spot to locate their business. The investment climate so far has been particularly tempting for the automotive sector, pharmaceutical industry, shared service centres and developers. Poland has a vision to attract more research and development initiatives, as well as traditional production businesses.

Highlights of the Polish Tax System:

- Over 90 double tax treaties signed;
- European Union directives implemented;
- No branch remittance tax;
- Income tax exemption in special economic zones;
- Tax exemption for investment funds;
- CIT group taxation possible;
- 19% CIT for companies and 19% PIT for entrepreneurs;
- No net wealth/net worth CIT/PIT taxation;
- Tax exemption for donations/inheritance among the closest family;
- Efficient and inexpensive official tax rulings system.

Corporate Income Tax (CIT)

Residence Taxpayer

A company is a Polish tax resident if it is incorporated or managed in Poland.

Partnerships (except for joint stock partnerships) are tax transparent. However, foreign partnerships that are treated in their countries as taxpayers are subject to CIT taxation in Poland.

Tax capital groups may be treated as one taxpayer (the taxable base is calculated by adding profits and losses of all the companies within the group).

Branch of a Non-Resident

Generally taxed according to the same rules as Polish residents (19% CIT rate) but only on its Poland-sourced income. No branch remittance tax.

Taxable Profit

Income tax is charged on the excess of taxable revenue over tax-deductible costs, less certain deductions. Taxable revenue consists of business/trading income and capital gains, as well as foreign revenue.

As a rule, tax-deductible costs are expenses incurred in order to generate taxable income or to secure the source of income. The law specifies a list of non-deductible expenses (e.g., certain penalties). Interest is deducted on a cash basis, i.e., upon payment/capitalization (and not accrual).

The most common depreciation method is the straight-line method. The maximum annual depreciation rates are:

- Non-residential buildings: 2,5%;
- Machinery and equipment: 7%-25%;
- Vehicles: 20%;
- Computers: 30%;
- Software: 50%.

Expenses on the purchase of assets not exceeding PLN 3,500 (approx. EUR 850) may not be depreciated but can be deducted directly.

Rate

The standard rate is 19%. It also applies to dividends, interest and capital gains.

Set-Off of Losses

Carry forward for a period of 5 years; deduction in a given year cannot exceed 50% of the loss.

Carry back of losses is not possible.

Set-off of group losses is possible for tax capital groups only.

Incentives

Special economic zones: CIT/PIT exemption on income derived from business activities carried out in special economic zones; the extent of the exemption is calculated taking into account the scope of investment and employment.

New technology tax relief: additional tax base deduction of 50% of expenses incurred for the acquisition of new technology.

Investment funds: CIT exemption for worldwide income. This makes them an excellent vehicle of investment, as well as carrying out certain business activities.

Participation Exemption

Dividends and other income from shareholding is CIT exempt, if it is received from a company, in which a corporate shareholder holds at least 10% (25% - Swiss companies) for a period of min. 2 years (this period may also elapse after the moment of payment). Exemption applies in case of EU/EEA/Swiss entities.

Participation exemption does not apply to capital gains.

Reorganizations

Mergers are CIT neutral on condition that the shareholding level is at least 10% (or 0%). Divisions (spin-offs) are also CIT neutral, if the divided assets and the assets left in the company form an enterprise or a branch (an organized part of an enterprise).

The qualifying exchange of shares is also CIT neutral.

Exemptions described above apply in case of EU/EEA entities (as stipulated in the directive on mergers/divisions).

Contribution in kind of an enterprise or a branch (organized part of an enterprise) does not trigger CIT taxation.

Anti-Avoidance Rules

No general anti-avoidance rule is provided by the Polish regulations but anti-avoidance rules concerning EU dividend exemption are expected to be in force from 2016.

Thin Capitalisation

Interest on loans granted after 31/12/2014 by the following related entities may be subject to limited deductibility:

- Directly and indirectly related shareholders (i.e. grandmother company, great-grandmother company, etc.)
- Sister companies/related companies in which the same direct or indirect shareholder holds shares in the taxpayer and the lender.

The shareholding threshold is at the level of 25% (based on the number of voting rights).

Thin capitalisation restrictions shall apply if the amount of debt towards related parties exceeds the amount of the company's equity capital (1:1 ratio).

Taxpayers may choose not to use the thin capitalization regime but instead apply an alternative method – which can be quite favourable for banks/leasing companies.

Foreign Tax Credit

A unilateral tax credit is granted for tax paid abroad (under certain conditions).

Withholding Taxes

Dividends: 19%
Interest/royalties: 20%
Fees for certain intangible services (e.g. advisory, legal, accounting, management, advertising): 20%

Rates are reduced (or no withholding tax is levied) on the basis of the double tax treaties. Some treaties also provide 0% withholding tax for interest – treaties with France, Spain, Sweden.

Withholding tax exemption applies to:

- Dividends paid to shareholders, if the shareholding threshold is at least 10% (Swiss entities – 25%) for a period of min. 2 years; this period may also elapse after the payment (exemption applies to companies within EU/EEA/Switzerland – as stipulated in the Parent-Subsidiary Directive);
- Interest and royalties paid to direct shareholders/direct subsidiaries/sister companies, if the shareholding threshold is at least 25% for a period of min. 2 years; this period may also elapse after the payment (exemption applies to companies within EU/EEA/Switzerland – as stipulated in the Interest-Royalties Directive).

Controlled Foreign Companies (CFC)

CFC regime is in force since 2015.

A CFC is defined as a company seated outside of Poland:

- In which a Polish tax resident holds directly or indirectly at least 25% of share capital/voting rights/share in profits, and
- At least 50% of its revenue is passive (e.g. dividends, interest, royalties, capital gains) and at least one source of the passive revenue is subject to income tax at a rate lower by at least 25% than the Polish CIT/PIT rate (which means the threshold rate is 14.25%) or exempt (on the basis other than the Parent-Subsidiary Directive), and
- Participation period (uninterrupted) is more than 30 days in a tax year; or
- A company from a blacklisted territory (tax havens); or
- A company from a country that has no agreement with Poland/EU to serve as the basis for exchanging tax information (under certain circumstances).

The CFC taxation regime does not apply to:

- Entities seated in EU/EEA countries if they carry economic activity there, including having a substance; or
- Entities from countries other than EU/EEA, if they carry actual economic activity there and their income does not exceed 10% of revenue provided there is an agreement on the exchange of tax information with the country; or
- Foreign entities with revenues not exceeding EUR 250,000 per year.

The tax base for the Polish taxpayer is the income of the CFC (allocation key: taxpayer's participation in the profits of the CFC), excluding the amount of dividend received from the CFC (or the remuneration for the sale of shares in the CFC). Foreign tax paid is deducted from the Polish tax. The CIT/PIT rate is 19%.

Certain reporting obligations are levied on residents holding shares in foreign entities.

Transfer Pricing

Transfer pricing regulations in Poland are generally in line with the OECD transfer pricing guidelines. Poland is also implementing recommendations from the OECD's BEPS Action Plan.

Personal Taxation

Residence

A person is deemed a resident of Poland if:

- His/her centre of vital interest (centre of economic or personal interest) is based in Poland; or
- He/she is present in Poland for more than 183 days in a calendar year.

Individual Entrepreneurs

Individuals conducting business activities determine their tax base according to the rules similar to the ones applicable for companies.

They may also benefit from tax incentives for business carried out in special economic zones and new technology tax relief.

Rates

The basic rates are: 18% and 32% (for income over PLN 85,528/approx. EUR 20,850). They apply to employment income and pensions.

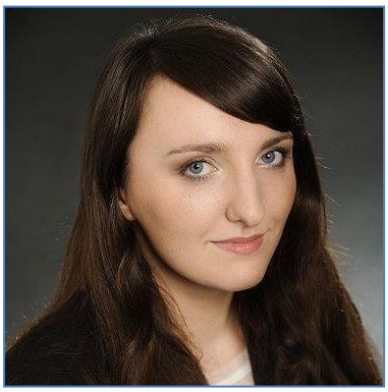
Individuals conducting business activities may choose 19% PIT tax rate.

Dividends/interest is taxed at the rate of 19%.

Special rates may apply for revenue from rent - 8,5%.

Exemptions apply for donations/inheritance from the closest family.

Author Profile



Karolina Szulc is a Senior Tax Consultant in MDDP. Her area of expertise is tax advisory, particularly in the field of international taxation of corporations and individual investors. She has participated in a variety of restructuring projects, focused on creating tax-optimal structures for domestic enterprises, as well as foreign investors. Karolina is the author of many publications on tax law, mainly in the area of international tax law and income taxation, in Polish and foreign press.

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Company Profile

MDDP is an independent firm, established in 2004 by former partners, directors and managers of one of the Big Four firms, which combines international experience and best global standards with in-depth knowledge of Polish tax, legal and business environment.

Currently, MDDP is the 5th biggest tax advisory firm in Poland with tax team including 12 partners and over 70 tax advisors, legal counsels and barristers. Total number of employees in MDDP group is over 220.

MDDP offers full range of tax services. That includes, among others, M&A related planning and assistance, advisory on cross-border transactions, transfer pricing advisory, tax litigation assistance, employer advisory, and compliance and payroll services. Our VAT, international tax and transfer pricing teams are perceived among the leaders in the Polish market.

MDDP has extensive experience working for companies from pharmacy, finance, telecommunications, media and technology, automotive and real estate.

In addition to tax advisory, MDDP provides comprehensive consulting services in the area of law, business, consulting, outsourcing, financial and accounting consulting, audits and professional trainings and conferences.

MDDP is appreciated both among the customers and in the industry as evidenced by consecutive rankings published by the key Polish dailies and international industry magazines.

MDDP received the titles: Poland Tax Firm of the Year (2013) and Poland Transfer Pricing Firm of the Year (2006, 2008, 2012, 2013), according to the ranking of the European Tax Review. MDDP is also classified as the leading Polish tax advisory firm by Practical Law Company, Legal 500, Chambers and Partners, Global Law Experts and Lawyer Monthly, as well as Polish professional publications – Rzeczpospolita, Dziennik Gazeta Prawna, and Forbes.

17. TAXATION IN PORTUGAL

Overview and Recent Events

The current Portuguese system of taxation was implemented in the late 1980s with the purpose of updating the country's tax policy to match the existing standards and trends. Income is taxed by two separate, but intertwining, taxes: Personal Income Tax ("Imposto sobre o Rendimento das Pessoas Singulares", "IRS" or "PIT") and Corporate Income Tax ("Imposto sobre o Rendimento das Pessoas Colectivas", "IRC" or "CIT"), both dating back to 1988 and amended extensively.

Despite regular amendments being introduced to the tax code since its enactment, some of the most significant reforms took place in the last year and a half.

Much anticipated amendments on corporate-level taxation were introduced with effects to fiscal year 2014, allowing Portugal to increase its competitiveness in search of foreign direct investment. The reformed PIT Code was enacted and is in force since January 2015.

The PIT reform's drive was simplification, employment growth and the implementation of family friendly tax policies. The CIT Code was reformed with the purpose of reducing the overall tax burden and promote foreign direct investment in Portugal, namely through a new simple and straightforward participation exemption regime.

Personal Income Tax

Scope of Taxation

PIT is due on income arising worldwide and received by individuals deemed to be tax residents in Portugal. PIT is also levied on income received or deemed to have been received in Portugal by non-resident individuals or paid by enterprises located in Portugal. Illegal gains are taxable and any payments in cash or kind are considered to be income for tax purposes.

In Portugal, income is taxed under a scheduler system and is sorted into the following categories: Employment income, Self-employment/Business income, Capital income, Rental income, Capital and other gains and Pensions.

Tax Residency

An individual is considered resident in Portugal for tax purposes if one of the following conditions are met:

a) Stays for more than 183 days in Portugal, whether continuously or intermittently, in a 12 month period;
b) Keeps a dwelling in Portugal on any day of the relevant tax year in such a way that demonstrates the intention of maintaining a regular domicile there.

New inbounds, provided they were not considered tax residents for the last five years prior to their arrival, may apply for the non-habitual resident status, which is granted for a ten-year period.

Rates

Income is taxed in accordance with the following table, except when a specific item of income is taxable at a flat rate:

Taxable Income in Euros	Rate
≤ 7,000.00	14.5%
> 7,000.00 and ≤ 20,000.00	28.5%
> 20,000.00 and ≤ 40,000.00	37%
> 40,000.00 and ≤ 80,000.00	45%
> 80,000.00	48%

Taxable income exceeding Euro 80,000 but not exceeding Euro 250,000 is liable to an additional solidarity tax of 2.5%, and taxable income exceeding €250,000 is liable to an additional solidarity tax of 5%.

Capital gains on shares, dividends, interest and other capital income or rental income are taxed at 28%. Capital gains derived from the sale of real estate are taxed at the abovementioned marginal rates (taxable income amounts to 50% of the capital gain).

Non-habitual residents are entitled to special tax benefits. Employment and self-employment income derived from high value-added activities of a scientific, artistic or technical nature (as provided in a specific list) are taxed at 20%. Additionally, the regime also establishes a tax exemption for foreign-sourced income, such as, employment income, self-employment income, rental income, interest, dividends as well as other investment income, and pensions under certain specific conditions.

Finally, an extraordinary surcharge of 3.5% on the taxable income exceeding the annual value of the minimum guaranteed wage (Euro 505) will also be applicable to ordinary tax residents and to non-habitual residents alike.

Non-resident taxpayers are liable to a 25% rate for earned income such as salaries and self-employment income and to a 28% for passive income such as dividends or interest. Pensions paid to non-resident individuals will be taxed at 25%.

The abovementioned regime does not take into consideration possible exemptions and limits on tax withholding as provided by the 70 Treaties to Avoid Double Taxation signed by Portugal.

Couples and civil partners may choose to file joint or separate tax returns.

Inheritance and Gift Tax

There are no inheritance and gift taxes in Portugal. Stamp duty may still apply to the bequeathment, inheritance and donation of property in favour of non-relatives.

Corporate Income Tax

Scope of Taxation

All resident enterprises are liable to CIT, including:

- Companies;
- Cooperatives;
- Public Enterprises;
- Irregular companies and unincorporated legal persons;
- Unclaimed inheritances and corporate entities prior to incorporation.

Foreign entities are liable to Portuguese tax when carrying on business in Portugal and receiving income from a Portuguese source. Profits from branches of foreign companies may be taxed in Portugal if a permanent establishment exists.

Resident enterprises and PE's are taxed on worldwide profit determined by accounting rules and adjusted in accordance with tax law provisions. Non-profitable resident enterprises and non-residents without PE are taxed on income assessed by the PIT Code' scheduler system rules.

Tax Residency

For Portuguese CIT purposes, enterprises with head office or place of effective management in Portuguese territory are deemed resident.

Portugal follows the Organization for Economic Co-operation and Development's concept of permanent establishment. Therefore, companies are considered to have a permanent establishment in Portugal if they have a fixed installation, a permanent representation or an agent operating within national borders.

Tax Rates and Exemptions

The default tax rate, applicable to either resident or non-resident taxpayers engaging in a commercial, industrial or agricultural activity is 21%. Small and medium enterprises' profits are taxed at 17% for the first Euro 15.000 of taxable income. Lower tax rates are applicable to corporate entities resident in Azores and Madeira and for SMEs.

A state surcharge ranging between 3% and 7% is levied on taxable income in excess of Euro 1,500,000.00.

Certain types of corporate income paid by resident entities to non-resident corporate taxpayers are subject to 25% or 35% (for payments made to entities located in blacklisted jurisdictions – updated list is available here) withholding tax.

Participation Exemption

A participation exemption for qualified shareholdings now allows for companies located in another EU jurisdiction or in a State that signed a DTT with Portugal to be tax exempt on dividends provided they hold at least 5% of share capital, uninterruptedly, for a

period of at least 24 months. No withholding tax is levied on dividends paid in relation to qualified shareholdings. Equally, the payment of dividends to Portuguese corporate shareholders of national or foreign companies is excluded from the taxable profits of the receiving company provided that the same requirements are met.

In addition, capital gains obtained on the disposal of such shareholdings are not subject to taxation in Portugal. Such exemption is not applicable in the event real estate assets account for 50% or more of the company's value.

Portugal benefits from a large network of Tax Treaties with more than 70 jurisdictions and, as a European Union member, Union Directives govern in full the payment of dividends, interest and royalties to other E.U. entities.

Profits of permanent establishments of Portuguese companies may also be excluded from taxation provided the profits are taxed in the PE's State (additional requirements apply) and the PE is not located in a blacklisted jurisdiction.

Other Aspects

Portuguese Tax Authorities may adjust taxable profits, according to transfer pricing regulations on related-party transactions.

M&A transactions are, as a rule, neutral from a tax standpoint.

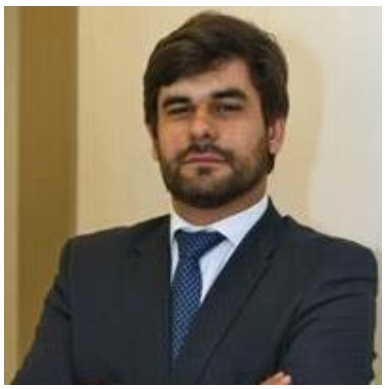
Tax losses may be carried forward for 12 years.

The deductibility of financial expenses (including interest) is limited to the higher of the following amounts:

- Euro 1 million; or
- 50% (2015), 40% (2016) or 30% (2017) of EBITDA (earnings before interest, taxes, depreciation and amortization).

Any exceeding financing expenses of a given tax year may be deductible on the following five tax years, after deducting the financing expenses of each year, provided that the above-mentioned limits are not exceeded.

Author Profile



João is a specialized tax lawyer and consultant holding academic degrees in both and Law and Management.

In addition to providing sound advice in taxation matters for multinational companies and high net worth individuals, João has also advised his corporate, governmental and private clients on other aspects of cross-border investment such as Corporate Finance and Governance.

João also lectures Corporate Taxation in the Master's

Program at Financial Times ranked Economics and Management University in Lisbon.

Prior to joining Lugna, João worked as a tax consultant at Deloitte and as an associate lawyer at a United Kingdom law firm.

João is the author of several articles and publications on M&A transactions, governance, cross border taxation and real estate.

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Company Profile

Lugna is comprised of highly skilled and recognized advisors and lawyers, who have previously worked in Big Four consultancy firms and international law firms and are members of the Academia.

Advisory is a complex and difficult business, requiring expertise in the fine points of law, finance, accounting and management. Technical expertise must go hand and hand with good business judgment. For this reason, Lugna's team is comprised of specialists that hold degrees in both Law and Management and are technology savvy and fluent in a wide variety of languages.

A young firm, Lugna relies on an uncanny multidisciplinary and bespoke approach to each project and has a proven record of accomplishment of outstanding results. This allows the firm to provide up to the minute, complete and practical guidance to private individuals, companies and governmental agencies.

Its reputation as a solid advisory for special projects translated into several international awards.

The firm is sought after for guidance on corporate restructuring, business model optimization and private client advisory by clients and other consultants and law firms.

The firm is the go-to partner for deal teams at the outset of transactions and for high net worth individuals.

For cross border transactions with Portuguese speaking jurisdictions such as Portugal, Brazil, Angola, Timor-Leste (East-Timor) and Macao, Lugna devises innovative structures for the conventional drive to maximize returns through tax saving while minimizing operational costs and coordinating operational needs and tax optimization.

The firm provides a complete set of services to a wide variety of clients across a range of industries, such as:

- Tax planning;
- Prudential reviews;
- Estate planning;
- Structuring for holding and financing structures;
- Indirect tax advice and planning;
- Asset protection to minimize the risk of unanticipated exposures;
- Incorporation of all collective investment vehicles;
- Corporate Tax Compliance;
- Compliance for high level expatriates;
- Remuneration planning and employee share and option schemes;
- Assistance with tax controversies;
- M&A tax advisory;
- Transfer pricing;
- Double Tax Agreements analysis;
- Due diligence;
- Second opinions.

The firm has made a significant investment in technology to allow mobility and centralization of decisions and dissemination of information. All client communications can be instantaneous during critical, stressful phases of emergency response situations.

Lugna also reviews previous due diligences in order to allow clients to benefit from an additional layer of confidence when evaluating and acquiring a company.

Lately, to assist clients in dealing with the new issues created by recent anti-avoidance provisions and increasing compliance obligations, Lugna is also focusing on designing new structures to allow the safe and tax efficient de-offshoring of investments.

18. RUSSIA

Brief Overview of Russia's Taxation System

The history of taxation in modern Russia numbers not more than 24 years by now. After the dissolution of USSR Russian tax system was imperfect due to multiplicity of documents regulating taxation, large number of taxes, legislation instability and the excess burden of taxation. A new phase of tax system development has started in 1999, when the Tax Code took effect. Since then the tax system underwent significant changes: tax burden was shifted mainly to the raw-materials sector of the economy while the level of taxation for the rest sectors was reduced. The Russian tax system is still suffering substantial changes: change of entities' tax residency concept and introduction of controlled foreign companies rules came into force this year.

The level of tax burden Russia is close to the Eastern Europe countries where the average tax revenue share in GDP is about 31 per cent.[10] However, the structure of tax revenue in Russia[11] differs from the European countries deriving tax revenue mainly with indirect taxes and social contributions.[12] In Russia the share of direct and indirect taxes is approximately similar, while social contributions share is twice less than the share of direct and indirect taxes. The oil and gas sector makes the most significant contribution to the Russian tax revenue: it makes more than quarter of the budget due to mineral extraction tax and export duties on minerals.

The classification of taxes and levies in Russia corresponds with separation of taxation powers between federal, region and local authorities:

1) Federal Taxes and Levies - value added tax, excises, personal income tax, corporate income tax, mineral extraction tax, water tax, fee for the right of use of fauna and water biological resources, state duty.
2) Regional Taxes - corporate property tax, gambling tax and transport tax.
3) Local Taxes and Levies - land tax, personal property tax and newly introduced in November 2014 sales tax.

This chapter covers only main direct taxes and contributions paid by legal entities and individuals in Russia.

Corporate Taxation

a) Tax Residence of Legal Entities

Starting from 1 January 2015, the Russian concept of entities' tax residency has changed. Earlier an entity was treated as a tax resident of Russia, if it was incorporated and registered under Russian laws. From the beginning of 2015 the Tax Code includes a

[10] In accordance with data of Index of Economic Freedom 2014 by Heritage Foundation. http://www.heritage.org/index/explore?view=by-variables

[11] In accordance with the Ministry of Finance of the Russian Federation. The structure of consolidated budget revenue as of 01.11.2014. http://info.minfin.ru/kons_doh.php

[12] Taxation Trends in the European Union, 2014 edition. http://ec.europa.eu/taxation_customs/taxation/gen_info/economic_analysis/tax_structures/article_6047_en.htm

new complex concept of entities' tax residency based not only on place of incorporation, but also on place of management and control. Now the tax residents of Russia are not only entities incorporated under the laws of Russia, but also foreign entities that are:

- Treated as Russian tax residents in accordance with international tax agreement for the purpose of that agreement;
- Actually managed and controlled from Russia.

The Tax Code defines certain criteria for defining whether a foreign entity is deemed to be management and controlled from Russia (meeting at least one criteria is enough):

- Entity's executive body operates in respect of the entity regularly from Russia;
- Persons, that authorized to and responsible for planning, management and control of entity's current activity, act mainly from Russia.

There are also secondary criterions applicable in case if a foreign entity meets at least one of the above main criterions in Russia and in any other country at the same time. Those secondary criterions are keeping and managing accounts and other records of entity in Russia and operating control of entity's personnel from Russia.

In addition, the Tax Code contains the list of cases when foreign entity doing business in Russia through a separate business unit may voluntarily acknowledge itself as tax resident of Russia if willing so.

b) Taxable Income and Assets

For the purpose of corporate income tax (CIT) residents of Russia are taxed on their worldwide income, while non-residents are taxed in Russia on the income derived from the sources in Russia (regardless of type of income).

The Tax Code divides revenue into two groups: realization and non-realization revenue. Realization revenue includes receipts from marketing goods and services and capital gain. Non-realization revenue includes dividends and other income from participation in entities and partnerships, Forex gain, rent, contractual penalties, indemnity amounts, royalty, loan interest, donated assets and services, etc. Total revenue less total relevant expenses forms CIT base (taxable income).

According to the newly introduced controlled foreign companies rules, not distributed income of foreign companies controlled by Russian tax resident directly or non-directly can be included into the taxable income of the controlling resident (both entity or individual).

The Russian tax resident is an entity/person controlling foreign company:

- If Russian tax resident owns more than 50% of foreign company share capital till 1 January, 2016 and more than 25% of its share capital starting from 1 January, 2016; or if Russian tax resident owns more than 10% of foreign company share capital provided that more that 50% of the share capital of that company is owned by Russian tax residents totally;

- When Russian tax resident due to any circumstances exerts determining influence on decisions being made by foreign company in respect of its income distribution.

There are certain exceptions when an entity/person qualifying the above criteria is not treated as a controlling entity/person. In order to be included into the taxable income of Russian tax resident not distributed income of controlled foreign company should be at least 50 million RUB in the year of assessment 2015, 30 million RUB in the year of assessment 2016, and should exceed 10 million RUB starting from the year of assessment 2017.

Not distributed income of controlled foreign company can be exempted from taxation in Russia. The exemption depends on several factors such as jurisdiction of controlled foreign company (whether it signed international tax agreement with Russia, whether it is blacklisted by the Ministry of Finance), details of taxation of that company in its jurisdiction, requirements in respect of financial statements, structure of the company's income, part of income distributed by the company as dividends, etc.

The Tax Code extends controlled foreign companies rules application to foreign partnerships, trusts, foundations, and collective investment schemes (provided they meet certain requirements).

When assessing income tax base of legal entity in Russia it is necessary to take into account complex rules of expenses deduction for the purpose of taxation. Generally business expenses and losses may be deducted provided they are incurred in connection of the taxpayer's business, economically justified and supported by proper documentation. However, deductions for certain expenses and losses are limited, and some of them are not deductible. For instance, in accordance with thin capitalization rules, loan interest paid to the related foreign entity (lender) can be deducted within certain limits only. In such cases the debt-to-equity ratio should be maximum 3:1 (12.5:1 if lender is a bank or leasing company). Interest amounts exceeding limits indicated are treated as dividends distribution with relevant tax consequences: for income tax purpose these amounts are not deductible and are the subject to withholding tax.

Transfer pricing rules should also be taken into account for the purpose of business expenses deduction.

Taxpayers acknowledged as users of subsurface resources in Russia must also pay mineral extraction tax. The object of taxation are mineral resources extracted on the territory of Russia, on the territories under jurisdiction of Russia and from mining and processing waste if such extraction is subject to separate licensing. There are two ways to determine tax base: quantity (in case of hydrocarbons, except those extracted on offshore mining) or value of mineral resources extracted. The Tax Code provides certain rules for determining base for mineral extraction tax in every particular case.

Property (real estate, excluding land, and certain movable fixed assets, except movable property recorded as fixed assets starting from 2013) owned by legal entity in Russia is subject to a separate property tax. In case of real estate the tax base is its cadastral value (market value of the property determined in the process of government cadastral

valuation). For the movable fixed assets tax base is a depreciated value in accordance with the balance sheet. Movable fixed assets with useful life of 1-3 years are exempted.

There is no payroll tax in Russia, but social security contribution plays its role. Social security contribution is not a tax in accordance with the Russian legislation and it is not regulated with the Tax Code; however, it is usually taken into account when assessing total tax and compulsory contributions burden. The base is the annual amount of remuneration paid to the employed individuals caped with certain limit.

c) Tax Rates

The standard corporate income tax rate is 20%. This rate is applicable to almost every type of corporate income regardless of whether it is derived by resident or non- resident; i.e. if resident entity pays royalty or loan interest to any entity, both resident or foreign, such payments are subject to the withholding tax at the rate of 20%. The only exception is dividends: dividends paid to resident entities are taxed at the rate of 13%, unless the participation exemption applies, and dividends paid to non-resident entities are subject to the withholding tax, the rate is 15%.

Participation exemption may apply if resident entities' participation is at least 50% and it is hold for at least 365 calendar days. Non-resident entities must meet the same requirements plus one: they must be registered in jurisdiction, which is not 'blacklisted' by the Ministry of Finance (the Ministry of Finance Order № 108-n dated as of 13.11.2007 contains the 'black list of jurisdictions').

The lower tax rates may apply in respect of passive (non-realization) income according to double taxation agreements signed by Russia. Foreign tax paid may be credited against tax in Russia within the limit of tax payable on foreign income in Russia.

Within the tax manoeuvre in oil and gas industry declared in November 2014, mineral extraction tax amount for oil in 2015 is 776 RUB per ton, in 2016 – 857 RUB per ton, in 2017 – 950 RUB per ton. It is planned to zero mineral extraction tax for the first 15 years of mining in two regions of Russia: Irkutsk Region and Yakutia. At the same time indirect taxes and duties in oil and gas industry will be reduced.

Property tax rates are to be set up by regional authorities. However, the Tax Code provides that the tax rate for real estate in Moscow cannot exceed 1.7% and 1.5% in other regions in 2015; starting from 2016 the tax rate cannot exceed 2% in all regions. For movable assets the rate cannot exceed 2.2%. The maximum tax rates limits for utility lines are 1%, 1.3%, 1.6% and 1.9% in the years 2015-2018 respectively.

At the moment the total social security contribution rate is 30%. The maximum contribution amounts are set for the Pension Fund (771,000 RUB) and the Social Insurance Fund (670,000 RUB). There is no cap for the Compulsory Medical Insurance Fund. Social security contribution burden is not shared between employer and employee, the contributions paid fully by employer. Only individual entrepreneurs pay fixed amount of social security contribution for themselves.

Lower tax rates can be applied in respect of passive income in accordance with DTAs signed by the Russian Federation with other countries (currently there are 81 valid DTAs).

d) Special Regimes and Tax Incentives

The Tax Code provides several special tax regimes substituting general tax regime and aimed to simplify revenue recognition, expenses deduction, and accounting. They are:

- The unified agricultural tax applicable by agricultural commodity producers. Tax base is net profit, and tax rate is to be defined by regional authorities; certain regions may reduce it to 0% for the years 2015-2016, and to 4% for the years 2017-2021.

- The simplified system of taxation is available for companies and individual entrepreneurs with annual income not exceeding 60 million RUB. There are two methods of tax base calculation and two tax rates that may be chosen by taxpayer. If tax base is defined as 'revenue minus expenses', tax rate is 15%. If tax base is defined as gross revenue, tax rate is 6%.

- The unified tax of imputed income for certain types of activity applicable by minor business engaged in certain services, retail trade and renting out retail area. Tax base is imputed income calculated in accordance with specific rules, and tax rate is 15%. This regime will be revoked by 2018.

- The system of taxation in the context of the performance of production sharing agreements is applicable mainly in respect of oil and gas industry. This regime provides only specific rules of tax base calculation for corporate income tax, mineral extraction tax and value added tax when implementing the production sharing agreements.

- The license (patent) system of taxation is to be set up by regional authorities. It applies only by individual entrepreneurs. One license is valid for one particular type of business activity. Tax base is potential annual income, and the tax rate is 6% (may be reduced by certain regions to 0% in the years 2015-2016, and to 4% in the years 2017-2021).

There are also a number of tax incentives in Russia. For instance, 10-years tax holiday applies to company established within Skolkovo Innovation Center provided its annual revenue does not exceed 1 billion RUB; software developing companies apply reduced social security contributions rate for the next 5 years (14% in 2015-2017, 21% in 2018, and 28% in 2019); zero corporate income tax rate applies to certain educational and medical services; reduced corporate income tax rate and other benefits are available for investment projects in several regions of Russia. There is also an incentive allowing 150% deduction of qualifying R&D expenses, but the requirements to be met to apply such deduction make this incentive ineffective.

Personal Taxation

a) Tax Residence of Individuals

An individual is a tax resident if he/she spends at least 183 days totally in Russia during 12 consequent months. This 12 months period may not coincide with the calendar year, when it comes to the income from employment in Russia (for instance, when an entity pays salary to its employee and needs to define his/her tax residency to withhold individual income tax at the proper rate). However, if an individual pays taxes by himself/herself (i.e. not through a fiscal agent in Russia withholding and transferring tax amount to the budget) this 12 months period for defining tax residency coincides with calendar year.

Russian servicemen serving abroad and travelling officers of government and local authorities are tax residents of Russia regardless of period spent in Russia.

b) Taxable Income and Assets

Tax residents of Russia are taxed on their worldwide income, while non-residents are taxed in Russia on the income derived from the sources in Russia.

For the purpose of individual income tax, taxable income consists of cash receipts (derived from employment and passive income) or receipts in kind. As for receipts in kind, tax base in calculated on the market price of goods and services received. Income derived from self-employment is generally taxed in accordance with entities taxation rules. Not distributed income of controlled foreign company also can be included into resident individual taxable income (the rules are the same as for entities).

Capital gains may be excluded from taxation in case of qualified participation (if individual owns shares in Russian companies for more than 5 years before sale) and in case of qualified real estate ownership (if individual owns real estate or movable property for at least 3 years before sale). In 2016 there will be some changes in respect of individuals' capital gains taxation.

The Tax Code provides allowances in respect of pension, insurance, medical and educational expenses that are applicable subject to certain conditions. Certain receipts (such as grants, alimony, etc.) are exempted for the purpose of individual income tax.

Real property owned by individuals is subject to a separate property tax. The tax base is cadastral value of real estate or its inventory value unless otherwise provided by regional authorities.

Inheritance and gifts received from immediate relatives are not taxable in Russia.

c) Tax Rates

Individual income tax rate for residents in respect of every type of income including dividends is 13%. Tax rate for non-residents deriving income from the sources in Russia is 30% except dividends (for this type of non-residents' income the tax rate is 15%).

Real property tax rate is to be set up by local authorities, however it cannot exceed 2%.

Author Profile

Veronika Khan is an international taxation expert with 9 years practical experience in legal and tax consulting. In 2006 got LLM degree from the University of Manchester (International Commercial Law). In 2011 became a certified tax consultant in Russia. Veronika has practical experience in planning, execution and support of complex international corporate structures created for cross-border business, tax planning and wealth management. After working for 8 years in consulting firms of Moscow, Russia, Veronika launched her private practice focusing mainly on structuring of cross-border business between Russia and Asian counties and bringing Russian business to Asia. Veronika is an author of the professional blog Tax-Today.Com dedicated to world taxation news with special focus on Asia.

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19. TAXATION IN SINGAPORE

Taxation Overview

Singapore will be celebrating its 50th birthday this year. And the last half-century of its journey from a poor third-world nation to a first-world country with one of the highest per capita income in the world is a fascinating tale of visionary leadership and professional implementation.

After separating from Malaysia, the founding leadership of Singapore implemented business-friendly and efficient-tax policies, created a robust and transparent regulatory economic environment, set-up a world-class infrastructure, and went about creating an English-educated workforce to entice foreign businesses to make Singapore their stepping stone to Asia.

Now, the city-state is the world's easiest place to do business [according to the World Bank rankings], one of its busiest ports, a prolific oil refining and distribution centre, a leading supplier of electronic components, and arguably Asia's financial hub.

Not the one to sit on past glory, the Singapore Government relies on several revenue-generating streams such as exports, taxes, fees, charges and other receipts, to grow the country into a more vibrant economy and the best place in Asia to live, work and play.

In this, the tax revenue component essentially comprises of the following:

- Corporate tax
- Personal income tax
- Goods & services tax
- Property tax
- Tax on rental income
- Stamp duty
- Customs & excise duties
- Motor vehicle taxes
- Betting taxes
- Casino tax-resident
- Foreign workers levy
- Airport passenger service charge

Of these, the Inland Revenue Authority of Singapore (IRAS) – a statutory board under the Ministry of Finance of Singapore, is responsible for collecting personal income tax, corporate tax, property tax, goods & services tax, betting taxes and stamp duty. Several other respective government agencies collect the rest.

Among the tax laws in place in Singapore, the prominent ones include Income Tax Act (Chapter 134), Property Tax Act (Chapter 254), Stamp Duties Act (Chapter 312), and the Goods & Services Tax Act (Chapter 117A).

Moreover, to ease cross-border trade, Singapore has concluded 76 Avoidance of Double Taxation agreements and eight limited treaties. The country is also a signatory to

Convention on Mutual Administrative Assistance in Tax Matters, developed jointly by the OECD and the Council of Europe. Singapore also recently signed the Foreign Account Tax Compliance Act (FATCA) enacted by the US Congress in March 2010 to target non-compliance with US tax laws by US persons using foreign accounts.

Corporate Taxation

Territorial System with Remittance

Strategically located in Asia, Singapore is an attractive location for global businesses to access the emerging markets such as China, India, Vietnam, Thailand and Indonesia. Though an important attraction for Singapore-based companies remains the city-state's territorial tax system, which means that tax is imposed on all income accrued in or derived from Singapore, as well as on all foreign-sourced income remitted to the country, with certain qualifying exemptions. [read dividends, branch profits, service income]

There is neither any capital gains tax in Singapore nor is there any withholding tax on dividends. Also, there is no capital duty, no capital acquisitions tax, no inheritance or estate tax, or even a net worth/wealth tax in the city-state.

Importantly, advance Rulings on taxation is possible too.

Moreover, there are no significant restrictions on foreign exchange transactions and capital movements in Singapore, which means that funds may flow freely into and from Singapore. While the government imposes certain restrictions on the lending of Singapore Dollars (SGD) to non-resident financial institutions, these restrictions do not apply to the lending of SGD to individuals and non-financial institutions, including corporate treasury centres.

Rates

The corporate income tax rate in Singapore is 17 per cent, which is calculated on the basis of the company's chargeable income i.e. taxable revenues less allowable expenses and other allowances. Though the rate itself is one of the lowest in the world, the effective tax payable comes out to even lower if a company takes advantage of all the government incentives, subsidies and schemes. [Detailed below]

For instance, through its enhanced Productivity and Innovation Credit (PIC) Scheme, the Singapore government has made it possible for a firm to not pay any corporate tax even if it earns as much as S$28 million annually.

Corporate Tax Residency

To determine the corporate tax residency of a company in Singapore, the IRAS looks for the said company's "fixed place of operation". This is also important for the Authority before it decides on giving a Singapore-based company exemption on its foreign- sourced service income.

Generally, the “fixed place of operation” refers to a place of management, an office, or a certain amount of floor space, with a degree of permanence and regular usage. The Authority usually takes into account from where the management and control of the company was exercised, the place of residence of the company directors, and location of the books and records of the company, while deciding the residency of a company and issuing a Certificate of Residence (COR).

Fiscal Year Determination

Interestingly, every company in Singapore is free to determine its financial year-end (FYE), which does not necessarily be December 31. Though it's always advisable to keep the company’s FYE within 365 days in order to enjoy the zero tax exemption for new start-up companies. [Detailed below]

Annual Filing Requirements

Every company in Singapore is required to file its annual returns to ACRA - National regulator of business entities and public accountants in Singapore, within one month of its Annual General Meeting date. As consolidated returns are not permitted, each company is required to file its returns separately.

Similarly, every company must file its tax returns by November 30 of the assessment year for income earned in the preceding accounting year.

But importantly, companies in Singapore are allowed to carry forward the unabsorbed trade (rental) losses and capital allowances to subsequent years to offset against the income of those years until the trade losses are fully utilised.

Tax Exemptions and Schemes

Start-up Tax Exemption (SUTE)

If a newly incorporated company in Singapore has no more than 20 individual shareholders; and in case of corporate shareholders, one individual holds at least 10 per cent of the issued shares; it is eligible for the SUTE scheme. It must be noted though that property and investment holding companies are not eligible.

The exemption is given on normal chargeable income of up to S$300,000 for each of the first three consecutive years of its operation.

- For first S$100,000, after 100% exemption, the exempt amount is S$100,000
- For next S$200,000, after 50% exemption, the exempt amount is S$100,000
- Thus, the total exempt amount for income up to S$300,000 is S$200,000

Partial Tax Exemption

Those not eligible for SUTE can benefit from partial exemption as since 2008, all companies in Singapore are given partial tax exemption on normal chargeable income of up to S$300,000.

- For first S$10,000, after 75% exemption, the exempt amount is S$7,500
- For next S$290,000, after 50% exemption, the exempt amount is S$145,000
- Thus, the total exempt amount for income up to S$300,000 is S$152,500

Foreign Sourced Income

For Singapore tax resident companies, who also do their business overseas, it's quite common nowadays to have their foreign sourced income remitted to Singapore. Since the city-state follows a progressive tax framework, based on territorial policy, this foreign sourced income is also taxed.

Though, as detailed in Sections 13 (7A) to 13 (11) of the Income Tax Act (ITA) of Singapore, companies can benefit from the foreign sourced income exemption scheme (FSIE), which is applicable to foreign-sourced dividend, foreign branch profits, and foreign-sourced service income.

Double Tax Deduction Scheme for Internationalisation

Double Tax Deduction Scheme for Internationalisation or DTD aims to provide support to local businesses looking to venture into the international markets. It allows approved companies to deduct against their taxable income, twice the qualifying expenses incurred for qualifying activities. With effect from April 2012 till March 31, 2016, the scheme has been enhanced to allow companies to automatically claim 200 per cent tax deduction without approval from International Enterprise (IE) Singapore on four qualifying activities. This applies to up to the first S$100,000 of qualifying expenses per year of assessment.

Merger & Acquisition Allowance Scheme

Another scheme introduced in 2010 with focus on the SME sector is the Merger & Acquisition (M&A) allowance scheme aimed at facilitating M&A in Singapore's this most economically vibrant sector. The scheme has helped in progressive restructuring of the country's economy leading to high productivity growth.

The scheme provides an allowance of 5 per cent of the value of acquisition, subject to a maximum of S$5 million for each year of assessment. Furthermore, the scheme provides stamp duty relief and deductibility of transaction costs.

Corporate Income Tax Rebate

A scheme that was introduced in 2013, for year of assessment 2013, 2014 and 2015, is the CIT rebate, which granted a 30 per cent relief (up to an annual cap on S$30,000) to all Singapore-incorporated companies.

Pioneer Incentive

It provides tax exemption on income from qualifying activities to enterprises incurring significant capital expenditure in introducing leading edge technology and manufacturing skills to Singapore.

International / Regional Headquarters Award

These two awards provide a reduced corporate tax rate (zero to 15 per cent) on incremental income to companies providing corporate support and headquarters-related services and business expertise on regional or global basis.

Development and Expansion Incentive

The scheme provides a reduced corporate tax rate on incremental income from qualifying activities to enterprises bringing significant economic benefit in terms of overall business spending to Singapore.

Finance & Treasury Centre (FTC) Tax Incentive

The FTC incentive provides an exemption on interest payments on loans from banks, as well as reduced corporate tax rate on fees, interest, dividends and gains from qualifying services and activities.

Integrated Investment Allowance (IIA)

Granted on top of normal capital allowance, the IIA is given on the basis of approved fixed capital expenditure incurred on placing productive equipment outside Singapore.

Productivity and Innovation Credit (PIC) Scheme

Also, when the government realised that in a knowledge economy only those businesses survive which invest in innovation and productivity by upgrading their operations and creating new value, it introduced a highly successful Productivity and Innovation Credit (PIC) scheme in Budget 2010.

The Scheme provides tax exemptions/deductions for six categories of qualifying activities and has been substantially expanded since its introduction.

Under the scheme in operation from 2011 to 2018, Singapore's business entities can enjoy a 400 per cent tax deductions/ allowances and/or 60 per cent cash payouts for investment in innovation and productivity improvements. Also, for 2013, 2014 and 2015, businesses can benefit from a PIC Bonus, which is a dollar-for-dollar matching bonus given on top of the existing tax deductions/ allowances and/or the cash pay-out.

Research Incentive Scheme for Companies

Similar to the idea behind PIC, it is a grant given by the Singapore Government to develop research and development capabilities in strategic areas of technology.

Initiatives in New Technology

This is a grant for encouraging capability development in applying new technologies, industrial R&D and professional know-how.

Avoidance of Double Taxation

Sometimes, foreign income of a Singapore tax resident company may be subject to taxation twice - once overseas, and then a second time when the income is remitted into Singapore. For such cases, the Inland Revenue Authority of Singapore (IRAS) has a foreign tax credit (FTC) scheme, which allows the company to claim a credit for the tax paid in the foreign country against the Singapore tax that is payable on the same income.

Under this, two types of credit or relief can be claimed. Double Tax Relief (DTR) – a credit relief provided under Singapore's Avoidance of Double Tax Agreements (DTAs); and Unilateral Tax Credit (UTC).

UTC is a scheme for foreign tax paid by Singapore tax residents in countries with which the city-state has no DTA. It is allowed only when repatriated income is generated by income from professional, consultancy and other services; royalty income, which is not borne, directly or indirectly, by a person resident in Singapore or a permanent establishment in Singapore, or is not deductible against any income accruing in or derived from Singapore; dividends income; employment income; and branch profits.

The government, in 2011, also introduced a FTC pooling system to give businesses greater flexibility in their FTC claims, reduce the taxes payable on foreign income, and to simplify tax compliance.

It must be noted that for Singapore-based companies to enjoy exemptions under the FTC or FSIE, the headline corporate tax rate in the foreign country from which the income is received must be at least 15 per cent, and the income had already been subjected to tax in that particular country.

Withholding Tax

In Singapore, Withholding Tax is applicable to payments made to non-residents including employees, business partners and overseas agents. Singapore companies are legally mandated to withhold a percentage of the payment they make to a non-resident and pay the withheld amount to IRAS, which is called the Withholding Tax.

For management fees, technical and other service fees paid to a non-resident company, the withholding tax rate is the same as corporate tax rates, which is 17 per cent.

However, for payments made to non-resident individuals, the Withholding Tax is 20 per cent of the gross payment.

For other types of payments, the Withholding Tax rate is 10 per cent or 15 per cent.

Where a double tax agreement is applicable, the rates specified in the agreements of the respective countries apply.

The reduced rates of 10 per cent or 15 per cent apply to payments made to non- residents which are not derived by any trade, business, profession or vocation carried on Singapore; and are not effectively connected with any permanent establishment of

the non-residents in Singapore. Therefore in other cases, prevailing corporate tax rate (currently 17 per cent) will apply for non-residents companies.

Other Taxes on Singapore-based Companies

Goods & Services Tax (GST)

Goods & Services Tax (GST) is a broad-based consumption tax levied on the import of goods (collected by Singapore Customs), as well as nearly all supplies of goods and services in Singapore. However, some items are specifically exempt from GST include financial services and the sale or lease of residential properties. A company must be registered to collect GST if its annual turnover exceeds or is likely to exceed S$1 million from the sale of taxable goods and services. This requirement may be waived if most of the goods or services are exported or supplied internationally ("zero-rated supplies"). The current rate for GST in Singapore is 7 per cent.

Stamp Duty

Stamp duty is a tax on documents relating to immovable properties, stocks or shares. Examples of such documents are lease/tenancy agreements, mortgages, and share transfer documents. While there is no Additional Buyer Stamp Duty (ABSD) for commercial properties, industrial properties (a type of commercial properties) attracts the Seller's Stamp Duty. This is 15 per cent of the sale price if sold on the first year, 10 per cent for the second year, and 5 per cent for the third year.

Foreign Workers Levy

Singapore companies are required to pay foreign worker levy (FWL) for their certain work visa holding employees (Work Permit and S Pass). This is a price mechanism introduced by the Singapore Government to regulate the foreign manpower numbers in the country. The amount of FWL to be paid for each worker is determined by the sector the employer/company belongs to, and the educational qualifications and skills of the workers. Employers can avail some concessions in the levy if they employ skilled workers with relevant qualifications.

Property Tax

This is a kind of wealth tax imposed in Singapore on property ownership irrespective of whether the property is occupied or vacant. It is applicable to government-built Housing Development Board flats as well as private homes. The rates are progressive and are different for owner-occupied and non-owner-occupied homes to encourage home-ownership in the country. The rates are 0% to 15% (from 1 January 2014) for owner-occupied residential property; 10% to 19% for non-owner-occupied residential property; and 10% for non-residential property.

Social security or Central Provident Fund (CPF) contributions

Payable to Singapore Citizens and Permanent Residents, every company in Singapore is required to pay the employer's share of CPF contributions monthly for all applicable employees. Employees too are required to contribute to the CPF at a rate of 20%.

Graduated rates may apply for the first three years when the employee first attains permanent residence. The employer's statutory contribution rate to CPF is currently 16%, subject to a monthly ordinary wage ceiling of S$5,000 and total annual wage ceiling of S$ 85,000. The contribution is remitted by the employer (in respect of its own contributions and that of the employee).

Singapore's Group Relief System for Loss Transfer

Another unique benefit that foreign companies enjoy in Singapore is the country's group relief system for loss transfer. In a world of ever-changing business landscape, companies routinely reorganise themselves into multiple subsidiaries, or holding and associate companies. This is done to limit liabilities, save taxes and sometimes even to protect the brand name.

To assist in such a reorganisation and hedge some of the risk-taking by reducing the overall tax burden for the entire company group, the Singapore Government has introduced the loss transfer system of group relief, which permits transfer of current year not utilised losses, donations, and unabsorbed capital allowances within group companies.

Personal Taxation

IRAS, Singapore's tax regulator, treats non-Singaporeans and non-Singapore Permanent Residents as foreigners for tax purposes. Such individuals, depending on their tax-residency status, are liable to progressive income tax rates on all income derived from or accrued in Singapore.

Also, every individual, whether resident or non-resident, is required to file a separate tax return every calendar year on all his or her incomes including gains or profits from a trade or profession and earnings from employment. The tax return filing must be done in respect of income from the preceding year by April 15 of the following year. If individuals are using the Authority's e-filing portal, this deadline is extended to three more days i.e. April 18.

Do note that foreign-source income of a Singapore tax-resident is exempt from income tax in Singapore, except for the income received through a partnership in Singapore.

Tax Residency of Individuals in Singapore

At least 183 days

Under the city-state's tax residency rules, an individual is a tax resident in Singapore if he or she stays or works in Singapore for at least 183 days in a calendar year. Notably, the number of counted days includes weekends and public holidays, and any temporary absence from work for overseas vacation or official work.

Thus, in a nutshell:

Period of Stay (Including Work)	Tax Resident Status	Tax Liability
At least 183 days in a year	Yes	Income taxed at progressive resident rates
At least 183 days for a continuous period over two years	Yes	Income taxed at progressive resident rates
At least 183 days for a continuous period over three consecutive years	Yes	Income taxed at progressive resident rates

Importantly, a foreigner who stays or works in Singapore continuously for three consecutive years, he or she is regarded as a tax resident for all the three years even if the number of days in Singapore is less than 183 days in the first and third year.

Also, in Singapore, the progressive resident rates range from zero to 20 per cent with the topmost rates kicking in at S$320,000 annual income as explained in the chart below.

Chargeable Income	Rate (%)	Gross Tax Payable ($)
First $20,000	0	0
Next $10,000	2	200
First $30,000	-	200
Next $10,000	3.50	350
First $40,000	-	550
Next $40,000	7	2,800
First $80,000	-	3,350
Next $40,000	11.5	4,600
First $120,000	-	7,950
Next $ 40,000	15	6,000
First $160,000	-	13,950
Next $40,000	17	6,800
First $200,000	-	20,750
Next $120,000	18	21,600
First $320,000	-	42,350
Above $320,000	20	

Less than 183 days

As is self evident, a foreigner is a non-resident for tax purposes if his or her stay in Singapore is less than 183 days in a calendar year. For such individuals, the income earned in Singapore is taxed at a flat rate of 15 per cent (or at progressive resident rates, if it gives a higher tax liability).

Notably, Director's fees are taxed at a slight higher rate of 20 per cent.

Less than or equal to 60 days

For foreigners who are in Singapore for less than or equal to 60 days, IRAS doesn't charge any taxes and treat them as non-residents too. Do note that this exemption does not apply to directors of a company, public entertainers, foreign experts, foreign speakers, queen's counsels, consultants, trainers, coaches, etc. [all these come under the category of "professionals"]

Not Ordinarily Resident Scheme

In Singapore, a special category of individuals called the Not Ordinarily Residents (NOR) is given favourable tax treatment for a period of five years of assessment. For this, an individual must be a non-resident in Singapore for tax purposes in the past three years of assessment; and in that year of assessment in which the individual qualified for the NOR status, he or she must have been a Singapore tax-resident. Importantly, to retain a NOR taxpayer status, the foreigner is only required to be a tax resident in the first year of assessment, and not throughout the 5-year qualifying period.

Notably, a NOR taxpayer pays income tax on only that part of his employment income that corresponds with the number of days he spends in Singapore provided he had spent at least 90 days outside Singapore for business reasons and has got at least S$160,000 as total Singapore employment income. Additionally, he or she enjoys tax exemption on contributions made by the employer to an non-mandatory overseas pension fund that would otherwise be taxable in his or her hands.

Other Taxes on Individuals

Tax on Rental Income

Singapore also imposes income tax on investment homes, which can be understood as income tax on the rental income. Rental income is taxable when it is due and payable to the property owner, and not the date of actual receipt. Do note that rental income from the letting of property in Singapore is subject to income tax, while the property itself is subject to property tax. A tax resident in Singapore pay resident tax rates on his or her rental income.

Stamp Duty

Stamp Duty is a tax on documents relating to immovable properties, stocks or shares including lease/tenancy agreements, mortgages, and share transfer documents. Once the document is signed and dated, the duty needs to be paid, which can be done easily using IRAS' e-Stamping system.

Motor Vehicle Taxes

These are taxes, other than import duties, that are imposed on motor vehicles. These taxes are imposed to curb car ownership and road congestion, and include the various registration fees, excise duty, road tax and special tax.

Income Tax Reliefs for Tax-residents in Singapore

Much like the corporate taxation system, even though the progressive rates for personal income tax ranges from zero to 20 per cent in Singapore, the effective payable tax may come out to be much lower if individuals take advantages of the various government reliefs and rebates applicable to dependent spouse, child and parent-support; on life insurance policies; on taking up a qualifying course; employing a foreign maid levy; as well as relief given on Supplementary Retirement Scheme (SRS).

Author Profile

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Company Profile

Established in 1998, Rikvin has partnered with thousands of investors, entrepreneurs and professionals who want to work or do business in Singapore. Rikvin's areas of expertise include company Singapore company registration, accounting, taxation and other related corporate services. Rikvin is also a licensed employment agency and offers a full spectrum of Singapore work visa services for professionals who wish to relocate to Singapore.

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20. THE SPANISH TAX SYSTEM

Overview of the Spanish tax system

In Spain, there are various levels of public authority: state, autonomous communities (regions) and local authorities. These public authorities hold legislative power in tax matters. Consequently, Spain's tax system is based on three levels: state, regional and local.

The Spanish government has passed a tax reform with significant changes, which entered in force on January 1st 2015, including amendments in almost all direct taxes.
The most important taxes in Spain with regards to direct taxation are:

1. Corporate Income Tax ("CIT")
2. Personal Income Tax ("PIT")
3. Non-Resident Income Tax ("NRIT")
4. Wealth Tax ("WT")
5. Inheritance and Gift Tax ("IGT")

I. Corporate Income Tax

Residence

A company will be tax resident in Spain if one of the following conditions is met:

- The company is incorporated in Spain
- The company has its registered office in Spain.
- The company has its effective management in Spain.

The tax residence in Spain will involve that a company will be subject to CIT for its worldwide income.

Tax Base

The Spanish CIT tax base is assessed from the declared accounting results (profit and loss account) and is subject to certain tax adjustments set forth in the CIT Act.

Tax Rates

From January 1st 2015 the general tax rate will be reduced from 30% to 28%, and 25% in 2016 and subsequent years, maintaining the already existing 25% rate for small businesses for the first 300,000 Euros and 28% for the rest.

Spain offers a reduced tax rate for newly created companies of 15% applicable to the first tax periods generating taxable profit.

Income

All income is treated as ordinary business income taxable at 28% in 2015, and 25% in 2016 and subsequent years.

Losses

If a Spanish company declares losses in its CIT return, these will be offset against future profits with no time limitation. However, some limitations will apply depending on whether the net turnover of the company exceeds 20 or 60 million Euros.

Social Security Contributions (Company)

Employees, companies and entrepreneurs must pay social security contributions. These contributions finance social and welfare payments, such as unemployment benefits, work accident compensation, pensions, medical care and additional work-related benefits. The employer will be effectively contributing at approximately and added 23.6%to the employee's salary.

Payroll Tax

Withholding tax on income from employment is applicable on payroll.

Withholding Tax

A payment by a Spanish company to non-residents will carry a withholding tax:

- Dividends (20%)
- Interests (20%)
- Royalties (24%).

Capital gains or business profits obtained by a non-resident in the Spanish territory will be tax exempt. However, important anti-abuse limitations in real estate transactions will apply.

Spain, as member of the European Union, applies important exemptions such as the Parent-Subsidiary Directive and the Interest-Royalty Directive.
These tax rates may be reduced if a Double Taxation Agreement between Spain and the non-resident country of residence is in force.

Participation Exemption

One of the most important amendments in the CIT Act would be the extension of the participation exemption, which is currently applicable to foreign investments, to dividends and capital gains derived from Spanish subsidiaries.
The requirements to apply for the participation exemption regime would be as it follows:

- Holding at least 5% of the capital for at least 12 months or alternatively having an acquisition value of at least 20 million Euros.

- The minimum ownership period will be one year. However, this requirement will be met as a group of companies.

- The foreign subsidiary must be subject to at least a 10% tax rate or be domiciled in a country with a tax treaty signed with Spain with an exchange of information agreement.

- If the Spanish subsidiary obtains dividends or capital gains from the transfer of shares in more than 70% of its income, the application of the exemption will require that the taxpayer has an indirect participation in those entities of at least 5%. However, the minimum percentage of participation will not be required if the parent and the subsidiaries are considered as a group of companies according to the article 42 of the Spanish Code of Commerce.

- As for the dividends and capital gains distributed by a non-resident entity to its parent company, it will be no longer required that the foreign subsidiary develop a business activity.

Holding Regime ("ETVE")

The ETVE regime will be fully applicable if the company holds an acquisition value of at least 20 million Euros (instead of 6 million Euros) if the 5% participation is not held. Dividends paid out of qualifying income are exempt from withholding tax.

II. Personal Income Tax

Residence for Tax Purposes

An individual will be tax resident in Spain if one of the following conditions is met:

- The individual stays more than 183 days per calendar year in Spain.

- When the main or central place of business of the individual is directly or indirectly located in Spain (centre of economic interests)

- Unless there is evidence to the contrary, an individual shall be deemed to be a resident in Spain if, in accordance with the aforementioned criteria, his or her legally non-separated spouse and dependent minor reside in Spain.

If an individual is deemed to be tax resident in Spain, he/she will be taxed in Spain according to the PIT provisions for its worldwide income.

Residence Permit for Investors

The Spanish residence permit can also be obtained by making a significant investment in Spain (2 million euros or more), by purchasing a real estate located in Spain worth at least 500,000 euros or through the development of a relevant business project approved by the Spanish State Government. However, if an investment to obtain the Spanish residence is made, it will not involve becoming tax resident in Spain.

Taxable Income

An individual will be subject to PIT if any of the following income is received:

- Income from business activities (entrepreneur)
- Capital gains, dividends and interests
- Deemed income
- Employment income
- Rental income

Tax Rates

PIT is divided into general base and savings base.

General Base: The general taxable income part that exceeds the personal and familiar allowance of each taxpayer will be taxed in accordance with a tax levy scale varying between 19%, for a taxable income of 12,450 euros, and 45% for income exceeding 60,000 euros per year. In 2015, the scale will vary between 20% and a 47% respectively.

It should be noted that the ultimate rate may be higher depending on the autonomous region where the taxpayer resides.

Savings Income Base: Dividends, interest and capital gains will be taxed in accordance with the following scale:

- For the year 2015, the tax rate is 20-22-24 % depending on the amount of income.
- For the year 2016, the tax rate it will be of 19-21 -23 % depending on the amount of income.

Social Security (Employee)

The employee contribution is approximately 4.7%

III. Inheritance and Gift Tax

IHT is levied to Spanish resident heirs, beneficiaries and recipients at rates ranging from 7.65% to 34%. These rates will depend on the autonomous regions where the heirs, beneficiaries and recipients are tax residents.

It is important to note that non-resident individuals with assets or rights located or to be exercised in Spain will be subject to IHT.

IV. Non-Resident Income Tax

Individuals and entities not resident in Spain are liable for NRIT all income obtained in the Spanish territory. The key to ascertaining how non-residents will be taxed in Spain lies in whether or not the non-resident holds a permanent establishment ("PE") in Spain or not.

If the non-residents obtain any income in Spain attributable to the PE, the NRIT remits to the wording of the NRIT to determine its taxation.

Some exemptions:

- Interest and other income from the transfer of own capital to third parties, as well as capital gains from real estate obtained without the intermediation of a PE by residents of other EU member states (except tax havens).
- Dividends distributed by a Spanish subsidiary to its EU parent company in certain cases.
- Income paid as a result of the international sale of goods.
- Royalties paid by a Spanish resident company (or by a PE in Spain of a company resident in another EU Member State) to an "associated" company resident in another EU member state (or to a PE of an EU resident company in another Member State).

Impatriate Tax Regime

Spanish personal income tax legislation contains a highly attractive regime for personnel assigned to Spain by multinational enterprises, since it allows individuals who become tax resident in Spain as a result of their assignment there to elect to be taxed either under the personal income tax rules or under the non-resident income tax rules during the tax period in which their tax residence changes and for the next five tax periods. If they choose the latter, expatriates are only taxed on income and/or gains considered to have been obtained in Spain, at a standard rate of 24% for the first 600,000 euros. However, the expatriate regime may be applied to income exceeding 600,000 euros, although such income will be taxed at 45% (47% in 2015).

Author Profile

Ernesto Lacambra is the managing partner of the Tax department at Cases & Lacambra.
Ernesto Lacambra is specialized in advising multinational groups, private equity firms and foreign and national investment funds, specializing in the international tax planning of cross-border investments. He has extensive experience advising on mergers and acquisitions and reorganizations of multinational groups. In particular, he has focused on the reorganization of the Spanish holding companies for Latin American groups, as well as in investments in Spain of European, American and Asian investors.

He has also extensive experience advising high net worth individuals, family business groups and large national and multinational business groups. He is an expert in tax audits procedures. He also advises on transfer pricing regulations (reorganization of the value chain, litigation and masterfile documentation).

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21. TAXATION IN TIMOR-LESTE

Overview

After an initial stage as an independent state and with the assistance of numerous non-government organizations and private sector development agencies acting in the country, Timor-Leste has begun a series of reforms to address major development issues including health care, education and poverty reduction.

In addition, the country started discussing solutions to attract investors to build the foundations for an economy less dependent on oil.

A reduced tax rate both for corporate and private individuals, sound economic relationships with its neighbour countries (Australia and Indonesia) and excellent political and economic ties to China and Europe has allowed Timor-Leste to attract a great deal of cross-border investments.

The recent announcement that Heineken will invest up to US$40 million in a new brewery in the country and the solid presence of oil company giant ConocoPhillips are perfect examples of the attractive investment climate that exists in the country.

In addition to an already low corporate tax rate, the Government has decided to create two special economic zones designed as offshore jurisdictions. The specific terms are yet to be outlined, but the Government has announced that the intention to set up nil/low tax jurisdictions with tax incentives to investors.

The official currency is still USD but the central bank is trying to implement a new local currency that has no value outside of Timor-Leste.

In a nutshell, Timor-Leste's Income Tax main features are:

- A maximum corporate and personal tax rate of 10%;
- Certain types of income are taxed purely on a withholding tax basis;
- Taxable income is calculated according to normal accounting standards as modified by certain tax adjustments;
- The unlimited carry forward of tax losses;
- The use internationally familiar concepts of residency and source.

A special tax regime applies for the oil and gas industry.

General Income Taxation (Corporate Income Taxation/Personal Income Taxation)

In general terms and according to the Tax and Duties Act in Timor-Leste, resident "legal persons" are those incorporated, formed, organized or established in the country, including the undivided estate of a natural person who was a resident natural person immediately before death.

On a preliminary note it should be noted that the Timor-Leste's Tax and Duties Act doesn't distinguish corporate income taxation from self-employed income taxation.

Resident taxpayers are taxable on worldwide income/profits while non-resident taxpayers are taxable on Timor-Leste sourced income/profits only.

Residents earning foreign sourced profits and income can receive credits for foreign taxes suffered.

In regard to taxable income, it is essentially the difference between gross income (domestic or foreign sourced) and allowable deductions. Notwithstanding the fact that gross income translates into "*any realized increase in economic capacity in whatever name or form which can be used for consumption or to increase the wealth of the taxpayer*", certain types of income are not subject to income tax. Non-liable income includes income that is subject to withholding tax or income already subject to wage income tax.

Certain types of income are also exempt from taxation such as dividends, income derived by an approved pension fund and amounts received as aid or donations (provided the donor and beneficiary do not have any business, ownership or control relationship).

With the exception of interest the Tax and Duties Act provides for a wide range of allowable deductions.

General income tax rates are as follows:

Annual Income	Tax Rate
0-USD$6.000	0%
In excess of $USD6.000	10%

Although losses can be carried forward indefinitely, carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief. In regard to transfer pricing rules, the Tax and Duties Act does not contain specific provisions for general transfer pricing regime or related party transactions (for non- Petroleum Operation).

It is also important to refer that there is no Social Security in the country and therefore no contributions are due.

As previously stated, depending on the type of income in question, taxation on income can vary greatly not only in terms of the applicable tax rate, but also in terms of compliance procedures.

As best described in the table below, certain type of payments are subject to income tax when the said income is paid or received. In the majority of cases, no further tax is due in excess to the amount that was withheld.

Regardless of the type of income in question, all payments made to non-residents without PE are subject to a final withholding tax rate of 10%.

Type of Income	Withholding Tax Rate
Royalties Rent from land and buildings Income from prizes and lotteries.	10%
Income from construction and building activities	2%
Income from construction consulting services including project management, engineering design and site supervision services	4%
Income from the provision of air or sea transportation services	2.64%
Income from mining and mining support services	4.5%

Service Tax

Although not related to income tax, it is important to refer service tax as one of the most important taxes in Timor-Leste.

This indirect levy taxes companies according to the services they provide in Timor- Leste.

It is usual for companies to reflect the amount of tax paid on their invoices, turning it into a form of consumption tax (i.e. similar to GST).

The following service providers are subject to service tax at a rate of 5% in relation to services rendered in Timor-Leste:

- Hotels;
- Restaurants and bars;
- Telecommunications.

Personal Income Tax

Resident "natural persons" include natural persons present in Timor-Leste for more than 183 days in a 12-month period (unless that person's permanent place of abode is not in Timor-Leste).

As previously stated, Timor-Leste resident taxpayers are taxable on worldwide income/profits while non-resident individuals are taxable on Timor-Leste sourced income/profits only.

Regarding personal income, there are two major distinctions between general income tax (as per above) and wage income tax.

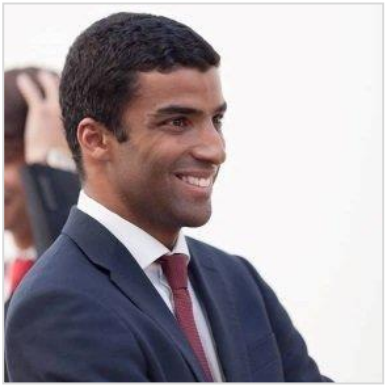
Wage income tax refers to the tax deducted from wages paid to a company's or organization's employee that works in Timor-Leste.

As a rule, wage income tax is due in Timor-Leste regardless of the nature of the employee's contract (e.g. employment contract with a foreign company/organization).

For tax purposes "wage" is considered to be the majority of payments granted to an employee (e.g. salary, severance payments and gifts).

Monthly Taxable Salary	Tax Rate
0-USD$500	0%
In excess of $USD500	10%

Author Profile



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22. UNITED ARAB EMIRATES TAX RATES

The United Arab Emirates is a federation of seven emirates with autonomous Emirates and local governments. There is no federal tax legislation in the UAE. Instead, each Emirate has issued its own corporate tax decrees, but in practice corporate taxes are only imposed on oil and gas-producing companies and on branches of foreign banks at rates set out in specific tax decrees or fixed rate agreements with the rulers of the Emirate in which the branches operate.

Rates of Tax* applicable in the UAE are:

Corporation Tax:	0%	Personal Income Tax:	0%	*No taxes are imposed by the federal government of the United Arab Emirates.
Capital Gains Tax:	0%	Death Tax:	0%	
Withholding Tax:	0%	Value Added Tax:	0%	

Corporation Tax

Although no federal corporate tax currently exists in the UAE, each Emirate has issued corporate tax decrees that theoretically apply to all businesses with rates of tax up to 55%. However, in practice these laws have never been applied except for:

- Foreign banks are taxed up to 20% on their taxable income in Abu Dhabi, Dubai and Sharjah, which is applicable to taxable income earned in that particular Emirate only.
- Oil Companies (which include any chargeable person that deals in oil or rights to oil, both off-shore and on-shore) pay tax up to 55% on their taxable income in Dubai and 50% in the other Emirates. In addition, they pay royalties on oil production.
- Municipal taxes are levied in most Emirates on annual rental paid at 5% for residential premises and 10% for commercial premises.
- Municipal taxes are imposed on hotel services and cinema screenings.

Several Emirates have Free Zones that offer tax and business incentives aimed at making the UAE a global financial and commercial centre. The incentives usually include tax exemptions for a guaranteed period (Federal and Emirate level), 100% foreign ownership, an absence of customs duty within the Free Zone, no restrictions on repatriation of profits, and a "one-stop shop" for administrative services. Free Zone companies are also entitled to sponsor their shareholders, investors and employees for residency visas. The DIFC Free Zone also has its own common law legal system whilst all other Courts in the UAE practice civil law.

Real Estate & Purchase Fee

In Dubai, a sale registration fee of 2% of the value of the sale is imposed on the seller and at the same time a purchase registration fee of 2% of the value of the purchase is payable by the buyer of the property to the Dubai Land Department. In practice, the purchaser usually pays the 4% total charge. Each Emirate imposes similar fees.

Customs Duties

The UAE is a member of the Gulf Cooperation Council (GCC), together with Bahrain, Kuwait, Oman, Qatar and Saudi Arabia. All GCC member states have approved regulations for the implementation of the GCC Customs Law, which unifies customs procedures and establishes a unified GCC customs union. However, the practical implementation of the law is not completely consistent. Under the GCC Customs Law, most foreign imports are subject to customs duty of 5% of the Cost, Insurance and Freight (CIF) invoice value of the imported goods and levied at the first point of entry to the GCC. No export duty is imposed on goods leaving the GCC. In general, goods do not incur customs duty on import into a UAE Free Zone and no export duty is imposed on goods removed from a UAE Free Zone. However, if goods leave the Free Zone for a destination within the GCC, customs duty is levied on the import at the first point of entry into the GCC.

Foreign Exchange Controls

Neither the federal government of the UAE nor the individual Emirates impose foreign exchange controls. The local currency is freely convertible and pegged to the US Dollar.

Double Tax Avoidance Treaties

The UAE has more than 55 tax treaties currently in force with the following countries: Algeria, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Canada, China, Czech Republic, Egypt, Estonia, Finland, France, Georgia, Germany, India, Indonesia, Ireland, Italy, South Korea, Latvia, Lebanon, Luxembourg, Malaysia, Malta, Mauritius, Morocco, Mozambique, Netherlands, New Zealand, Pakistan, Philippines, Poland, Portugal, Romania, the Russian Federation (limited), Serbia, Seychelles, Singapore, Spain, Sri Lanka, Sudan, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, Venezuela, Vietnam and Yemen.

In addition, treaties with the following countries are in various stages of negotiation, renegotiation, signature, ratification, translation or entry into force: Bangladesh, Cyprus, Fiji, Greece, Guinea, Hong King, Hungary, Japan, Jordan, Kazakhstan, Kenya, Lithuania, Mexico, Mongolia, Palestine Authority, Panama, Peru, Slovenia and Uzbekistan.

Author's Profile

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23. MAIN TAXES PAYABLE IN THE UNITED KINGDOM

Corporation Tax

A UK resident company is liable to corporation tax on all its sources of income and capital gains, wherever arising. A company is deemed resident in the UK if it is incorporated in the UK or has its central management and control located in the UK.

A non-resident company carrying on a trade in the UK through a permanent establishment located in the UK is liable to corporation tax on all income and gains attributable to that establishment.

Corporation tax rates are fixed for each financial year ended 31 March. If the company's accounting period does not coincide with the financial year, its profits must be time-apportioned and the corporation tax rate is applied accordingly.

Profit	31 March 2015	31 March 2014
£0-300,000	20%	20%
£300,001 -£1,500,000	21.25%	23.75%
Over £1,500,000	21%	23%

Marginal relief applies to companies with profits between £300,000 and £1,500,000.

The above thresholds may be reduced where the UK company has associated companies worldwide or an accounting period of less than 12 months.

Large companies (broadly, those with profits taxed at 21%) are required to pay their tax in instalments (generally in four equal instalments). The first payment is due six months and 14 days from the first day of the accounting period.

For companies not required to pay their tax in instalments, corporation tax is due for payment nine months and one day after the end of the company's period of account.

Capital Gains Tax

Capital gains are taxed at the appropriate corporation tax rate. Non-resident companies are only taxed on capital gains from the sale of assets used in, or for the purposes of, a trade which is carried on through a permanent establishment located in the UK. There are special provisions allowing tax deferrals by UK resident and non-resident companies. Capital losses can only be offset against capital gains, or carried forward indefinitely, but cannot be carried back.

There is no branch profits tax in the UK. Foreign branch profits of a UK company will be liable to UK company tax. A UK branch of a non-resident company is taxable on its profits and gains in the same way as a UK resident company.

Personal Tax

Taxable persons comprise resident individuals, trustees and executors as well as non-resident individuals, trustees and executors. Resident and UK domiciled persons are

subject to income tax on their worldwide income as it arises. Non-residents are normally only subject to income tax on income arising in the UK.

Broadly, a UK resident is liable to capital gains tax whilst non-residents are not.

Residence has historically been determined by physical presence in the UK for at least 183 days in any one tax year (6 April – 5 April), or if visits (or extended visits) for four consecutive years average 91 days or more. However, recent tax cases have shown a change in HMRC policy in using the number of days as the determining factor. Instead a more 'qualitative' approach is being used which looks at other factors, such as availability of UK accommodation, location of family and the maintenance of personal, social or business interests in the UK.

Broadly, an individual is domiciled in the country or state that he regards as his permanent home. He acquires a domicile of origin at birth, normally that of his father, and retains it until he acquires a new domicile of choice. To acquire a domicile of choice a person must sever his ties with his domicile of origin and settle in another country which the clear intention of making his permanent home there.

An individual, who is resident but not domiciled in the UK, can make a claim to have his foreign income taxable on the remittance basis. Currently, a charge of £30,000 per annum applies to certain individuals making a claim to apply the remittance basis once the individual has been resident in the UK seven years.

The rates of income tax on taxable income, other than capital gains are as follows:

	2014-15	**2013-14**
Basic Rate	20%	20%
Higher Rate	40%	40%
Additional Rate	45%	45%
Starting Rate for Savings Income (*)	10%	10%
Dividend Ordinary Rate	10%	10%
Dividend Upper Rate	32.5%	32.5%
Dividend Additional Rate	37.5%	37.5%
Trust Rate	45%	45%
Starting Rate Limit (Savings Income)	£2,880	£2,790
Basic Rate Band	£0 - 31,865	£0 - 32,010
Higher Rate Band	£31,866 - 150,000	£32,011 - 150,000
Additional Rate Band	Over £150,000	Over £150,000

There is 10% starting rate for savings income only, with a limit of £2,880, going up to £5,000 in 2015/16. The rate does not apply if taxable non-savings income is above this limit.

The rates applicable to dividends in 2014/15 are 10% for persons paying tax only in the basic rate band and 32.5% for higher rate taxpayers.

Husbands and wives are taxed separately and each is entitled to a personal allowance of £10,000 for the year to 5 April 2015 for those born after 1948. The income of a minor unmarried child is also taxed separately, unless it originates from funds given to the child by the parent.

Capital gains tax for individuals is charged at two rates. Those who pay basic rate income tax pay CGT at 18%, but higher rate taxpayers are charged CGT at 28%. If you are a basic rate taxpayer by virtue of your income, but have made large enough taxable capital gains to push you over the threshold above which income tax is levied at 40% (£31,865 taxable income in 2014-15, £32,010 in 2013-14), you will pay the higher rate of CGT on the portion of gains that takes you over the threshold.

Dividends

Companies pay corporation tax on their taxable profits without any deduction for dividends paid to shareholders.

A shareholder receives the dividend with an accompanying tax credit equal to one ninth of the dividend, which is equivalent to 10% of the dividend plus tax credit. The tax credit is equivalent to the basic rate of income tax on dividends.

Exchange control

There are no exchange controls in the UK.

Withholding Tax and Double Tax Treaties

Subject to the terms of the tax treaty, withholding taxes must usually be deducted from interest and royalties. No withholding tax applies to dividends paid by UK resident companies.

The table below is for general guidance only. The rates in the table below reflect the lower of the treaty rate and the rate under domestic tax law. Where a treaty rate is higher than the domestic rate, the domestic rate applies. There is no withholding tax on dividends.

Countries with Double Taxation Agreements with the UK: Rates of Withholding Tax for the Year Ended 5 April 2013

This table shows the maximum rates of tax those countries with a Double Taxation Agreement with the UK can charge a UK resident on payments of dividends, interest, royalties and management/technical fees. **The table only includes agreements that are currently in force**.

Abbreviations: NA = No Article
S = There is a 'subject to tax' condition

Territory	Dividends Paid to Portfolio Investors	Interest	Royalties	Management/ Technical Fees	Notes	
Antigua and Barbuda	Zero (S)	NA	Zero (S)	NA		
Argentina	15%	12%	15% (Note 1)	NA	1.	3% on news. 5% on copyright royalties other than for films and television. 10% on payments for the use of industrial or scientific equipment.
Armenia (Note 1)	10%	5%	5%	NA	1.	DT treaty is effective in both Armenia and UK from 1 January 2013 for taxes withheld at source.
Australia	15% (Note 1)	10%	5%	NA	1.	Only unfranked dividends carry withholding tax.
Austria	15%	Zero	Zero	NA		
Azerbaijan	15%	10%	10% (Note 1)	NA	1.	5% on copyright royalties.
Bahrain (Note 1)	Zero	Zero	Zero	NA	1.	DT treaty is effective in both Bahrain and UK from 1 January 2013 for taxes withheld at source.
Bangladesh	15%	10%	10%	NA		
Barbados	Zero (S)	15% (S)	Zero (S) (Note 1)	NA	1.	15% on cinematograph and television royalties.
Belarus*	Zero	Zero	Zero	NA		
Belgium	10%	15%	Zero	NA		
Belize	Zero (S)	NA	Zero (S)	NA		
Bolivia	15%	15%	15%	NA		
Bosnia-Herzegovina	15%	10%	10%	NA		
Botswana	12%	10%	10%	7.5%		
Brunei	Zero (S)	NA	Zero (S)	NA		
Bulgaria	10%	Zero	Zero	NA		
Burma	Zero (S)	NA	Zero (S)	NA		
Canada	15%	10% (Note 1)	10% (Note 2)	NA	1. 2.	Zero if loan guaranteed by UK ECGD or Canadian EDC or if Canadian government or local authority bond. Zero if copyright royalties (excluding films and television).
Chile	15%	15%	10%	NA		

China	10%	10% (Note 1)	10% (Note 2)	10% (Note 3)	1. 2. 3.	Exempt in certain circumstances (see Art 11 [3]). Payments for the use of, or right to use, any industrial, commercial or scientific equipment 10% of 70% of the gross amount of the royalty. On 70% of gross fees.
Croatia	15%	10%	10%	NA		
Cyprus	Zero	10%	Zero (Note1)	NA	1.	5% on film and television royalties.
Czech Republic	15%	Zero	10% (Note 1)	NA	1.	Zero on copyright royalties.
Denmark	15%	Zero	Zero	NA		
Egypt	20%	15% (Note 1)	15%	NA	1.	Exempt if loan guaranteed by UK ECGD.
Estonia	15%	10% (Note 1)	10% (Note 2)	NA	1. 2.	Exempt in certain circumstances (see Art 11 [3]). 5% on royalties for the use of industrial, commercial or scientific equipment (see Art 12 [2][6]).
Ethiopia (Note 1)	10%	5%	7.5%	NA	1.	DT treaty is effective in both Ethiopia and UK from 1 March 2013 for taxes withheld at source.
Falkland Islands	(Note 1)	Nil (Note 2)	Zero	15%	1. 2.	See the Double Taxation Manual at www.hmrc.gov.uk/manuals/index.htm Exempt if loan guaranteed by UK ECGD.
Faroes	15%	Zero	Zero	NA|	1.	DT treaty effective in Faroes from 1 January 2009 and in UK from 6 April 2009.
Fiji	15%	10%	15% (Note 1)	15%	1.	Zero if copyright royalties (excluding films and television).
Finland	Zero	Zero	Zero	NA		
France	15%	Zero	Zero	NA		
Gambia	Zero (S)	15% (S)	12.5% (S)	15% (S)		
Georgia	10%	Zero	Zero	NA		
Germany (Note 1)	15% (S) (Note 2)	Zero (S) (Note 2)	Zero (S) (Note 2)	NA	1. 2.	New DT treaty effective in Germany from 1 January 2011. Effective in UK from 1 January 2011 for taxes withheld at source. 'Subject to tax' condition applies only to income paid before 1 January 2011.
Ghana	15% (S)	12.5% (S)	Zero (S)	NA		
Greece	NA	Zero (S)	Zero (S)	NA		
Grenada	Zero (S)	NA	Zero (S)	NA		

Guernsey	NA	NA	NA	NA

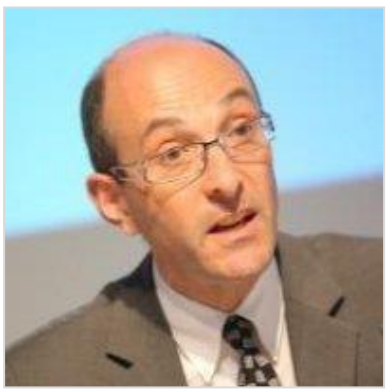
Guyana	15%	15% (S) (Note 1)	10%	10% (Note 2)	1. 2.	Exempt if loan guaranteed by UK ECGD. A smaller percentage where Guyana Minister of Finance applies Section 39(10) of the Income Tax Act, Chapter 81:01.
Hong Kong	Zero	Zero	3%	NA		
Hungary (Note 1)	10% (Note 2)	Zero	Zero	NA	1. 2.	New DT treaty effective in Hungary from January 2012. Effective in UK from 1 January 2012 for taxes withheld at source. The prior treaty rate of 15% applies to the dividends paid before 1 January 2012.
Iceland	15%	Zero	Zero	NA		
India	15%	15%	20% (Note 1)	NA (Note 1)	1.	Article includes fees for technical services. For first 5 years of Convention, 15% where payer is Government. 15% for all royalties etc. after the 5 years. Some forms of royalty 10% throughout.
Indonesia	15%	10% (S)	15% (Note 1)	NA	1.	10% on payments for the use of industrial, commercial or scientific equipment (see Art 12 [2][6]).
Ireland	15% (Note 1)	Zero	Zero	NA	1.	Exempt where paid to a charity, superannuation fund or insurance companies in respect of pension fund business.
Isle of Man	NA	NA	NA	NA		
Israel	15% (S)	15% (S)	Zero (S) (Note 1)	NA	1.	See treaty for cinematograph or television royalties.
Italy	15% (S)	10%	8%	NA		
Ivory Coast	15% (Note 1)	15%	10%	10%	1.	18% where paid by an Ivory Cost company exempt from tax or paying at less than normal rates on profits.
Jamaica	15%	12.5% (Note 1)	10%	12.5%	1.	Exempt if loan guaranteed by UK ECGD.
Japan	10%	10%	Zero	NA		
Jersey	NA	NA	NA	NA		
Jordan	10%	10%	10%	NA		
Kazakhstan	15%	10% (Note 1)	10% (Note 2)	NA	1. 2.	Exempt if loan Guaranteed by UK ECGD. Unless election is made for net profit basis.
Kenya	15% (S)	15% (S)	15% (S)	12.5%		
Kiribati	Zero (S)	NA	Zero (S)	NA		
Korea	15%	10% (Note 1)	10% (Note 2)	NA	1. 2.	Exempt if loan Guaranteed by UK ECGD. 2% on equipment leasing payments
Kuwait	15%	Zero	10%	NA		

Latvia	15%	10% (Note 1)	10%	NA		Exempt if loan guaranteed by UK ECGD or Bank of England.
Lesotho	Zero (S)	NA	Zero (S)	NA		
Libya (Note 1)	Zero	Zero	Zero	NA	1.	New DT treaty effective in Libya from 1 January 2011. effective in UK from 6 April 2010.
Liechtenstein (Note 1)	Zero	Zero	Zero	NA	1.	DT treaty is effective in both Liechtenstein and UK from 1 February 2013 for taxes withheld at source.
Lithuania	15%	10% (Note 1)	10% (Note 2)	NA	1.	Exempt in certain circumstances (see Art 12[2][6]).
					2.	5% on royalties for the use of industrial, commercial or scientific equipment (see Art 12[2][6]).
Luxembourg	15%	Zero	5%	NA		
Macedonia	15%	10%	Zero	NA		
Malawi	Zero (S)	Zero (S)	Zero (S)	NA		
Malaysia	10%	10% (S) (Note 1)	8%	8%	1.	Exempt if an approved loan (see Art 11).
Malta	(Note 1)	10% (S)	10% (S)	NA	1.	Tax not to exceed that chargeable on the profits out of which the dividends are paid.
Mauritius	15%	No limitation (Note 1)	15% (S)	NA	1.	Exempt when paid to UK banks.
Mexico	Zero	15% (Note 1)	10%	NA	1.	A lower rate or exemption will apply in certain circumstances (see Art 11[2]).
Moldova	10%	5% (Note 1)	5% (S)	NA	1.	Exempt in certain circumstances (see Art 11[2]).
Mongolia	15%	10%	5%	NA		
Montenegro	15%	10%	10%	NA		
Montserrat	Zero (S)	NA	Zero (S)	NA		
Morocco	25%	10%	10%	NA		
Namibia	15%	20%	Exempt (S) (Note 1)	NA	1.	Copyright royalties only. Other royalties: the lesser of 5% and one half of tax that would otherwise be charged.
Netherlands	10% (Note 1)	Zero	Zero	NA	1.	15% if dividends paid by a Property Authorised Investment Fund.
New Zealand	15%	10%	10%	NA		
Nigeria	15% (S)	12.5% (S)	12.5% (S)	NA		
Norway	15%	Zero	Zero	NA		
Oman (Note 1)	10%	Zero	8% (Note 2)	NA	1.	DT treaty amended by Protocol, effective in both Oman and UK for taxes withheld at source from January 2012.
					2.	The prior treaty rate of Zero (S) applies to royalties paid before 1 January 2012.
Pakistan	20% (Note 1)	15%	12.5%	12.5%	1.	See the Double Taxation Manual, DT14956 and Art 10 at www.hmrc.gov.uk/manuals/index.htm

Papua New Guinea	17%	10%	10%	10%		
Philippines	25%	15% (Note 1)	25% (Note 2)	NA	1. 2.	10% where paid by public issue bond etc. Exempt where loan is guaranteed by a UK government agency. 15% on royalties for films, television or radio.
Poland	10%	5%	5%	NA		
Portugal	15%	10% (S)	5% (S)	NA		
Qatar	Zero	Zero	5%	NA	1.	New DT treaty effective in Qatar from 1 January 2011. Effective in UK from 1 January 2011 for taxes withheld at source.
Romania	15%	10%	15% (Note 1)	12.5% (note 2)	1. 2.	10% on copyright royalties Rate applies to commissions. See the Double Taxation Manual, DT16054 at www.hmrc.gov.uk/manuals/index.htm
Russian Federation	10% (S)	Zero	Zero	NA		
St Christopher -Nevis (St Kitts)	Zero (S)	NA	Zero (S)	NA		
Saudi Arabia	5%	Zero (Note 2)	5% or 8% (Note 3)	NA	1. 2. 3.	DT treaty effective in Saudi Arabia from 1 January 2010 and in UK from 6 April 2010. Income from debt claims. 5% for royalties paid for the use of or the right to use, industrial, commercial, or scientific equipment, 8% in all other cases.
Serbia	15%	10%	10%	NA		
Sierra Leone	Zero (S)	NA	Zero (S)	NA		
Singapore	0% (Note 1)	10%	10%	NA	1.	Treaty allows for 15% but there are currently no withholding taxes on dividends.
Slovak Republic	15%	Zero	10% (Note 1)	NA	1.	Zero on copyright royalties (see Art (12[3][6]).
Slovenia	15%	5%	5%	NA		
Solomon Islands	Zero (S)	NA	Zero (S)	NA		
South Africa	15%	Zero (S)	Zero (S)	NA		
Spain	15%	12%	10%	NA		
Sri Lanka	No limitation	10% (Note 1)	10% (Note 2)	NA	1. 2.	Only reduced to this rate where paid on loan, etc. made after 21 June 1989. Only reduced to this rate where rights are granted after 21 June 1989.
Sudan	15% (Note 1)	15% (S)	10% (S)	NA	1.	Exempt if the dividends are exempt under Sudan law when paid to non-residents.
Swaziland	15%	NA	Exempt	NA		

Sweden	5%	Zero	Zero	NA		
Switzerland	15%	Zero	Zero	NA		
Taiwan	10% (S)	10% (S)	10% (S)	NA		
Tajikstan*	Zero	Zero	Zero	NA		
Thailand	20% (Note 1)	25% (Note 2)	5% (Note 3)	NA	1. 2. 3.	Rate only applies to a dividend from a company carrying on an industrial undertaking. 10% if paid to a financial institution. 15% on patent royalties.
Trinidad and Tobago	20%	10%	10% (Note 1)	10%	1.	Copyright royalties are exempt.
Tunisia	20%	12%	15%	NA		
Turkey	20%	15%	10%	NA		
Turkmenistan*	Zero	Zero	Zero	NA		
Tuvalu	Zero (S)	NA	Zero (S)	NA		
Uganda	15%	15%	Zero (S)	NA		
Ukraine	10% (S)	Zero (S)	Zero	NA		
United States of America	15%	Zero	Zero	NA		
Uzbekistan	10%	5%	5%	NA		
Venezuela	10%	5% (Note 1)	7%	NA	1.	Exempt if paid on a loan guaranteed by UK ECGD.
Vietnam	15%	10% (S)	10% (S)	NA		
Zambia	15% (S)	10% (S)	10% (S)	NA		
Zimbabwe	20%	10% (S) (Note 1)	10% (S)	10% (S)	1.	Exempt if paid on a loan guaranteed by UK ECGD.

Author Profile



Steven Landes was born in Manchester in 1960 and grew up in Reading attending the Reading Blue Coat School.
He went to the University of Essex where he studied Economics and then joined Blick Rothenberg where he qualified as a chartered accountant in 1984. He then joined Ernst & Young (or Arthur Young as it was then). He joined Berg Kaprow Lewis in 1988 becoming a partner in 1990. He left them in 1993 to form S H Landes LLP, which has now grown to become the leading small firm of chartered accountants dealing with Russia and the CIS market. Steven lectures on a regular quarterly basis to members of the Russo British. Chamber of Commerce with Russia Consulting on setting up and operating businesses in Russia and has had several articles published in Kommersant on tax and other corporate issues effecting Russians either living in or trading with the UK.
Steven is married with two children and lives in Kent. When not working, he is an avid Spurs fan.

S H Landes LLP United Kingdom

Company Profile

SH Landes LLP was founded in 1993 with a commitment to provide a high quality service to entrepreneurs operating on an international basis. The firm's commitment to service has enabled it to grow consistently since formation by recommendations from existing clients or other professionals that have dealt with the firm.

We offer an internationally focused service that sets us apart from other Chartered Accountancy firms. Our highly qualified and experienced staff provide the greatest level of professionalism in all areas of Business Advice, Accountancy, Audit and Tax.

We are able to provide genuine in-house specialists with country and industry sector experience in addition to a high level of individual client care. This combination enables us to offer a real added value service to our clients.

24. TAXATION IN THE USA

Overview

The United States of America is a constitutional republic composed of fifty states, several territories and one capital district. The Constitution establishes the ability of the federal government to impose taxes at the national level. The Constitutions of the 50 states set forth the ability for states and political subdivisions to impose taxes. Within the states and territories are usually counties, municipalities and other political subdivisions, each of which usually has the ability to levy taxes.

Under the concept of federalism, each level of the government – federal, state and local – has authority to impose a variety of taxes. Common taxes include individual and corporate income, sales, property, payroll, excise, gift and estate.

Income Taxation

Income taxes are imposed on the net income of individuals and corporations by the federal, most state, and some local governments. Income taxes make up the bulk of federal tax revenues whereas the mix of sales, income and property taxes varies widely between the states.

The federal government imposes income taxes on citizens, residents and resident aliens. The federal income tax formula is bracketed and considered quite progressive. The actual tax rates vary from 10% to 39.6% depending on the amount of taxable income. The top rate applies to taxpayers with taxable income of more than $400,000 per year.

The Internal Revenue Service administers taxes at the federal level.

Federal Income Tax – Individuals

The federal taxing regime requires taxpayers to report worldwide income. Credits (offsets) are available for taxes paid in foreign jurisdictions. The United States is only one of two countries that taxes non-residents citizens as if they were residents.

Citizens who take citizenship in another country remain citizens for U.S. tax purposes. Formal renunciation of citizenship requires a history of tax compliance and may require an exit tax.

Individuals can deduct most business expenses, home mortgage interest, charitable contributions, casualty losses and medical expenses. The latter may be subject to certain percentage thresholds.

Special rules apply to capital gains and losses. Generally, capital gains are taxable, and capital losses reduce taxable income only to the extent of gains. Individuals currently pay a lower rate of tax on capital gains and certain corporate dividends.

For high-income individuals, the federal government imposes an alternative minimum tax ("AMT"). AMT is imposed at a nearly flat rate on an adjusted amount of taxable income above a certain threshold. Taxpayers meeting the thresholds must pay the higher of AMT or the regular income tax.

The present AMT was enacted in 1982 and limits tax benefits from a variety of deductions. In 2013, the AMT income thresholds became indexed to inflation.

Federal Income Tax – Corporations

The federal government also imposes corporate income taxes. Those rates vary between 15% and 35%. At 35%, the top rate is the highest among developed countries. Taxable income of $335,000 or higher is subject to the top rate.

Like individual income taxes, there are a wide variety of deductions available to reduce taxable income. Special corporate Alternative Minimum Tax rules also apply.

Shareholders of a corporation are taxed on dividends distributed by the corporation and not directly on corporate income. Special rules apply for "S corporations." Widely popular, this form of corporate tax structure allow profits and losses to flow directly to the shareholders,

Shareholders of most corporations are not taxed directly on corporate income, but must pay tax on dividends paid by the corporation. However, S Corporation shareholders are taxed on corporate income and do not pay tax on dividends.

Foreign corporations doing business in the United States are subject to U.S. income taxation.

Corporate income taxes are levied yearly. Corporations can choose their own fiscal year that need not be a calendar year.

Groups of companies are permitted to file single returns for the members of the group. Known as a consolidated return, the members are permitted to combine their taxable income and calculate a single combined tax. If the member companies do not or cannot file a consolidated return, they become subject to transfer pricing rules. Under these rules, the tax jurisdictions can adjust prices charged between related parties.

State Income Taxes

State income tax rules differ widely from state to state. Marginal rates also vary with some states imposing no income tax and others having progressive rates. California currently imposes the highest top tax rate at 13.30%.

Many states use the federal calculation of taxable income as the basis or starting point for their corporate and individual income tax computations.

Some state constitutions give cities and counties the authority to impose local income taxes.

Payroll Taxes

In addition to the federal income tax, the federal government also imposes payroll taxes. These include a Social Security and Medicare tax. These taxes are imposed on both employers and employees. The combined rate is presently 15.3%. The social security tax is imposed on the first $117,000 of income (2014).

Sales Tax

States and many local governments and taxing districts impose a tax on certain goods and services. The rules vary widely from jurisdiction to jurisdiction but most sales taxes are imposed more on goods rather than services.

There is no federal sales or value added tax.

Excise Tax

Both the federal government and many states impose excise taxes on certain goods. Common examples include taxes on cigarettes, tobacco, gasoline and alcohol.

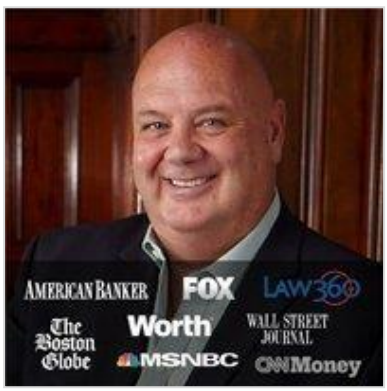
Property Tax

Most local governments and many special purpose authorities impose property taxes based on the fair market value of property. Property tax is generally imposed only on realty and improvements, though some jurisdictions tax business personal property. Property tax rules and rates vary widely.

Estate Tax

Estate and gift taxes are imposed by the federal government and a few states. These taxes are based on the transfer of property through inheritance or gift.

Author Profile



Brian Mahany is an American attorney/author and managing partner of Mahany & Ertl, a tax and fraud law firm with a national footprint.

Brian's tax background includes terms as Maine's state revenue commissioner, Assistant Attorney General – Tax and Special Counsel to the Senate President on Tax Policy.

His tax works includes helping individuals and businesses comply with U.S. tax laws. Brian and his firm concentrate in tax controversy and offshore reporting work including FBAR and FATCA compliance.

In addition to his upcoming book, *Saints, Sinners, & Heroes, Covert Ops in the War Against the C-Suite Mafia*, due for release in May, Brian has written for a number of tax and accounting magazines including the Journal of Accountancy. He is also an avid blogger posting a tax or fraud story daily on his Due Diligence blog. His cases and commentary often appears in national media outlets, trade publications, and the financial press in the U.S. and abroad.

25. URUGUAY TAXATION OVERVIEW

Uruguay is recognized by its social and political stability. During the last 30 years, it's been considered a stable and safe jurisdiction and South America's natural financial hub thanks to its trusted financial institutions, capital free flow and protective legislation.

Bank secrecy is **only** lifted in case of: (i) alimony; (ii) tax fraud, evasion, or a specific request from the tax authority regarding IE Agreements, and/or; (iii) corruption, drug dealing or terrorism and after court order.

Recently, Uruguay enacted new regulations – Law 18.930- in order to comply with OECD requests and created a registry for bearer shares companies to be held by the Uruguay Central Bank. This regulation affects only bearer shares companies, while nominative share companies are still allowed to keep their shareholder records in private at the company domicile. "Fishing expeditions" are prohibited in Uruguay.

Uruguay has currently signed double taxation treaties with the following countries: Argentina, Australia, Canada, Korea, Ecuador, Finland, Germany, Hungary, India, Liechtenstein, Malta, Mexico, Norway, Portugal, Romania, Spain and Switzerland. Information exchange agreements have been agreed to with France, Denmark, Greenland, Iceland, Faroe Islands and Sweden.

Uruguay's flexible corporate vehicles allow acting through a single director; even foreign corporations may act as directors provided a Uruguayan resident represents them.

It's important to stress that no distinction between jurisdictions regarding dividend payments is made under Uruguayan law. Thus, in case of payment of dividends, no withholding tax will be applied to companies distributing incomes produced by foreign paid dividends or activates conducted from abroad. Therefore, Uruguay stands as an ideal jurisdiction for trading and holding companies.

TAX REGIME

DIRECT TAXES			
Corporate		***Individuals***	
IRAE	25%	**IRPF**	Capital: 3 to 12%
IP (Wealth Tax)	1.5%	**IP (Wealth Tax)**	0.7 to 1.5%
ICOSA	1,5% of capital when incorporating & 0,75% annually	**ICOSA**	N/A
IRNR	3 to 12%	**IRNR**	3 to 12%
INDIRECT TAXES			
IVA (VAT): 10 to 22% (General Rate)			

CORPORATE TAXATION

Uruguay applies local source income principle; therefore, taxes will be paid by Resident Companies only for income generated by activities performed or assets located in Uruguay.

Corporate tax (general rate) is 25%. General applies to any kind of Uruguayan source income.

General withholding tax is 12%, but for dividends it is 7%. Rates, however, can be reduced when Double Taxation Treaties apply. In these cases, rates vary from 0% to 5%.

Wealth tax (IP) is applied upon assets and rights located Uruguay at the end of each year. The rate is 1.5% applied upon taxable assets and rights. Tax basis is determined by difference between taxable assets and deductible liabilities (commercial liabilities and debts derived from taxes, except from wealth tax. Debts with banks can only be deducted from each bank balance.)

IRNR (Non-resident Corporations) with productive assets of performing commercial activities that provide services or rent properties in Uruguay are taxed at 12%.

SPECIAL REGIMES

Free Trade Zones

It must be taken into account that in Uruguay there are Free Trade Zones created by Law Nº 15.921 passed on December 17, 1987, which sets that free trade zones are isolated areas of the national territory where economic activity is stimulated through special legislation.

In Uruguay, these special economic zones have absolute custom and tax exemptions to perform any kind of commercial or industrial activity.

These benefits imply an absolute exemption of national or municipal tax, provided the service is rendered overseas and the compliance of the requirements set by the law. Certain level of substance is previously required by law in order to obtain operating license.

Trading

The Uruguayan system provides the coexistence of two different trading regimes. The first is via free trade zones corporations whose operations are excluded from any tax imposition as explained above.

Another is through local companies or corporations that are taxed at 0,75% on the difference between the purchase and sale price of the good or service.

Services Provided Outside Uruguayan Territory

Companies that render services outside Uruguay, under the application of the territoriality principle that regulates the Uruguayan territory system, are not subject to the tax imposition for said income.

Likewise, services rendered from the free trade zone to overseas will not be subject to tax imposition.

TAXATION ON INDIVIDUALS

Resident Uruguayan Individuals are taxed upon their worldwide income since January 2011.

Personal Income Tax (IRPF) is derived in two categories: payroll incomes and capital gains.

Over, payroll income tax rate varies from 0% to 30%, while the capital gain tax rate is 12% applied not only upon Uruguayan source but also on worldwide source income.

Non-resident individuals are taxed 3 to 12% on any Uruguayan source income.

Wealth tax applies to assets located in Uruguay with rates that vary from 0,75% to 1,5% depending on the amount of assets located in the country.

Estate tax was approved following Law Nº 13.695 and applies to *inter vivos gift* or *mortis causae* at rates of 3% and 4%, respectively and depending on family proximity.

TAX & LEGAL RESIDENCE

Tax Residence

Law 18.803 (Tax Reform Law) incorporated the "tax residence" concept in 2007.

Any corporation incorporated under the Uruguayan law or foreign incorporated company conducting continuous commercial activity (P.E), as well as any other company that has moved its domicile to Uruguay, is considered a tax resident.

Individuals

As of the date this Law came into effect, different taxes have been imposed for residents (IRPF: Physical Person's Income Tax) and non-residents (IRNR: Non-Resident's Income Tax). Therefore, the applicable tax will depend on whether the person is or is not a Uruguayan tax resident.

A Uruguayan tax resident is defined as follows:

1. The person has stayed for at least 183 days in Uruguayan territory. Absences that are under 30 days straight will be deemed as sporadic, unless the person

proves he or she is a tax resident in another country, exclusively via a certificate of residence issued by the competent tax authority of such country.

2. The person has established in Uruguay the core or base of his or her activities and/or economic interests. Whenever a person's income in Uruguay is greater than that obtained in any other country, it will be deemed as he or she has established the core or base of his or her activities or economic interests in Uruguay.
3. Most of the person's vital interests are located in Uruguay. It shall be deemed that the person's vital interests are located in Uruguay if his or her spouse and underage children, who must also depend on the applicant, reside in Uruguay, unless they are legally separated or his or her children are under the applicants' tutelage. If the applicant has no children, the spouse's residence will suffice.

Proving tax residence is done via a certificate issued by the Tax Authority. To obtain this certificate, the person or legal entity that intends to apply for the Uruguayan Tax Residence must submit before the Tax Authority: a) a printed copy of the Tax Authority's Form 5202 for applying for the Tax Residence Certificate; b) a copy of the applicant's identity documents, and; c) supporting documents that prove that the applicant may obtain the tax residence.

Legal Residence for Foreign Individuals

Any foreigner may initiate a process of residence, which can be of three types:

Temporary Residence: This is applicable to all cases in which the activity realized takes at least 180 days. The period of residence will vary according to the individual's category.

1. For **Categories 1, 2, 4 y 6** (scientists, researchers, teachers, professionals, academics, technicians and specialized or qualified personnel; entrepreneurs, directors, managers and administrative staff; journalists, athletes and artists, etc.), the period of residence is valid for up to two years and renewable for the same period for up to four years.
2. For **Category 3** (students who come to study), the period of residence is valid for up to a year and renewable for the same period. The maximum should not exceed the total period of the studies by more than two years.
3. For **Category 5** (scholarship holder), the period of residence is valid for up to a year and renewable for the same period until the end of the scholarship.
4. For **Category 7** (husbands, underage children and parents of the people mentioned in the preceding categories), the period of the residence will be equal to the period for the relative he/she came to accompany.

Permanent Residence: Permanent residents have access to the same benefits as Uruguayans, i.e., work at any job that suits their qualifications, attend schools and colleges, etc.

Mercosur: Up until 2014, the nationals of Mercosur countries had the possibility of requesting the MERCOSUR TEMPORARY residence to live in Uruguay (valid for up to two years and renewable for the same period). After 2014, Law 19.254 allowed Mercosur nationals and husbands, concubines, parents, siblings, granddaughters/grandchildren of Uruguayans to get PERMANENT residence.

This law was passed to offer benefits to those who wish to settle in Uruguay with agile and simple procedures:

- Facilitate the PERMANENT residence in Uruguay of foreigners.
- A source of income is no longer needed to apply for permanent residence.
- Process is completed in a short period of 30 working days.
- In terms of legality, the requirements for PERMANENT residence cannot be more demanding than those needed for temporary residence.
- Enables people to restore contact between relatives and reunite families.
- Ensures rights and benefits for immigrants.

Author Profile

Pablo Rocca is Branch Manager of Investa Trust Spanish Office since 2012.

He specializes in advising international clients regarding tax planning and cross-border investments. He has gained considerable tax experience while working with South American HNWIs and family groups for many years by helping in the design, implementation and proper maintenance of international structures.

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Company Profile

Investa Trust offers a personalized service that suits the needs of each client, under strict rules of privacy and confidentiality in the management, planning, ownership and protection of assets by way of using trusts, private foundations, investment funds and other legal vehicles in diverse jurisdictions. Integrity, professionalism, quality, confidentiality, innovation and confidence define our company.

Investa is not focused on selling standard products. Investa Trust is focused on providing advice and implementing structures that solve our clients specific needs, providing added value and effective solutions to savings and performance requirements.

Our professionals have over 15 years of experience in tax, estate and succession planning in first-level firms, both nationally and internationally. We offer a highly professional and personalized service that works 24/7, ensuring an immediate and efficient response to the needs of our clients.

For further information, please visit our website: www.investatrust.com