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# INTERNATIONAL BUSINESS

August 2017

Auren International Business is a quarterly publication, made up of contributions from colleagues all around the world. The newsletter compiles country focus articles, international tax cases as well as technical updates on a variety of topics that impact business.

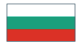
Experts in Auren have the knowledge and experience to help you on your journey, and this issue should be the starting point for your inquiries.

Features of this edition include, among other topics: Argentina´s tax benefits to promote SMEs; Greece´s tax reform; Israel´s tax benefits and encouragement of capital investments law.

We hope you find the contents of this newsletter useful and informative. Happy reading!

# Index

**ARGENTINA**
Tax benefits to promote SMEs
*Read the article*


**BULGARIA**
Bulgaria amends VAT Lawed
*Read the article*

**COLOMBIA**
Tax reform (LAW 1819, 29th December, 2016)
Tax application to commerece in Colombia amends VAT Lawed
*Read the article*

**CYPRUS**
Cyprus introduces new tax treatment of intra – group financing
*Read the article*

**ECUADOR**
Relevant Aspects of the Free Trade Agreement subscribed between Ecuador and the European Union
*Read the article*

**GERMANY**
International transformations
*Read the article*

**GREECE**
Further Tax Reforms in Greece
*Read the article*

**ISRAEL**
Tax benefits and Encouragement of Capital Investments Law in Israel
*Read the article*

**MALTA**
Malta and its tax system
*Read the article*

**MEXICO**
Multilateral BEPS convention
*Read the article*

**THE NETHERLANDS**
The Netherlands in top 5 of most competitive countries
*Read the article*

**SPAIN**
An auditor, an advisor, a lawyer...and technology
*Read the article*

**UAE**
Non-oil Revenue in United Arab Emirates
*Read the article*

**URUGUAY**
Modifications to the concept of tax residence
*Read the article*

# Tax benefits to promote SMEs

The goverment published law No. 27264 and various regulations related with it during 2016 and part of 2017 that establish a series of tax benefits applicable to Small and Medium Enterprises (SMEs) seeking to benefit this type of companies taking into account theur important role in the economy of Argentina.

To categorizated as an SME, it established a quantitative criterion based on annual sales divided by sector and category, which are detailed below:

| Category | Construction | Services | Commerce | Industry and mining | Farming |
|---|---|---|---|---|---|
| Micro | 279.762 | 208.333 | 744.048 | 625.000 | 178.571 |
| Small | 1.785.714 | 1.250.000 | 4.464.286 | 3.809.524 | 1.130.952 |
| Medium – Section 1 | 14.285.714 | 10.416.667 | 37.500.000 | 30.952.381 | 8.630.952 |
| Medium – Section 2 | 21.428.571 | 14.880.952 | 53.571.429 | 45.238.095 | 13.690.476 |

*Expressed in thousands of USD*

Tax benefits that can be assessed according to the category in which the SMEs are classified are the following:

- Tax on bank debits and credits: If Companies are categorized as micro or small, may use 100% of this tax as payment on account of tax return. In the case of companies categorized as Manufacturing industries medium – section 1, can computed 50% of the tax as payment on account of tax return, the rest of the categories of SME do not have additional benefits.
- Exclusion in the Minimum Presumed Income Tax: the exclusion of the Tax has effects as of the fiscal years beginning as of 01/01/2017.
- Deferred paying of the VAT: This benefit is aimed at micro and small enterprises, and provide the possibility of paying the remainging VAT on the maturity day  corresponding to the second Month immediately following the original maturity date.
- Payment to account in the tax return from productive investments: The amount of the payment into account is 10% of the value of the productive investments made. The reference value for the calculation of the payment on account of the original cost of the depreciable assets, for farmmer establishments, the amortizable value of the pedigree or pure females for the crossing, defined by tax return Law. The mentioned payment into account has some limitations, first is that it can not be greather than the determined income tax for the exercise in whitch the benefit is used and the impossibility of using the surplus in future exercises. The second one is given by a  percentage of the net income obtained in the year in which the investments were made and the previous one. This percentage will be 2%, an exception of manufacturing industries classified as micro, small and medium-sized stretch 1, with a limit of 3%.
- Tax credit for investments in capital goods and infrastructure works: refers to the possibility given to SMEs to request that VAT tax credits corresponding to investments in capital goods and / or infrastructure should be converted into a non-transferable bond that can be used for paying national taxes, including customs duties. The objective of this benefit is to prevent SMEs from accumulating VAT technical balances, formed by the tax credits contained in investments in capital goods or in infrastructure works, which, if maintained in time, can become a serious financial  problem and in a disincentive to investment.

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# Bulgaria amends VAT Lawed

Recent important amendments to the Bulgarian Law on Value Added Tax (VAT) have become applicable as of January 1, 2017. The amendments are related to mixed supplies of assets and immovable property, tour operator margin scheme, obligation for VAT registration in case of inheritance as well as changes in the rules for supplies made by a person acting in his own name but for the account of another person.

A new model of proportional VAT deduction for mixed supplies has been introduced. Besides the partial deduction applicable to the use of an asset for both taxable and tax-exempt supplies, a pro rata deduction will be applied when these assets are used for both business and personal purposes. The proportion will be determined on the basis of reasonable criteria for allocating between personal and corporate use, according to the specifics of the asset. This deduction applies to:

- Immovable property;
- Transport vehicles (with the exception of those intended for use by disabled persons);
- Any other long-term assets with a value exceeding 2,500 EUR (under the law for Cooperative Income Tax).

The amendment to article 79 of the VAT Act introduces a new formula for the adjustment of the deduction of input VAT in cases of destruction or discarding of goods.

Furthermore, the amendments introduce a regime of annual adjustment (either upwards or downwards) in the event of a change in use of the asset. This will be completed by applying coefficients for the different types of assets and the adjustment will be carried out in the last tax period of the calendar year by drawing up a protocol for the adjustment and reflection of the change in the amount of the tax credit.

The amended Article 136, para 3 of VAT Act introduces a special tour operator margin scheme (TOMS) to supplies of single services by a tour operator to any person, including another tour operator or travel agent. The amendments stipulate a 5-day period after the date of which an advance is refunded which is followed by the issuing of a credit note if the price is reduced or contract is terminated.

Amendments to the provisions concerning the actions of heirs upon death of a VAT- registered individual define what happens in case they continue the business activities. These persons are obligated to register under the VAT Act within 6 months of the death (new article 132a of the VAT).

Additionally, as from 1 January 2017, if a taxable person acts in his own name but for the account of another person with respect to the supply of goods or services (such as a commission agent or mandatary), such person will be considered to have supplied/received the goods or services. In these cases, the date of sale/purchase of goods or services will be determined under general VAT rules but cannot be later/earlier than the date per the contract between the parties.

These changes in the Bulgarian Law on Value Added Tax applicable as of January 1, 2017 have affected a wide range of VAT- registered persons. At Eurofast, we are always ready to provide our clients with all regulatory updates and to work closely with them to ensure full compliance with the rapid changes of the legislation.

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# Tax reform (LAW 1819, 29th December, 2016)
# Tax application to commerece in Colombia

The following analysis is the result of the main modifications presented in the tax reform (Law 1819 of 2016) that is still in regulation process:

## 1. VAT CHARGE FOR DIGITAL SERVICES

One of the main questions arising from the tax reform implementation is how to apply VAT tax to apps and services that are not regulated in the country, as it is the case of Uber and Airbnb. In response to this, DIAN (The Colombian tax and customs authority), assured that this topic is out of its jurisdiction and until the respective ministries such as the Transport and Commerce Ministry do not take action, very few things will be done to regulate its submission.

However, it is clear that all the electronic or digital services must respond for a VAT of 19%, the general fee of this tax. All companies which provides a service from abroad to Colombia, are responsible of VAT and should pay for it. These includes electronic and digital services such as:

- Audiovisual service supplier.
- Video platforms such as Netflix.
- Music services such as Spotify and Deezer.
- Distribution platform of mobile applications.
- Online advertising services.
- E-learning suppliers.
- Airline tickets purchased abroad, etc.

For providers of foreign services the new reform includes Article 180 which modified the item 3 of the Article 437-2 of the Tax Code, and added the item 8 to the same article. Also imposes a transition regime in a paragraph.

It is necessary to define how the Sales Tax will be applied to these electronic or digital services especially when the purpose is to tax digital applications and services that are not regulated in the country.

The DIAN (The Colombian tax and customs authority) granted a period of eighteen (18) months for digital or electronic services providers "from abroad" to have a Taxpayer Identification Number (RUT). All foreign companies in Colombia may request a RUT and start taxing. In any case, the process just begins and we will have to see which kind of decisions are made by the banks through which these services are collected, as well as by foreign companies.

## 2. WITHOLDING SYSTEM

According to the text of article 180 of Law 1819, a supplementary withholding system will be created. This will be in charge of "credit and debit card entities, prepaid vendors, cash collectors and third parties, and others designated by the Colombian tax and customs authority - DIAN". This system will be activated in case that “from abroad” services providers fail to comply with their obligations to the DIAN.

The process of decreeing these taxes, and how they will be implemented by the companies will be subject

of regulation. This should be in accordance with international standards and with the best tax practices applicable to digital services.

## 3. CONSUMPTION TAX

Another addition to the tax ruling is a fee of four percent (4%) for the consumption tax charged by the "Mobile Communication" service, which will also be applicable from "data, Internet and mobile navigation services". This new addition is important to drive electronic commerce transactions.

## 4. CHANGES TO EXCLUSIONS

Modifications implemented to desktops or laptops and smart mobile devices, including expressly tablets and cell phones. The Congress of Colombia reduced the cost of computers and devices so that a greater number of these would be covered with the Sales Tax.

In this sense, in the case of personal computers, only those "whose value does not exceed fifty (50) UVT", that is, one million five hundred and ninety-three thousand COP ($ 1,593,000) are excluded from VAT. In the case of tablets and telephones, those whose value does not exceed twenty-two (22) UVT, that is, less than seven hundred thousand COP ($ 700,000) shall be excluded.

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# Cyprus introduces new tax treatment of intra – group financing

As of 1st July 2017, the tax treatment of intra-group financing arrangements has been amended in Cyprus. Intra-group financing transactions refers to finance activities between related parties (as defined in Section 33 of the Income Tax Law), including permanent establishments in Cyprus. Based on the Interpretative Circular issued by the Cyprus Tax Department, intra-group financing arrangements must be taxed from 1st July 2017 onwards under the arm's length principals (transfer pricing rules).

For the purposes of the transactions under the scope of the Circular issued, it must be determined for each intra-group transaction whether it complies with the arm's length principles. A comparability analysis must be performed in order to determine whether the transaction between independent entities is comparable to transactions between related entities.

The comparability analysis mentioned above should consist of the two following parts:

- Identification of the commercial financial relationship between entities and determining the conditions and economically relevant circumstances attached to those relations in order to accurately delineate the controlled transaction.
- Comparison of the accurately delineated conditions and economically relevant circumstances of the controlled transaction with those of the comparable transactions between independent entities.

It should be noted that the group financing company should be controlling the risk if it has the decision-making power to enter into a risk-bearing commercial relationship. In order to justify the risk control and further validate that the management and control are exercised in Cyprus, it is essential that the group financing company has an actual presence in Cyprus.

In case of companies with a profile comparable to the entities subject to Regulation (EU) No 5/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) NO 64/2012, a return on equity of 10% after-tax can be observed in the market and be considered as reflecting arm's length remuneration for the financing and treasure functions in question.

Simplified procedures exist, according to which the transactions of financing companies pursuing a purely intermediary activity are deemed to comply with the arm's length principle if the company under review receives a minimum return of 2% after tax on assets. In order to benefit from this simplification measure, the use of it should be communicated to the Tax Department.

The above mentioned percentages are valid as of the date of issuance of the Circular and will be reviewed by the Tax Department based on relevant market analysis and – if required - will be changed accordingly.

Minimum requirements for the transfer pricing analysis exist and are necessary in order for the analysis to be in compliance with the principles of the new circular.

Finally, any tax rulings relating to the matters of the Circular which were issued prior to 1st July 2017 will no longer be considered valid.

The above changes will have an immediate impact on all Cyprus financing companies with intra-group financing transactions and it is imperative that such structures are examined so as to ensure that their tax treatment is correct and their tax risk exposure is mitigated.

Our transfer pricing team of professionals can assist you in evaluating the tax implication of the above changes on your structures.

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# Relevant Aspects of the Free Trade Agreement subscribed between Ecuador and the European Union

Recently, Ecuador entered into a Free Trade Agreement with the European Union (EU) that was previously subscribed by other Andean countries: Peru and Colombia. In line with the above, it is important to consider that the EU is one of Ecuador´s most important commercial partners. Currently, the EU is the prime destination for non-oil Ecuadorian exports. On the other hand, such trade agreement does not only regulates the commercial conditions for the trade of goods and services, but also gives important legal considerations regarding intellectual property and even obliges Ecuador to ad{here to certain international agreements regarding such matter.

## Main Commercial Benefits

Many Ecuadorian flagship products like roses, cocoa, tropical fruits and palm oil, among others, will enter the UE at 0% tariff. This is an important achievement for Ecuador, since many of the above mentioned goods are produced by small farmers and producers. Another typical Ecuadorian product, the banana, will most likely redeem its position in the European markets since the actual tariff of 132 euros will decrease to 75 euros per ton by 2020.

On the contrary, some goods were intentionally excluded from the Trade Agreement negotiations such as meats and other aviary processed goods, soy, potatoes and corn, among others. Such decision was made in order to protect Ecuador´s local production, since such goods represent up to 60% of the net value of the country´s total agricultural production and up to 40% of the agricultural work force is destined for the production of such goods.

It is important to mention that Ecuador has negotiated with the UE specific sections that do not apply to Peru nor Colombia. For example, Ecuador may, in exceptional circumstances where payments and capital movements cause, or threaten to cause, serious difficulties to the liquidity of the Ecuadorian economy, adopt safeguard measures with regard to capital movements for a period not exceeding one year.

## Ecuador´s legal compromises regarding intellectual property

Since Ecuador does not possess a strongly enforced intellectual property protection system, it is noteworthy that this trade agreement obliges and in some cases recommends enthusiastically the adherence of Ecuador to certain protocols or treaties regarding such matter.

Specifically, the agreement indicates that Ecuador shall make all reasonable efforts to adhere to the Madrid Protocol regarding the International Registration of Trademarks. Also, Ecuador shall make all efforts available to comply with the Trademark Law Treaty which seeks to standardize the registration process of trademarks.

Therefore, we can affirm that such agreement will benefit not only Ecuador´s exports and local producers, but also it will have an indirect positive effect on Ecuadorian legislation and its enforcement.

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# International transformations

## I. General

The German legislature has agreed that restructuring and transformations, which offer an entrepreneurial advantage, should not be obstructed. In recent years, it has become evident that the number of transformations on an international level has increased considerably. International transformations are characterized by the fact that the path they must follow is strewn with a large number of tax issues, which also involve tax pitfalls that need to be avoided.

## II. Transformations in the EU and EEA countries

If we look more closely at the legislative development of the Transformation Tax Act, we can see that in previous years the regulatory content was essentially limited to national issues. Since 2006, this has changed. Companies active in the market and their needs made it necessary to adapt the terms of the regulations to include cross-border transformations in the EU and in the EEA area and under certain conditions to exempt them from taxation.

For this reason, transformation tax law was almost entirely revised. The new law extends the scope of the Transformation Tax Act to include the EU and EEA area. Third countries have not been taken into account. The strict exclusion of third-country requests was relaxed only for the contributions. In addition, for those mergers in a third country in which the transferring and the assuming legal entities are established in the same third country, the limited possibility of a tax-neutral merger has been introduced.

The alignment of the Transformation Tax Act to European development has raised some doubts, which are being discussed in literature. To be particularly highlighted is the case of the merger of a domestic corporation into a foreign European country where there are existing profit reserves in the transferring company. The question which arises here concerns the final domestic taxation. The tax authority intends to resolve this case and to tax using the principles of § 50d section 3 of the Income Tax Act.

In the case of downstream mergers with shareholders in double taxation treaty countries, the question is, how the shares in the assuming company should be assessed in the final balance sheet of the transferring company. The Federal Fiscal Court (BFH) has now to decide in a revision procedure.

## III. Transformations with third countries

The restriction in national legislation to EU and EEA areas does not infringe against the right of establishment. This has priority over the free movement of capital. However, freedom of establishment is not applicable to companies from third countries.

As mentioned above, transformations with third countries are only covered by a few rules and regulations of the Transformation Tax Act (contributions in partnerships).

At the stakeholder level, not all persons involved in a change process need to fulfill the personal eligibility criteria. This applies for example to an exchange of

shares. In this case, the contributor may be established in a third country. The "swap" society does not have to be established in Europe, nevertheless, from German's point of view it must be a corporation or cooperative society. In the case of a share exchange, the residency requirement only applies to the receiving legal entity.

However, if the application requirements of the Transformation Tax Act are not met, this law will of course be not applied. In this case the only alternative is to apply the universal tax regulations of the Income and Corporation Tax Law. From this we can then ascertain the income-tax realization of hidden reserves. Unless there are other regulations (except the Transformation Tax Act) which are able to prevent it.

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# Further Tax Reforms in Greece

The Greek Parliament adopted Law 4472 /2017 (Government Gazette 74/19.5.2017) titled "Public Pension provisions and amendment of Law 4387/2016, application measures of budgetary targets and reforms, social support measures and labour regulations. Mid-term Financial Strategy Framework 2018-2021 and other provisions", which sets out certain provisions required for the commencement of the debate regarding the medium-term measures necessary for the viability of the Greek debt bail-out program. In this context, the provisions' goal is not only to ensure that international obligations are respected, but also to provide support of the welfare state through the introduction of a series of measures supporting the social majority as well laying the foundations for its restoration. Amongst those measures, basic tax reforms have been adopted which include the following:

## A. Corporate taxation

The corporate tax rate will be decreased from 29% to 26% for income acquired during the fiscal year commencing from 1.1.2019 and onwards. This measure is expected to enhance the business development in Greece.

## B. Amendments to the Tax Reductions

1. The reduction of the payable tax on income from employment and pension (provided that such income does not exceed EUR 20,000), is adjusted as follows:
    - to EUR 1,250 (from EUR 1,900) for a taxpayer without dependents ,
    - to EUR 1,300 (from EUR 1,950) for a taxpayer with one child
    - to EUR 1,350 (from EUR 2,000) for a taxpayer with 2 children
    - to EUR 1,450 (from EUR 2,100) for a taxpayer with more than 3 children
    - These provisions will be applicable for income acquired from 1.1.2020 onwards.
2. The existing income tax rate of 22% which is currently applicable to employment and pension income band ranging from 0 to EUR 20,000 will be decreased to 20%. This measure is applicable from 1.1.2020.

## C. Special Solidarity Contribution

The special solidarity contribution shall not be applied to income not exceeding EUR 30,000, as from 1.1.2020. Currently, it is not applied on income not exceeding EUR 12,000.

Additionally, the rate of special solidarity contribution is decreased to 2% from the current 6.5% applicable to income ranging between EUR 30,000.01 – 40,000 and to 5% from the current 7.5% for income from EUR 40,000.01 to EUR 65,000. For income above EUR 65,000 the rates remain the same, namely 9% for EUR 65,000 – 220,000 and 10% for income above EUR 220,000.

**D. ENFIA (Single Property Tax)**

In cases when the total amount of ENFIA does not exceed seven hundred euro, a reduction of 30% is granted, but not exceeding seventy euros. In cases of financial inability to pay the total debt for the relevant year, the threshold of seven hundred euro shall be doubled.

*The above provisions (A, B, C, D,) shall be applicable to the extent that they cause no deviation from the medium-term budgetary targets as defined in the Economic Adaptation Program.*

**E. VAT**

Services associated with agricultural production will be added to the list of services to which the lower VAT rate of 13% is applicable (as opposed to the standard 24%). This amendment will be valid as from 1.7.2017 and the purpose is to enhance one of the most important business sectors in Greece.

**F. Electronic Payments**

Certain changes have also been introduced to electronic payments. Namely, the provision introduces the total length of the adjustment period following which the beneficiaries of payments must comply with the obligation to accept card payment instruments. This adjustment period may not exceed three (3) years from the date of publication in the Government Gazette.

The Tax and Legal Department of Eurofast Global Ltd in Athens remains at your disposal for any further question and update in regards to both national and international tax matters.


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# Tax benefits and Encouragement of Capital Investments Law in Israel

Encouragement of Capital Investments Law (hereinafter - the Law) provides tax deductions for entrepreneurs constructing residential building for rent.

The objective of this Law is to attract capital to Israel and to encourage economic initiative and investments of foreign and local capital, in order to develop the productive capacity of the national economy, to utilize its resources and economic potential efficiently and to utilize fully the productive capacity of existing enterprises. Moreover, in economic point of view, the government is interesting in improvement of its balance of payments, reduce imports and increase exports. And finally, from the demographic perspective, absorption of immigration, distribution of the population all over the country and to create new sources of employment.

Tax benefits are granted for income from rent or sale of residential apartments in a building approved as an approved asset. Ministry of Economy's Authority for Investment and Development of Industry and Economics authorizes the building as approved asset. In certain cases it is possible to obtain approval for part of a building designated for rent, whereas the approved part of the building has at least 6 residential apartments and subject to additional conditions.

Main tax benefits for residential building for rent purposes is approved as approval asset are as follows:

- Accelerated depreciation of 20% per annum is allowed in respect of an apartment rented for residential use in the approved building.
- Reduced tax rate of income from rental of apartments: for company - corporate tax at the rate of 11%; for individual - income tax at the rate of 20%.
- Reduced tax rate of income from income or real appreciation from the sale of apartments: for corporates - corporate tax at the rate of 11%; for individuals - income tax at the rate of 20%.
- Tax deduction for dividends distributed to Company shareholders.
- The benefits period is not limited.
- Exemption from VAT on income from rental or sale of residential apartments in the approved asset that were leased for at least 5 years.

The law provides several conditions for entitlement to tax benefits. The main conditions are:

- The building for rent was approved as an approved asset, meaning that a building - including a number of buildings built in the same period and at the same site as one. In case that at the same building there are commercial space, stores and offices, they will not be approved and not be eligible for tax benefits.
- At least half the area of the approved asset is designated for residential rental (for an average rental period of at least 5 years out of the seven years following completion of construction.
- In an approved asset located in an area which is not defined by law as Development Area A, there is a limitation on the amount of rent charged.
- Compliance with the instructions and procedures prescribed by the Investment Authority from time to time in respect of processing applications for approval.

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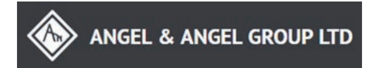

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# Malta and its tax system

Malta lies at the heart of the Mediterranean, a few hours' flight from most European cities and from North Africa. The advantage of living in Malta is that you can work and enjoy life to the full at the same time.

Malta has been a member of the European Union since May 2004, is politically stable and is strongly oriented towards the outside world. Malta is a signatory to many important international agreements, mainly in the economic and financial domains, but also with regard to maritime, transport and cultural matters.

Malta has proved to be an attractive tax and cost-efficient Eurozone jurisdiction for financial services, trading and holding activities. The Maltese economy is a very open one in which foreign direct investment in many of its sectors is vital to its continued growth. The overriding climate is one of encouraging and assisting inward investment particularly in key and targeted sectors such as financial services and related industries. It has a strong, yet flexible single regulatory body in the Malta Financial Services Authority (MFSA). The MFSA is responsible for all licensed financial services activity on the Islands. The MFSA is structured in line with world best practice. Malta is a leading force in the development of regulatory policy and is fully involved with OECD, the EU and the Commonwealth in policy development.

Malta has one of the lowest OECD compliant tax rates within the EU area. Investors can set up tax efficient structures in Malta and benefit from the interaction of the full imputation system of company taxation (whereby dividends carry a tax credit equivalent to the tax paid on the profits out of which the dividends are paid), the general tax refund system which was also approved by the European Commission in late 2006, and of its extensive double taxation treaty network, including all EU Member states.

Repatriation of profits is tax free as Malta does not charge any withholding taxes on payment of dividends to non-residents. In addition, interest and royalties paid to non-residents are also free of tax, increasing the po-tential for efficient tax planning.

The absence of transfer-pricing rules, thin capitalisation regulations, CFC regulations or annual wealth taxes is an added bonus to investors.

Other tax related benefits in setting up a company in Malta include:

- Dividends received from a participating holding are exempt from tax in Malta so long as certain conditions are satisfied. Proper structuring enables compliance with the said conditions in the vast majority of scenari-os
- Gains on the sale of a participating holding are exempt from tax in Malta
- Where the holding of shares in a foreign company does not qualify as a participating holding, tax on divi-dends and gains is reduced with the application of double taxation relief, namely treaty relief, unilateral re-lief and flat rate foreign tax credit
- Non-residents are not taxed on gains realised on

the sale of securities in Maltese companies, provided that they are not held in a company whose assets consist principally of immovable property situated in Malta.

- So-called "non-dom" companies benefit from the taxation of foreign income solely to the extent it is remit-ted to Malta. Foreign gains are not taxed in Malta
- Companies may be continued or re-domiciled to Malta and from Malta; no exit taxes are chargeable
- Malta has a wide treaty network with over 60 countries

## Malta tax facts

Maltese law contains international tax measures which make Malta a very competitive, cost and tax efficient basis for setting up structures to carry out international trading, investment and holding activities. Besides being the only EU member state with a full tax imputation system, Malta's tax laws allow shareholders of a Maltese company to claim certain tax credits and refunds of all or part of the tax paid by the company on its profits which reduce the overall tax burden to between 0% and 10%. Economic double taxation is relieved through the full imputation system. Malta also applies the participation exemption in respect of dividend income or capital gains received from a qualifying subsidiary and any overseas tax suffered by a Malta company would generally be eligible for relief against the Malta tax liability arising on the corresponding source of income. Through the application of this refund mechanism, the combined overall effective tax rate in Malta is reduced.

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# Multilateral BEPS convention

OECD are getting closer in its intention to tackle tax avoidance internationally. Last June 76 countries and jurisdictions signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

This is a very important step towards elimination of many harmful loopholes that have been used for many Taxpayers in order to save taxes. It modifies existing bilateral Tax Treaties introducing a new wording on basic tax regulations. Some of the topics that were reviewed last two years and that now are subject to the biggest changes are:

- Hybrid Mismatch Arrangements
- Treaty Abuse
- Permanent Establishments
- Mutual Agreement Procedures (MAP)

With actions like this, OECD is expecting to help Countries and Jurisdiction to halt the "disappearing" of an important share of the 100-240 billions of dollars that every year avoid taxes all over the world.

The first modification to the Bilateral Tax Treaties is expected to be in force in 2018.

Some other tax topics are addressed on the 49 pages document released by OECD (Dual residents, Dividends, Capital Gains and Transfer Pricing Adjustments), so we believe that all tax practitioners should analyze this and further releases related with BEPS Program.

Even though this agreement must go through Local Lawmakers in each Country before being enacted, it is expected that no major changes will be done.

*Complete information on www.oecd.org/tax*

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# The Netherlands in top 5 of most competitive countries

After fifteen years, the Netherlands returns to the top 5 of most competitive countries in the world. The Netherlands has risen three positions from place 8 to place 5.

IMD economist José Caballero explains the increase is due to the strong economic performance and the improvement of government efficiency. The IMD yearly publishes the World Competitiveness Yearbook, a study published annually since 1989.

"Looking at domestic activity, the focus on increasing productivity, and in particular investments, it is clear that the Netherlands is well placed," said Caballero. In addition, he praises Dutch social flexibility. Thanks to the good education and skills of the working population, Dutch people are well able to adapt to changing circumstances. 'Like no other, the Netherlands is able to incorporate ideas from outside.'

## More efficient government

For their rankings, IMD did research on 260 criteria in four categories. For the Netherlands, there are improvements in two of these categories: efficiency in business and government efficiency. In the category of economic performance, the Netherlands is stable at a high level, but in infrastructure we have lost a place, although there are still only seven countries in the world that are still in this area.

In addition to the measure of efficiency, the Netherlands has taken good steps in the past year, especially with regard to the effectiveness of regulation and the legal framework. In this regard, it is possible to create highly flexible legal entities which can be tailored to investors' needs. In addition, the Dutch tax corporate tax system remains particularly attractive for businesses. While the Dutch government endorses and implements the OECD's proposals against base erosion and profits shifting (BEPS), the Dutch government is determined to maintain the crown jewels of the Dutch corporate and international tax system; i.e. the Dutch tax treaty network, the Dutch participation exemption and the possibility to obtain certainty in advance through the conclusion of tax rulings with the Dutch tax authorities.

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# An auditor, an advisor, a lawyer…and technology

Recently ending in Barcelona, the *Mobile World Congress* had over 100,000 visitors from 208 countries sharing the latest advances in technology and communications. The most outstanding aspect was certainly the changes in consumer articles, with new features in mobiles or in connected vehicles. Apart from this, many other developments will have a highly significant impact: changes in basic technology, advances in 5G communications, the possibilities of big data, the Internet of things…each edition of the "Mobile Congress" introduces increasingly significant advances.

Although it seems that Moore's Law, which states that the number of transistors in a dense integrated circuit doubles approximately every two years, has reached a financially viable limit, technology features continue to increase exponentially, where each new development is based on prior progress, spectacular in itself. We perceive technological change directly as consumers of increasingly sophisticated products and services, with applications which quickly come to form part of our daily lives, but it is the advances in basic technology, often only comprehensible to the most specialised engineers, which allow extraordinarily novel applications to be produced subsequently.

It is a fact that constant progress in the technology of information and communications systems affects all companies. Not only those in which technology is the basis of the company performance, but also those companies which use this technology in their internal organisation, forming part of their products or services, or in which it is indispensable as an essential element for contacting and communicating with clients.

Auditors, tax specialists, lawyers and other professionals providing services to companies have to react in view of advances in technology. They must be up to date with these advances and be familiar with them. The truth is that the technological environment relating to professional practice is changing greatly.

There are three areas in relation to technology to which the aforementioned professional profiles (and by extension professional service firms) must pay attention. Firstly, those aspects relating to communications. A suitable telecommunications infrastructure must allow features such as easy access to databases, both of clients and third parties, the connectivity of clients to our equipment, access to the Internet and social networks, etc. Communications are a basic instrument for considering such relevant element as cloud solutions or telecommuting.

Secondly, great attention should be paid to the tools directly related to the provision of services to clients. These include programs for assisting with audits or preparing the annual accounts and taxes, as well as tools for the automatic accounting of documents, databases or repositories for standard forms, and so on. Many companies develop solutions aimed at facilitating the work of professional firms, and national and international companies increasingly offer new products specifically aimed at these professionals.

Thirdly, there are solutions facilitating the internal management of the firm or office: document management, file and client control, CRM (Customer Relationship Management), ERP (Enterprise Resource Planning), business intelligence, etc. In short, tools which enable a leaner internal management and help provide us with useful information for making decisions.

It is clear that there are a multitude of solutions requiring constant attention by professionals and firms, in order to stay up to date. Everything changes very quickly, with the appearance of new products rendering the previous ones obsolete. The only certain aspect is change.

At times, we see professionals delighted with the features of the latest device for personal use, with which they enjoy discovering new applications, but who, within the firm, continue to have technologically obsolete structures. The argument (or excuse) for this is usually based on cost, or involves stating that the services provided, or what the clients value, are aspects unrelated to technology needs.

Seeing how advances in technology affect us so greatly and in so many activities, it is hard to claim that auditors, advisors and lawyers can get by ignoring such changes.

It is true that deciding on suitable technological solutions at any time for a professional office involves time and effort. But above all, it requires a state of mind. For partners or managers, this means moving in an area in which they are not experts and, therefore, are faced with the uncertainty and inconvenience of having to start adapting to new methods and ways of working.

The incorporation of technology into these and other companies is a strategic issue. Therefore, despite the difficulties, we can not stay away from technological change. It is true that the solutions of today will not be valid in the near future, but they will serve as a basis so we are better prepared for adapting to new environments than those competitors failing to make use of available solutions.

In short, we have to stay up to date. It is not a question of being over the top with technology, incorporating into our organization the latest thing to appear on the market, but nor should be become obsolete, like those who defended the fax as the definitive advance in communications. One final recommendation: we constitute a group which values technology alternative applicable to the various areas of our professional work environment, whether in communications, relating to the provision of services or internal organisation, and this group consists not only of partners and managers but also some juniors. The solutions which may seem complicated to us will no doubt be seen by "millennials" as being intuitive and user-friendly.

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# Non-oil Revenue in United Arab Emirates

The United Arab Emirates is characterized by open economy with large positive surplus and high standards of living. The economy of the U.A.E is the second largest in the Arab world. Prior to the discovery of oil in the U.A.E, breeding camels and goats, cultivation of dates, pearl diving, seafaring and fishing were together the mainstay of the U.A.E economy. Since the discovery of the oil fields, this economic sector has completely replaced the traditional activities and leads to a prompted rapid growth of the U.A.E economy. The country began to develop rapidly after sharp rise in GDP from oil revenue. The country utilized the oil revenues to fund infrastructure development and the U.A.E has developed into one of the richest countries in the world. Despite the negative impacts of the fall in oil prices, the U.A.E Government remains positive about the country's economic outlook due to diversification policies.

Since the U.A.E was formed in 1971, the diversification of the economy away from petroleum has been a clearly stated Government policy. Currently, the U.A.E's economy is one of the most diversified among the GCC countries. The decline in the share of oil and gas in total GDP, and increase in investment in industrial infrastructure, and rising share of services and financial sectors in the GDP are evident for the diversification trends in U.A.E. Beyond this the huge investments in education, healthcare, water, communications, transportation, tourism, and other non-hydrocarbon sectors are part of economic diversification policy of U.A.E. As a part of Vision 2021, the Government of U.A.E pursued its initiative to diversify the economy and to decrease the share of oil revenue in the composition of U.A.E's GDP to 5% by 2021.

The non-oil sectors of the U.A.E's economy presently contribute around 70 percentages of the U.A.E's total GDP, and about 30 percent of its total exports. The Federal Government has invested heavily in sectors other than gas and oil, such as aluminium related products manufacturing, aviation, re-export commerce, telecommunications, and recently high-class tourism and international finance. As part of its strategy to further expand its tourism industry, the U.A.E is building new hotels, restaurants and shopping centres, and expanding airports and duty-free zones. A measure of the expansion in the non-oil economy can be made from the increase in the working population. Construction and real estate both have been in boom as the economy has opened up to the expatriates and of the steadily rising population. The much-anticipated Expo 2020 in Dubai, which is expected to attract around 25 million visitors, will also boost economic growth of U.A.E. The International Monetary Fund (IMF) is expecting robust growth in the U.A.E's non-oil economy over the next couple of years.

The introduction of VAT in U.A.E will strengthen the country's global competitiveness. VAT will ensure the country a new source of income to provide high quality public services, and will strengthen UAE's non-oil economy. Taxes do not take money out of the economy, but transfer funds from the private sector to the public sector, further these funds are invested in areas such as infrastructure and social services, which

will continue to create an environment that allows for long-term sustainable growth that is competitive with global benchmarks.

The UAE has several multi-specialty free zones which offer several economic incentives such as exemption from corporate taxes and import/export duties and full foreign ownership with 100 per cent profit repatriation. The political stability, security, advanced infrastructure, and an enabling legislative environment are the integrated factors helped the U.A.E to achieve truly remarkable growth rates and its ranking across a number of international indices.

The most important goal of the U.A.E Government is to attain balanced and sustainable economic growth and diversification of its economy in order to lower its dependency on volatile oil and gas export revenues by creating a business-friendly environment. As part of the country's future economic outlook and implementation of diversification policies, the Government takes initiative to create and enable environment for trade and investment with strong infrastructure, technology and logistics capabilities and more investment opportunity in non-oil sectors.

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# Modifications to the concept of tax residence

As a result of the internationalization of the tax issues, the urgent need for international fiscal transparency, the globalization, the conventions to avoid double taxation, and the exchange of information among others, the theme of tax residence becomes increasingly more important.

In this sense, it seems interesting to comment on the changes introduced by the Decree No. 330/016, published last October, by which modifications are made to the existing criteria for the determination of the tax residence within the scope of the for Individual Income Tax (IIT).

In this regard, we recall that until the publication of the new decree, the tax residence in Uruguay was acquired in one of the following ways:

**1) physical permanence**

This is if the person remains in Uruguayan political territory for more than 183 days during the calendar year, including the sporadic absences (departures from the country less than 30 calendar days).

In case of requesting a certificate of tax residence by this point, it must be credited to the GTO (General Tax Office) through the Arrival Certificate issued by the National Directorate of Migration or other documentation that is considered relevant.

**2) vital interests**

It is presumed, unless proven otherwise, that the taxpayer has vital interests in national territory when the spouse and the minor children that depend on him reside habitually in the Republic, as long as that the spouse is not legally separated and the children are subject to parental authority. In the case that there are no children, the presence of the spouse will be enough.

In case of requesting the certificate of tax residence, the fulfillment of this point may be established through all documentation that may be considered relevant, such as registration of children in schools or sports institutions, documentation that accredits medical coverage, etc.

**3) Base of activities and core of activities and economic interests**

In order to be considered a tax resident by this causal, it must be proved (be it by the DGO or by the physical person, depending on who is interested in cataloging the physical person as tax resident), that the individual generates income in our country of greater volume than in any other country (for the purpose of determining where the higher income was generated, the comparison must be done country by country), except that the person receives pure rents of capital exclusively, even when all of its assets are based in our country.

The certificate of residence may be obtained by this causal, if total income is credited by a Notary or Accountant Certificate, detailing the type of income, what country it was generated in, and the corresponding amount.

## Decree No. 330/016

Beyond that the terms used are not exactly the same as those used by law to accredit the residence through the third point above listed, and that at times they seem to become confused (core, base of activities, base of economic interests), the modifications that we understand the new decree introduces are:

- First, it states that from now on, the exclusive obtaining in our country of pure rents of capital only exempts from setting the cause of tax residence by the fact that it is understood that in our country they do not lie the base of the activities of the individual, but this person may be considered tax resident if he complies with having his economic interests in the country.
- It is defined as base of economic interests when an individual has in national territory, an investment:

a) in real estate for a value exceeding 15:000.000 IU (USD 1.875.000 approx.). To these effects, it will be considered the updated fiscal cost of each property (acquisition cost adjusted by UI, if there were reforms, their properly documented costs shall be incorporated);

b) direct or indirect, in a company worth more than 45,000,000 IU (USD 5.625.000 approx.), comprising activities or projects sponsored under the law No. 16,906 (of Investments). For the purposes of determining the amount of the investment made, it shall be considered the Tax on Income from Economic Activities valuation standards.

That is to say that from now on, many people will be tax residents who were not before, unless they prove their tax residence in another country (basically they are now included people who have significant assets in our country, regardless of the amount or type of income obtained). The question remains whether this criterion will be applicable to those who make this type of investment in the future, or to those who already have them at the date of entry into force of the decree (we understand that the latter will be the interpretation which should therefore be applied).

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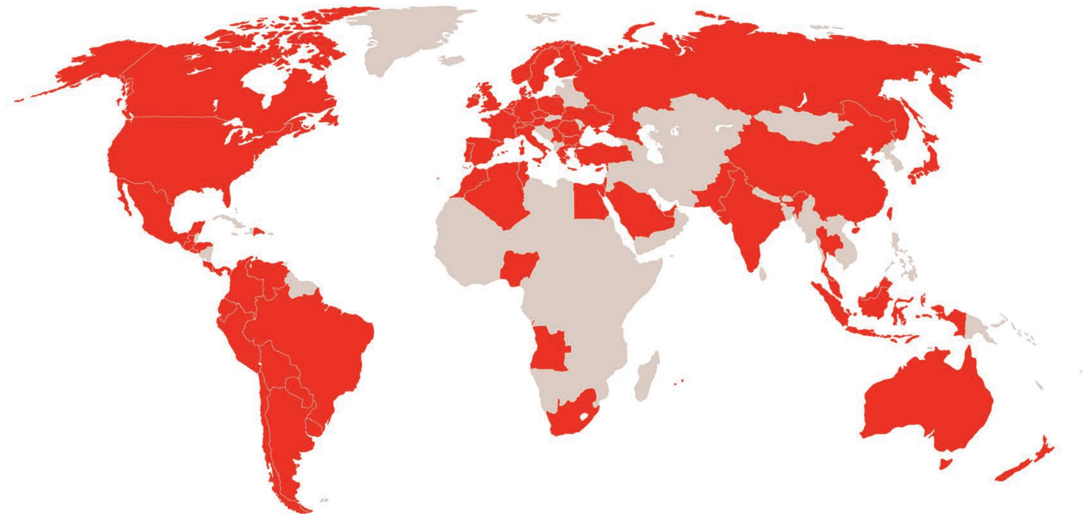

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