INTERNATIONAL BUSINESS

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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:

Italy's new tax regime of dividends and capital gains, Uruguay's Anonymous Societies as holding: tax aspects to be considered and Ecuador's incentives for new investments.

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

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Tax Reform - Law No° 27.430 -
Main changes referred to Transfer Pricing

In this article, we will develop the main modifications introduced by Law No° 27.430 applicable to Income Tax Law (LIG), respect of international transactions between related entities and companies located in non-cooperating jurisdictions or with low or no taxation.

I - Transactions with counterparts domiciled in jurisdictions with low or no-taxation and non-cooperating jurisdictions. Differentiation and coexistence

As of the amendment introduced by this tax reform, transfer pricing control will be applied to operations or transactions carried out with individuals domiciled, incorporated or located in **non-cooperating jurisdictions**, as well as those conducted with persons domiciled, incorporated or located in **low or no-taxation jurisdictions**, which will not be considered adjusted to the practices or normal market prices between independent parties.

The reform incorporates the following definitions into the text of LIG:

Non-cooperating jurisdictions

Countries or jurisdictions that do not have an agreement of exchange of information on tax matters (ADII) or an agreement to avoid double taxation (CDI) with broad information exchange clause in force with the Argentine Republic. Likewise, those countries that, having in force an agreement with the scope defined in the previous paragraph, do not effectively comply with the exchange of information, will be considered non-cooperative too.

The standard clarifies that this deals and agreements between countries must comply with international standards of transparency and exchange of information in tax matters. It should be clarified that this definition involves not only ADII and CDI but also the Convention on Mutual Assistance in Tax Matters to which Argentina has adhered, involving 115 countries including Argentina.

This law delegates to the National Executive Branch the preparation of a list of jurisdictions that qualify as non-cooperating.

Low or no-taxation jurisdictions

Countries, domains, jurisdictions, territories, associated states or special tax regimes that establish a maximum tax on corporate income of less than 60% of the aliquot contemplated in subparagraph a) of article 69 of LIG. Thus, starting from an aliquot of 15% jurisdictions that apply an aliquot above this percentage will not be included into the category of low or no-taxation jurisdictions.

II - Operations in which an international intermediary participates

This reform introduces an *anti-abuse test* for import or export operations involving an international intermediary, whatever the type of asset involved. This obligation is established to prove that the remuneration obtained by the international intermediary is related to the risks assumed, the functions performed and the assets involved in the operation. This requirement will be applicable for all foreign trade operations

in which there is a link between the parties involved.

The link conditions to which we refer are:

- That the intermediary is linked to the local subject.
- That if the intermediary is not linked, the exporter in origin or importer at destination is.

A relevant and novel fact is that the law imposes in these operations that the tested party is the counterpart from abroad.

The norm does not only ask for proof that the intermediary has substance in terms of an organization that involves material and personnel resources commensurate with the scope of its functions (implicit conditioning of the test), but goes further by requiring the existence of a relationship between remuneration and deployment of activity (expressed in functions, assets and risks).

III - Application of the so-called sixth method as an anti-abuse measure

The project brings new rules for export of commodities in which an international intermediary intervenes, accepting to some extent the claims of the agro-export sector and the opinion of OECD, regarding the application of the so-called "sixth method". The obligation to apply the "sixth method" as the "best method" is eliminated, which will nevertheless remain in force, but for extreme situations where taxpayers do not agree to register the purchase agreements corresponding to their operations in the special registry the AFIP must enable to the effect.

This registry must include the relevant characteristics of the contracts and, if applicable, the differences in comparability that generate differences with the *"relevant market price for the date of delivery of the goods"*.

The consequence of the lack of registration is that the gain should be quantified considering the price of the asset at the date of loading the merchandise, as it should be by application of the sixth method, without considering the price that would have been agreed with the international intermediary.

These rules apply in the following cases:

- That the intermediary is linked to the local subject.
- That, not being the intermediary, the importer at destination is linked.
- That the intermediary is located, incorporated, settled or domiciled in a non-cooperating jurisdiction or with low or no-taxation.

V - Validity of these changes

All the aforementioned changes are effective for fiscal years starting on 01/01/2018.

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Corruption

In recent weeks many employees, taxpayers of income tax in Colombia, had seen how our income statement for the year 2017 has increased significantly the tax charged, this is mainly (in the case of employees) due to the limitation to 40% of exempt income and deductions. This increase has generated multiple reactions from those of us who are taxpayers as employees.

Some employees criticize the government because, although it is increasing controls on evasion, no important actions have been seen in sectors that traditionally have cash transactions and that leave little traceability of sales volume; we refer among others to the merchants of the San Andresitos, of the supply centers, market squares, market of parts, used spare parts and taxpayers that belonging to the simplified regime far exceed the conditions to be classified there. The efficient controls in this field can result in important collections in the matter of income tax.

On the other hand, there are people who, even if they have important incomes, hide behind the corruption that is present in all spheres of government to argue that they should not pay taxes because they know that these resources will not be well spent or will be wasted. This point of view, even though it may be valid, is not a justification for the payment or not of the tax, because as residents of a country (whether Colombian or not), must contribute with the fiscal burdens that the state requires to be able to attend the common needs, otherwise it would be contributing our behavior to the culture of corruption through the evasion of our tax burdens.

We consider that as contributors we must make our contribution, this must go in three ways:

1. To pay taxes according to the law we should perform.
2. Perform acts of control over the budgets of the different entities or which we deem or let us know that there is corruption.
3. Zero tolerance for corruption.

On the first point, we already gave our criteria, and is to pay what corresponds to us without looking at what is the final destination of the taxes we pay, because otherwise when there is no longer corruption we will have many more reasons; like for example that I do not like a welfare state, or that I do not like the armed forces, and the Colombian state this year will allocate about 30% of the budget to the defense, among many other arguments, for this reason, we must pay our taxes and require that those who administer and control it do so with transparency and efficiency.

On the other hand, sometimes we know of inappropriate situations and we do not denounce them, as citizens we can make participatory fiscal control, denounce before the control entities such as the comptroller's office, the prosecutor's office, the procuratorship, superintendencies, etc.

In front of the third point, it is important to understand that corruption is also in everyday things, such as buying pirated products, paying the traffic police not to impose a show, not to line up or "sneak" into

them, pay to get some faster process, pass a red light, or pay some inappropriate "commission" to generate a business, pay someone to do the work of the university (their own or children), knowingly buy stolen items , etc.

For all the above, even when the tax rates are increased, when we feel that "our sector" is the "only" that harden tax rules or increase rates, we must do our part, because if each of us does what it deserves and a little more, we can take the country out of this serious disease that is consuming us.

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Alternative Investment Funds - General Overview

Alternative Investment Fund Managers (AIFM) and Alternative Investment Funds (AIF) are governed by the 'Alternative Investment Fund Managers Law of 2013', harmonizing Cyprus legislation with EU Directive 2011/61/EC of the European Parliament and of the Council.

The Law and relevant Directives aim to provide for an internal market for AIFs and a harmonized regulatory and supervisory framework. Moreover, the adoption of the said Law is predicted to cause the relocation of a significant number of Alternative Investment Funds and their managers to cost efficient EU jurisdictions with an attractive legislative, regulatory and tax framework to host their operations.

There are three different types of AIFs that can be registered in Cyprus:

1. AIF's that are available to the public in the form of a Company (without limitation to the capital), a Common Fund, or a Limited Liability Partnership.
2. AIF's that are available to professional and/or well-informed investors in the form of a Company (without limitation to the capital), a Common Fund, or a Limited Liability Partnership.

   All legal forms above allow for legally segregated sub-funds to be created and there are no limits to the number of investors.

Requirements:

- Minimum capital is €125,000 for an external AIFM with an additional amount of 0,02% of the value of the portfolio in excess of €250 million (capped at €10m)
- Remuneration policies should discourage risk taking
- Risk management system must be hierarchically separated from the operating units
- Leverage must be set
- Liquidity management system to monitor risk and ensure compliance with set obligations
- Valuation procedures to ensure proper and independent valuation
- Independent depositary must be appointed
- Delegation is permitted for some functions if the AIFM does not become a 'letter-box' entity
- Reporting obligations

3. AIF's with Limited Number of Persons (the "AIF-LNP") in the form of a Company (without limitation to the capital) or a Limited Liability Partnership. Both legal forms allow for legally segregated sub-funds to be created and the maximum number of investors is limited to 75. The AIF-LNP is a "light-touch" regulated investment fund, representing the most flexible legal form provided by the AIF Law.

The main advantages are the below:

- No investment restrictions;
- No investment diversification requirements;
- No minimum initial capital requirements;
- Low setup and maintenance costs;

Depending on the characteristics of a fund different setup/license may be needed.

CySec fees will depend on the type of AIF (e.g. LNP or not) and the number of sub funds where applicable.

The application procedure requires filing information on the AIFM as well as the AIF it intends to manage to the regulator of the home Member State of the AIFM.

It should be noted that all Directors must be "fit and proper", meaning they must have adequate financial and fund management experience and academic credentials.

The time required to obtain the authorization, is within three months, however, this period can be extended in specific cases.

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Free Zone Companies in UAE

The United Arab Emirates is a constitutional federation of seven emirates; Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Qwain, Ras al-Khaimah and Fujairah. The UAE is classified as a high income developing economy by the IMF. The UAE possesses one of the most-developed economies in West Asia.

The United Arab Emirates has been a member of the World Trade Organization since 1996 and is a member of several trade agreements. The UAE is a founding member of the Gulf Cooperation Council which has the intention of becoming a customs union in the near future.

The UAE has a vibrant free economy, a significant proportion of its revenues arising from exports of oil and gas. Emirati authorities have increased spending in the economy and a number of reforms have taken place to make the country a more business-friendly and attractive investment centre. Emirati authorities will continue to improve the business environment and ability to do business in order to attract new investors. This investment in infrastructure and a large number free trade zone benefits make the UAE a more profitable, less expensive place to do business, compared to other countries in the region.

The free zone is a designated area that eliminates traditional barriers, such as tariffs, and minimizes bureaucratic regulations. The target of a free zone is to enhance global market presence by attracting new business and foreign investments.

The UAE Government has established nearly 40 free zones, in which 100 percent foreign ownership is allowed and no taxes are levied. The highest concentration of the free zones is in Dubai, with more than half of the total number of free zones. Outside the free zones, local sponsors are needed for foreign companies to be established, and foreign ownership is limited to a maximum of 49 percent.

80 percent of the UAE's non-oil exports originate from the Free Zones. These zones are exempt from all the licensing, agency, emiratisation, national ownership, and other domestic regulations that apply to customs territory. The UAE's first free zone was established at Jebel Ali in 1980. Its success in attracting foreign investment and technological expertise, and the growth of re-exports and transshipment as a major commercial activity led the other emirates also to establish similar free zones.

The major advantages of free zone companies are stated as follows:

a) 100 percent foreign ownership

b) Full repatriation of capital and profit

c) No minimum capital investment

d) Quick approval procedures

e) Readymade factories and warehouses

f) No corporate taxes

g) Efficient transportation systems

Also free zone license can be incorporated with or without physical office. Apart from the above mentioned benefits, free zone companies have some limitations also. A free zone company is not allowed to trade directly with the UAE market, the free zone

company can trade within the UAE only through locally appointed distributors. A custom duty of 5 percent is applicable when the free zone company sells in the local market, and employees with visas from free zone companies are expected to work only from the company's offices in that free zone.

The UAE free zone companies have been one of the strongest pillars of the country's economic performance.

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Tax Incentives for New Investments in Ecuador

On august 21, 2018 in Ecuador it is published the Organic Law for the Productive Promotion, Attraction of Investments, Generation of Employment and Stability and Fiscal Balance. This law arises as an idea to the new economic policies as an initiative of the executive. The main tax incentives to attract private investments established are: remission of interest, fines and surcharges, exemption from income tax, special zone of economic development, payment from the advance payment to income tax, value added tax, VAT refund, foreign exchange taxes, investment contracts, tourism sector incentives, investment in real estate, and public-private partnerships.

Within the exemption from income tax, the law offers new investments for the prioritized sectors and in basic industries to which the law grants them different treatment in terms of the benefits it provides.

The Internal Tax Regime Law in Article 9.1 classifies the Prioritized Sectors as follows: Agriculture sector, fresh, frozen and industrialized foods; Agroforestry chain and processed products; Metalworking; Petrochemistry and oleochemistry; Pharmaceutical; Tourism, cinematography, audiovisual and international events; Renewable energies including bioenergy or energy from biomass; Logistics services of foreign trade; Biotechnology and applied software; Exportation of services; Development and production of software and technological hardware services, digital infrastructure, computer security and online services; Energy efficiency; Sustainable construction materials and technology industries; Industrial, agro-industrial and agro-social sector; and, Sectors of strategic substitution of imports and promotion of exports decreed by the President.

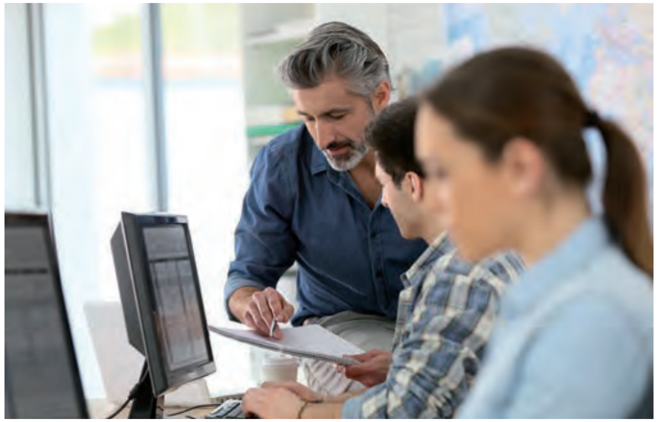
The benefits for the Prioritized Sectors of Income Tax and its advance are the following:

- Exoneration of 12 years for new productive investments, outside urban jurisdictions of Quito and Guayaquil cantons.
- Exoneration of 8 years for investments in urban areas of Quito and Guayaquil.
- Exoneration applies to new and existing companies. This benefit is applicable for those companies that generate net employment.
- Exoneration of 15 years for investments in industrial, agro-industrial and agro-social sector inside borders canton.

In relation to the new investments in Basic Industries, the Organic Code of Production, Trade and Investment in its Article innumerated after the Article 102, classifies them as follows: Smelting and refining of copper/aluminum; Steel foundry for the production of flat steel; Refining of hydrocarbons; Petrochemical industries; Cellulose industry; and, Construction and repair of naval vessels.

The benefits in the Basic Industries are the following:

- Exemption of 15 years of Income Tax and its advance.
- Five additional years for border cantons.



In Ecuador there is a Currency Outflow Tax which is generated by the transfer, sending or transfer of money abroad, either in cash or checks, transfers, withdrawals or payments of any kind. The Organic Law for the Productive Development in Article 27 establishes that new productive investments that sign investment contracts will be entitled to exemption from the tax on the exit of foreign currency in payments made abroad in accordance with the requirements established in the aforemetioned law.

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The meaning of Voluntary Disclosure procedures

Worldwide Information Exchange reform

Bilateral information exchange between tax authorities and banks regarding black capital exposure and overseas revenue declaration have recently been accelerating and will continue to expand in the future. Governments are motivated to take this course not only to enlarge their budgets on a one-time basis but also to generate income for the future.
Israel is one country among many others already signed those OECD's international of reporting standards sharing-information agreements, this system supposed to ease the global process of tax enforcement worldwide. The individual's financial information collected by financial institutions and automatically submitted to the account owner's country of residence on an annual basis.

Which means that foreign banks that are managing accounts for Israeli residents are sharing information to the State of Israel regarding these accounts and it does apply to all the countries signed those agreements. If the authorities will find irregularities while crossing the information and the declaration of those individuals, they might find themselves standing against a criminal investigation. Voluntary disclosure offers last chance to avoid criminal charges.

Taxpayers in Israel:

Since 2003, Israeli residents are obligated to report all income and assets in Israel and abroad under the personal tax obligation. These include bank accounts, financial inheritance, real estate, etc. The obligation to report applies to all Israeli residents, including individuals who have never filed an annual report in Israel. Failures in reporting as obligated is a criminal tax offense.

Furthermore, under Israeli Tax Law, not only residents must pay income taxes on their global income, but also foreigners who are holding bank accounts or assets in Israel or enjoying revenues derived from business activity in Israel have to declare and pay taxes to the Israel Tax Authority.

The procedure:

On December 12, 2017, the Israeli Tax Authority published a temporary order concerning requests for voluntary disclosure with an option for anonymous declaration route, which will remain in effect until the end of this year- December 31, 2018. The voluntary discloser will be available as open procedure till December 31, 2019. Afterward, there will be consecutions for not declaring on time.

Benefits of the Procedure

The Tax Authority wants taxpayers, licensed dealers, individuals and attorneys who have failed to comply with the requirement to report worldwide income to amend their tax reports and settle the resulting tax obligations. The Tax Authority (in collaboration with the State Attorney) is therefore willing to forego legal proceedings in exchange for voluntary compliance.

The Procedure Optional Routes in Israel

Criteria for voluntary disclosure include options for either open or anonymous submissions. Also included is an abbreviated short route for unreported capital not exceeding 2 million NIS, and the resulting taxable income does not exceed 500,000 NIS.

Individuals may disclose their assets and pay tax on unreported income contingent on compliance with the limitations published by the Tax Authority. The taxpayer must establish that his non-compliance was non-willful and in good faith and must not be under a current examination or investigation by the Tax Authority. Other conditions are specified in the procedure.

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The new tax regime of dividends and capital gains

This article deals with the new tax regime (Law n. 205/2017) applicable to dividends and capital gains earned outside of the business activity, in relation to the ownership and disposal of qualified and unqualified shareholdings.

Pursuant to art. 67, paragraph 1, letter c) of the Tax Law ("TUIR"), the investment is "qualified" when it represents, overall, a percentage of voting rights that can be exercised in the ordinary shareholders' meeting higher than:

- 2 percent for companies listed on regulated Italian and foreign markets; or
- 20 per cent for companies not listed on regulated markets.

In relation to the participation in the share capital, on the other hand, participation is "qualified" if it represents a share of it higher than:

- 5 percent for companies listed on regulated markets; or
- 25 per cent for companies not listed on regulated markets.

In cases other than those listed above, participation is "unqualified".

Dividends

Paragraph 1003 of article 1 of the Law n. 205/2017 amended the art. 27 of the Law Decree n. 600/1973, making sure that even dividends deriving from qualified holdings are subject to a withholding tax equal to 26%.

The new taxation regime applies to income received from 1 January 2018, as provided for by paragraph 1005 of art. 1 of the Law 205/2017.

The transitional taxation regime

The legislator, in paragraph 1006 of the art. 1 of the Law n. 205/2017, provides for a transitional regime regarding the distributions of profits deriving from qualified investments in companies and entities subject to corporate income tax, formed with profits produced up to the financial year in progress as at 31 December 2017, resolved by 1 January 2018 to December 31, 2022.

Therefore, the taxable amount of the aforementioned profits will be 40%, 49.12% or 58.14% in relation to the year in which the profits received were formed by the paying company.

The new tax regime will instead be valid for profits produced from the year following the one in progress at December 31, 2017 (from 2018 for those whose tax period coincides with the calendar year) and for those carried forward, matured until the financial year in progress as of December 31, 2017, whose distribution will not be resolved by December 31, 2022.

The following table illustrates the different methods of taxation, in relation to the time frame in which the profits are produced and approved.

	Net profits produced up to December 31 2007		Net profits produced from 1° January 2008 to 31 December 2016		Net profits produced from 1 January 2017 to 31 December 2017		Net profits produced from 1° January 2018
Shareholders resolution	From 1° January 2018 to 31 December 2022						From 1° January 2019
Tax rate	33%		27.5%		24%		24%
Participation	Non qualified	Qualified	Non qualified	Qualified	Non qualified	Qualified	Non qualified/ Qualified
Taxable percentage	100%	40%	100%	49.72%	100%	58.14%	100%
Withholding tax/ Personal tax	WHT 26%	Personal tax	WHT 26%	Personal tax	WHT 26%	Personal tax	WHT 26%

Capital gains

The new law, repealing art. 68, paragraph 3, of the TUIR, eliminating the tax difference envisaged for capital gains deriving from the sale of qualified and unqualified shareholdings, provides for a substitutive tax at 26%.

As a consequence, the aforementioned capital gains can be offset against the losses deriving from the sale of qualified and non-qualified shareholdings.

In the event of a negative surplus, this may be carried forward or offset with other positive surpluses in subsequent years, but not more than the fourth year; if instead the surplus is positive, it will be subject to a substitute tax of 26%.

The new provisions are applied for capital gains realized starting from 1 January 2019, regardless of the period of maturation.

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Aviation industry in Malta

With the enactment of the Aircraft Registration Act, intended to firmly put Malta on the map of international aviation registers, Malta is well along the way of restructuring its aviation sector. The new Act implemented the Cape Town Convention on International Interests in Mobile Equipment and the Aircraft Protocol thereto (the "Convention") which is recognized as facilitating asset-based financing by providing increased protection for secured creditors. Malta's decision to accede to the Convention further enhances Malta's reputation as a lender-friendly jurisdiction whilst at the same time facilitating the acquisition of aircraft and offering prospective investors of aircraft a reduction in cost on their borrowings.

The primary aim of the recent enactment is to make Malta an attractive jurisdiction to register both private and commercial aircrafts within Europe, while ensuring full adherence to the restrictions imposed by EU law on the registration and ownership of aircraft within the EU.

NEWLY INTRODUCED CONCEPTS

- Recognition of fractional ownership of aircraft – ensuring partial owners are listed as such thereby protecting their rights
- Registration of aircraft under construction as soon as it is uniquely identifiable
- Broadening of registration possibilities for non air service aircraft
- Possibility to register mortgages on Malta registered aircraft in the international register in terms of the Aircraft Protocol to the Cape Town Convention on International Interests in Mobile Equipment

Persons eligibility to register aircrafts

An aircraft may be registered in Malta by any of the following persons:

- An owner of the aircraft who operates the said aircraft;
- An owner of an aircraft under construction or temporarily not being operated or managed;
- An operator of an aircraft under a temporary title; or
- A buyer of an aircraft under a conditional sale or title reservation agreement or similar agreement, and who is thereby authorized to operate the aircraft.

The following persons are qualified to register aircraft as detailed below:

Aircraft used in Air Service

- Government of Malta
- Citizen of Malta or member state of EU, or Switzerland or EEA having a place of business or residence in one of these states
- An undertaking formed and existing in accordance with the laws of Malta, member state of EU, EEA or Switzerland. The undertaking must have its registered office, central administration and princi-

pal place of business in one or more of said states and must have not less than 50% of its ownership owned (directly or indirectly) by the Government of Malta, EU member state or persons referred to in the last preceding point.

In order to operate an aircraft for public transportation of persons or goods, the operator would require an air operator's certificate.

Private Aircraft (not used in Air Service)

A natural person who is a citizen of, or an undertaking established in a member country of OECD or any country approved by the Minister is qualified to register aircraft in construction or one not used in air services provided it:

- Has legal capacity to own/operate said aircraft in terms of law
- Appoints a local resident agent to represent the owner in Malta in matters concerning registration
- Complies with applicable regulations/guidelines.

Persons so qualified under these provisions are referred to in the Act as International Registrants.

Fiscal advantages available to Aviation

Complimenting the aircraft registration regime, Malta has also introduced specific provisions with regard to the taxation of aviation income.

Import and stamp duty

No import duty is chargeable in terms of the Import Duties Act on the importation of civil aircraft into Malta. Aircrafts do not attract any stamp duty in terms of the Duty on Documents and Transfers Act.

Income tax

Income from the ownership, leasing or operation of an aircraft or aircraft engine used for or employed in the international transport of passengers or goods is deemed to arise outside of Malta. This could lead to nil tax leakage in Malta when applied to persons resident but not domiciled in Malta. Thus non-Maltese companies linked to Malta simply by registration of the aircraft in Malta or the fact that the aircraft calls at a Maltese airport are not taxable in Malta. This rule offers interesting tax structuring opportunities in respect of companies which are resident in Malta on the basis that they are effectively managed herein.

The specific provisions also provide for competitive accelerated depreciation – 6 years for aircraft airframe, engine and overhaul and 4 years for aircraft interiors and other parts together with an exemption from the application of fringe benefit rules on income.

Furthermore, leasing of aircraft (together with other aviation related activities) carried by Maltese companies would be entitled to benefit from the standard corporate tax rate and refund structure available in Malta together with an absence of withholding taxes

on the distribution of dividends or payment of interests outside of Malta.

Benefits available to **MALTESE LESSEES** of aircraft where the **Lessor is a Foreign Company** and the lease payments are accruing to the foreign Lessor:

- No withholding tax applies on lease payments made to lessors of aircraft used for the international transport of goods or passengers.
- If the lease is an operating lease, lessees may generally claim full deduction for lease payments against their income.
- Lessees may claim capital allowances if they suffer the burden of wear and tear.
- If the lease is a finance lease, lessees are entitled to a deduction in respect of:

  - Interest element of the finance lease;
  - Repairs and maintenance;
  - Insurance;
  - Capital allowances at the applicable rates.
- Profits accruing to lessees are taxed at the standard rate of 35%. However, upon a dividend distribution of such taxed profits, shareholders may be entitled to a refund of 6/7ths of the Malta tax paid.

Benefits available to **MALTESE LESSORS** of aircraft where the **Lessor is a Malta Company** and lease payments are accruing to a Maltese Lessor:

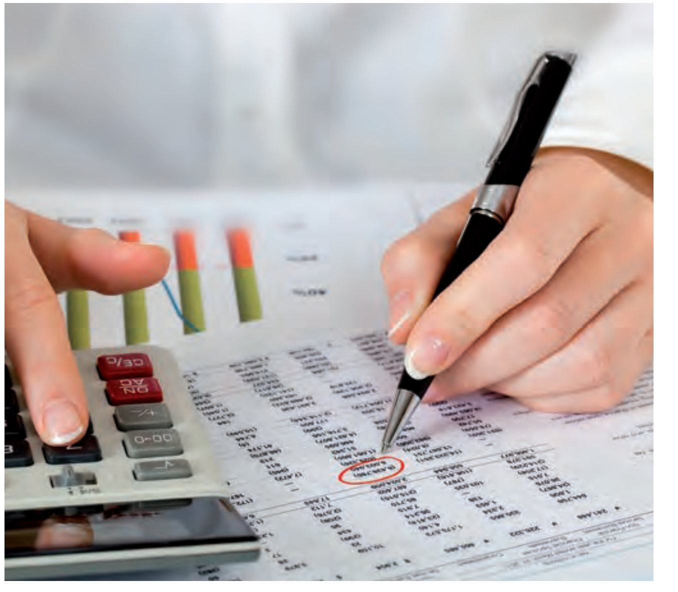
- If the lease is an operating lease, then lessors are subject to tax on the full lease payment.
- If the lessor suffers the burden of wear and tear, the lessor is entitled to claim capital allowances in respect of the aircraft.
- If the lease is a finance lease, then lessors are only chargeable to tax on the interest element of the finance lease, without any deduction for capital allowances.
- Lease income is taxed at the standard rate of 35%. However, upon a dividend distribution of such taxed profits, shareholders may be entitled to a refund of 6/7ths of the Malta tax paid.

Investment tax credits

Any person that carries on a trade or business consisting of the repair, overhaul or maintenance of aircraft, engines or equipment incorporated or used in such aircraft, may benefit from investment tax credits against the tax due on its chargeable income in Malta.

Fringe Benefits

The private use of an aircraft by a non-resident individual who is an employee or officer of a company whose business includes the ownership, leasing or operation of aircraft engaged in the international transport of goods or passengers is deemed NOT to constitute a taxable fringe benefit.



VAT

The VAT implications vary according to the manner in which the aircraft is used, that is, whether the aircraft is employed by an airline operator for reward chiefly for international transport of goods or passengers, or whether it is purely for private use. VAT implications similar to those applicable in other EU Member States would be applicable in respect of importations, intra-community acquisitions, or supply of aircraft.

Conclusion

Overall benefits of aircraft registration in Malta

Pursuant to the above, the Maltese legal infrastructure and existing aircraft facilities are able to offer the following benefits:

- Stable, E.U. jurisdiction with a well-established legal infrastructure that is sensitive to the rights of holders of security interests in aircraft, and having a mature law on trusts, as well as an efficient company registration and redomiciliation system;
- Enhanced visibility of rights in aircraft;
- Access to intra-Community traffic rights. Operators licensed in Malta or in any other E.U. State are entitled to operate their aircraft commercially within the E.U. without any requirement or formality, subject to maintaining the applicable qualifying requirements for operators at all times. For private aircraft, any license issued by an ICAO state would be acceptable.
- Attractive fiscal regime as explained above;
- Availability of a wide range of airline services ranging from aircraft and engine maintenance, repair and overhaul to software development, aircraft management, aircraft maintenance training and ancillary support services;
- Highest standards of safety and security;
- A Cape Town Convention State, thereby enabling debtors situated in Malta to be entitled to a reduction on their borrowing costs (the "Cape Town discount");
- An efficient, skilled, cost-effective, multi-lingual workforce;
- A clear strategic political vision and national policy supporting business, the aviation industry and its clusters.

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Towards better operational management in public administration

After the Mexican presidential elections and the renewal of more than 18,000 federal and local public offices, we are now going through the five months of the presidential transition. During this period, the incoming government, which will take office in December, begins to present its main objectives and policies in economic matters, as well as its social, security and anti-corruption strategies to reduce Mexico's backwardness and current problems.

This government began to show what will be "a new way of conducting and acting of the public administration" through the publication of the "Fifty points for austerity and anti-corruption". Aspects such as "There will be no acquisitions for civil servants", "Citizens will be treated with kindness in public offices..." and "The assets of public servants' offices will be taken care of..." are mentioned in said document.

Although the above points are attractive and tangible from the citizen's point of view because they represent fewer privileges, salaries and compensations for the country's bureaucracy, we must ask ourselves the following question: Will these measures result in a more effective government? Will the provision of public services by the Federal Government be more efficient and of better quality? The answers can be found not only in the administrative or expenditure optimization that is intended, but also in the management of the operations and processes of the public sector itself. The activities carried out by the public administration will need to be carried out efficiently and effectively in order to generate the greatest possible value for citizens. Without a deep reflection and analysis on the above, we could face "a cheaper government" without this translating into a substantial improvement in the provision of services and better attention to the needs of citizens.

In order to do this, the public administration and its public servants must ask themselves the following questions: What is the objective of my activity? What are products or services made from? How are they made? Who makes them? What are the requirements of the citizen (client)? To ask these questions is to put the citizen at the center of operations and activities and to continuously watch over their satisfaction.

Auren Bajío has had the opportunity to participate in organizational and process reengineering projects, as well as in the design and optimization of the operative structure in different public sector dependencies. It has helped achieve reduction of unnecessary internal costs (activities that do not add value), shorten cycle times (faster delivery of public products or services) and increase the quality and value perceived by citizens through continuous improvement in various government projects. With the above, a combined change at the administrative and operational government levels, there is a better possibility to deliver high value products and services to the Mexican citizens in the future.

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The Netherlands 2019 Tax Plan

As we wrote in our contribution to the August 2018 Antea Newsletter, the Dutch government planned to abolish Dutch dividend withholding tax with effect from 1 January 2019 (except in abusive situations). Due to certain developments however, the Dutch government on 15 October 2018 decided to maintain the current Dividend Withholding Tax Act. In order to strengthen the overall investment climate in the Netherlands, the government proposed a number of amendments to its 2019 tax plan. The amendments include both further tax incentives and alleviations to unfavorable tax measures as included in the 2019 tax plan. The most notable amendments are the following.

1. The corporate income tax rate will be further reduced – compared to the earlier version of the 2019 tax plan. The statutory corporate income tax rate will be gradually reduced from 25% to 23.9% in 2020 and to 20.5% in 2021. The lower statutory 20% tax rate (for profits below EUR 200,000) will gradually be reduced to 19% in 2019, to 17.5% in 2020 and to 15% in 2021.
2. Pursuant to the 2019 tax plan, the depreciation for corporate income tax purposes of buildings in the taxpayer's own use will be limited to 100% of the immovable property value ('WOZ-waarde'). Now, transitional rules have been proposed to mitigate the effects of this limitation for corporate taxpayers that recently invested in real estate. Pursuant to the transitional rules, if a building is placed in the taxpayer's own use before 1 January 2019 and has been subject to depreciation for less than three years, the taxpayer will be entitled to depreciate the building under the current rules within this three-year period.
3. In June of 2018, the Dutch government published a legislative proposal that eliminates certain benefits of the fiscal unity regime, in order to neutralize the impact of the European Court of Justice's decision in Case C-398/16 (judgment of 22 February 2018). The legislative proposal would have retroactive effect to 25 October 2017. However, in order to avoid complications for the corporate income tax return of 2017, the new legislation will only have retroactive effect as of 1 January 2018.
4. Pursuant to the 2019 tax plan, the maximum term of the 30% ruling for expats would be reduced from eight years to five years – both for existing and for new rulings. The Dutch government now proposes transitional rules, based on which existing rulings will remain applicable in 2019 and 2020.
5. Pursuant to the 2019 tax plan, fiscal investment institutions (FBIs) would no longer be allowed to directly invest in Dutch real estate. However, as the Dutch dividend withholding tax is maintained, the taxation of the profits derived from Dutch real estate by FBIs is adequately provided for. As a result, the proposed prohibition of direct investment in Dutch real estate by FBIs is withdrawn.

The measures described above will, together with the rest of the 2019 tax plan, be discussed in Dutch Parliament and - provided they are adopted - be implemented effective 1 January 2019.

Please get in touch with us in case you have any questions regarding the above or with regard to taxation in the Netherlands in general.

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Major changes to Dutch income tax

Major changes in Dutch income tax procedures are heading our way. Firstly, the box 1 income tax rates for incomes above €20,142 will be reduced as of 1st January 2019. In 2021 two tax brackets will disappear, meaning only two will remain.

Heading towards 'Flat Tax'

These rate adjustments reveal that the Cabinet is shifting towards a flat tax rate, or a taxation system with the same rate for everyone. This is not something that is currently ready for implementation. However, as of 2021 there will only be two tax rates, 37.05% and 49.5%.

Rate adjustments in 2019

The tax rates will start to change in 2019. The first tax bracket, applying to incomes up to €20,142, will increase by 0.1%-punt from 36.55% to 36.65%. The rates for the second and third brackets, covering incomes between €20,142 and €68,507, will decrease significantly, from 40.85% to 38.1%. Currently those earning over €68,507 pay a rate of 51.95%. Next year this will be reduced slightly to 51.75%.

What are the effects on net income?

Next year someone with an income of €35,000 will benefit from these changes by paying €380 less tax. Those on higher salaries will benefit more. Someone with an income of €65,000, for example, will enjoy a saving of €1,215. Those on an income of up to €20,000 will pay a maximum of €20 more in tax.

Two brackets as of 2021

From 2021 there will be just two tax brackets in box 1. A rate of 37.05% will apply to those on incomes up to €68,500. Incomes exceeding this amount will be taxed at a rate of 49.5%.

Tax % in box 1

	Income of max € 20.142	Income of max € 34.404	Income of max € 68.507	Income > € 68.507
2018	36.55	40.85	40.85	51.95
2019	36.65	38.10	38.10	51.75
2021	37.05	49.50		

Warning!The switch to two tax brackets in box 1 will only apply to those who are not yet entitled to AOW. For those entitled to AOW different rates will apply. Three brackets will continue to apply to those eligible for AOW.

Top rate frozen until 2024

Due to inflation and other factors, the tax rates will be indexed annually. Until 2024 this will not apply to the starting point of the top rate. This will remain frozen at the current level of €68,507. Taxpayers will therefore reach the top rate earlier. The expected result of this is that around 7% of taxpayers will be taxed at the highest rate. Without this freezing only 5.5% of taxpayers would be taxed at the top rate.

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Serbia amends VAT Law; extends possibilities for VAT refund to foreign companies

On April 19th, 2018, the Serbian Parliament adopted the Law on Amendments to the VAT Law. The adopted Law was published in the Official Gazette No. 30/2018 and came into force on 1st of July 2018, with the exception of certain provisions which will be applicable as 1st of January 2019.

The latest amendments to the VAT Law are conditioned by the harmonization of Serbian regulations with EU regulations, and most notably with the Council Directive 2006/112/EZ on a common system of value added tax. The changes also target the creation of more favourable conditions for business entities. These Amendments relate to the moment of the creation of a VAT obligation, especially for intellectual property rights, as well as to tax exemptions with the right to deduct previous tax and VAT refunds to foreign taxpayers.

Rule on the chargeability of VAT on supplies of intellectual property (IP) rights

According to the amended rule, a tax liability which arises as a result of issuing an invoice before a sale or before an advance payment may also arise for services related to the transfer, assignment and use of copyright and related IP rights, under the condition that such services are performed by the same person which carries out the services of transferring, assigning and making use of copyright and other IP rights. The most common example in practice is the service of granting of the right to use software (software license) provided together with software maintenance services and technical support to the software user.

Free trade zones – tax exemption

The tax exemption with the right to deduction of previous tax has been prescribed for the supply of goods that have entered into a free zone for a foreign entity which is not a taxpayer but has concluded a contract with a tax payer-user of the free zone. Additionally, this new VAT exemption is prescribed for supply of services which are related to the supply of goods stated above.

Refund of VAT to a foreign taxpayer

A foreign taxpayer has the right to refund input VAT on the turnover of goods and services bought in the Republic of Serbia, if goods and services are sold to entities which are VAT payers in Serbia, for goods and services subject to the reverse charge mechanism (i.e. when the obligation to calculate VAT rests with the recipient taxpayer). This will allow more opportunities for foreign entities to reclaim the incurred input Serbian tax. This amendment applies from 1st of January 2019.

Eurofast advises clients that may be affected by the chance to seek professional advice in determining the best approach to benefit from the amendments.

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Some issues concerning Spanish taxes

Individual resident in Spain

When is an individual considered a Spanish resident, and when is he or she a non-resident?

An individual is resident in Spanish territory when any one of the following circumstances apply:

- They have stayed longer than 183 days in Spanish territory over the calendar year. In order to determine the permanence in Spanish territory, occasional absences are included, except if the taxpayer accredits their residency in another country. In the case of countries or territories labelled as tax havens, the Tax Administration can demand proof of stay in that tax haven over a period of 183 days within the calendar year.
- They situate the main base or center of their activities or economic activities, directly or indirectly, in Spain.
- They have dependent not legally separated spouse and/or underage children who are usually resident in Spain. This latter situation accepts evidence to the contrary.

Individuals of Spanish nationality who accredit their new fiscal residence in a country or territory labelled as a tax haven will not lose their status as taxpayers for Individual Income Tax. This rule is of application during the tax period in which the change of residence occurs and for the next four tax periods.

Otherwise, where none of the previous situations applies, an individual is considered as non-resident in Spain.

Appointment of a representative of a non-resident company

In which cases must a non-resident nominate a representative in Spain?

There are four situations in which a representative must be nominated:

- When there is a permanent establishment in Spain.
- When, in order to calculate the taxable base subject to tax in Spain, certain expenses are deductible.
- When an organization operating under the system of attribution of earning established abroad carries out an economic activity in Spain, and all or part of said activity is carried out, in an ongoing or regular manner, in facilities or workplaces of any kind, or it acts in Spain through an agent authorized to contract, on behalf and in representation of the organization.
- When the National Tax Authorities so request.
- When they are residents in countries or territories with which no effective tax information exchange agreement exists, who are holders of assets situated in, or rights that are settled or exercised on, Spanish territory, excluding securities traded in official secondary markets.

The representatives of non-resident taxpayers who operate in Spain through a permanent establishment and of organizations in the special tax system for income attribution established abroad with a "presence in Spanish territory" are jointly and severally responsible for the payment of tax liabilities.

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Unearth innovation and claim R&D tax credits

Uncovering innovation from within a business is rarely a simple process. You'll often find it buried within different aspects of an organisation, and in some cases it's even outsourced. But, it's important to know that R&D tax benefits hidden within your work could give you an edge on your competitors.

Whether it's a digital agency designing a new app, an architect improving building efficiencies or a food manufacturer developing production techniques, innovation can come in all different shapes and sizes, and is seldom bound by industry.

However, vast numbers of these problem-solving businesses are neglecting the hidden value of innovation – with an estimated nine out of ten eligible SMEs failing to claim for R&D tax relief.

Companies all over the UK are missing out on valuable R&D tax credits to the tune of thousands of pounds. Generally speaking, it's the businesses you typically wouldn't associate with R&D that are overlooking relief.

"We don't really do R&D"

The very term 'R&D' often deters many firms from applying. The reality is, for those who work outside of the science and technology sectors, it's a term that's rarely used in day-to-day work – and therefore they assume they aren't eligible.

Sometimes innovation is crystal clear. In other instances, it needs to be unearthed from within a business – like the North-East-based soil company that initially said "we don't really do R&D" because its process of fine-tuning and treating soil for the different climates of clients was everyday work. So many businesses don't understand what qualifies for R&D tax relief.

"How much R&D tax relief can I claim?"

The tax benefits of R&D relief are potentially huge. The average claim for an SME can generate upwards of £55,000 in tax benefit – a worthwhile venture in anyone's book.

R&D relief enables a company to deduct an extra 130% of qualifying costs from its yearly profit, as well as the normal 100% deduction, to create a total 230% deduction. Qualifying R&D expenditure can include costs spent on staff, software, transformed/consumed materials and subcontractors.

Using R&D to grow your company

Last year, Haines Watts helped hundreds of clients all over the UK recoup an average £65,000 in cash refunds through R&D tax credits, and helped businesses save over £70 million in total. In turn, this has enabled business-owners to reinvest in innovation, future-proof their companies and, most importantly, ignite further growth.

What's more, your R&D projects don't need to have been successful – it's the time and money invested in developing new processes, products or technology.

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Uruguayan A.S. (Anonymous Societies) as holding: tax aspects to be considered

We will now develop the tax treatment applicable to the Uruguayan companies used as "holdings", which are those entities whose asset is composed of shares of a conglomerate of companies, whether local or foreign.

In order to simplify the analysis, we will assume that all of the assets of the society is exclusively composed of shares, without owning any other asset in the country (for the example, we assume the bank is located outside the country).

Taxation applicable to society - Income tax

The holding of shares of other companies generates the following results:

- Result by holding
- Profits for received dividends
- Result from sale of shares

Both the result by holding and the gain derived from dividends received from companies (either local or from abroad), are not taxed by the Income Tax of Economic Activities (ITEA).

In regards to the result derived from the alienation of shares of any of the societies which the local holding owns (sale price minus fiscal cost), the treatment to be granted will depend on the country of residence of the societies whose shares are alienated:

URUGUAY:

The result is taxed by ITEA at the rate of 25%; in case of loss (cost greater than the sale price), it will be deductible from other taxable incomes that may be generated in the society (in these cases it would be income for alienation of shares of other local societies).

ABROAD:

- Domiciled in "NO BONT" countries: the result derived from the sale of shares in this case are not taxed by ITEA, for being income from foreign source.
- Domiciled in countries of low or null taxation ("BONT"): in this case the concept of Uruguayan source is expanded, so the result derived from the alienation of shares is taxed by ITEA, as long as more than the 50% of the asset of the foreign society is integrated, directly or indirectly, by assets located in the Republic.

In accordance with the legislation in force, the "BONT" countries are those to verify the following conditions:

I) its effective rate of income tax to activities or property located in the Republic is less than 12%; and

II) an information exchange agreement is not in force, or being in force, it is not entirely applicable to all taxes covered by the agreement.

By the *General Taxation Office* (GTO) resolution No. 1315/017, the GTO enumerated the list of the countries included in this category (it is worth mentioning that is not up to date, since even though Panama was excluded from the list explicitly, it still appears in the original listing).

Wealth tax

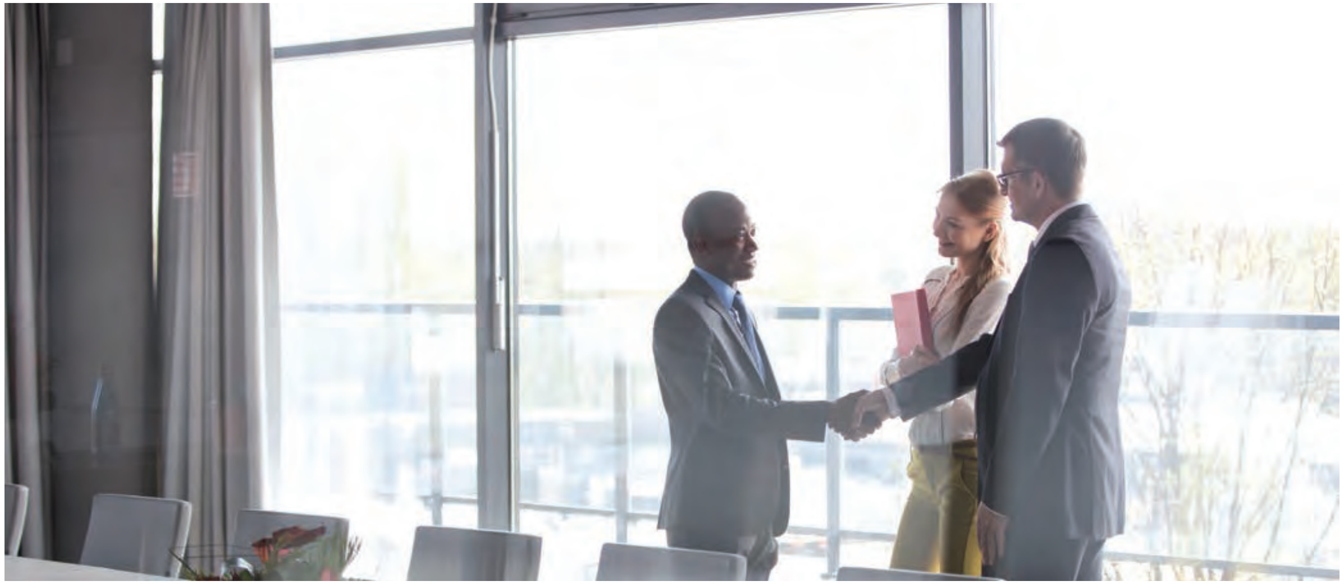
Wealth Tax (WT) taxes the holding of assets in the country at the rate of 1.5%, allowing the deduction of certain liabilities (basically local commercial debts).

The holding of shares of other companies, whether local or foreign, are not taxed by this tax, subtracting from the fiscally adjusted asset (the former for being considered to be assets expressly exempted from the tax, and the latter because they are assets outside the country).

However, it must be considered that both assets, the exempt one and those from abroad, subtract deductible liability by the same amount by which they are deducted from the asset, on the understanding that the liability first finances the holding of this type of assets.

In any case, this particularity of the liquidation is not relevant for this type of companies, since they generally do not have deductible commercial liabilities, so that in fact, the holding of shares will not be taxed.

This means that this type of company, unless they have the bank in the country with balance at the end of the year, will not have a significant cost for this concept.



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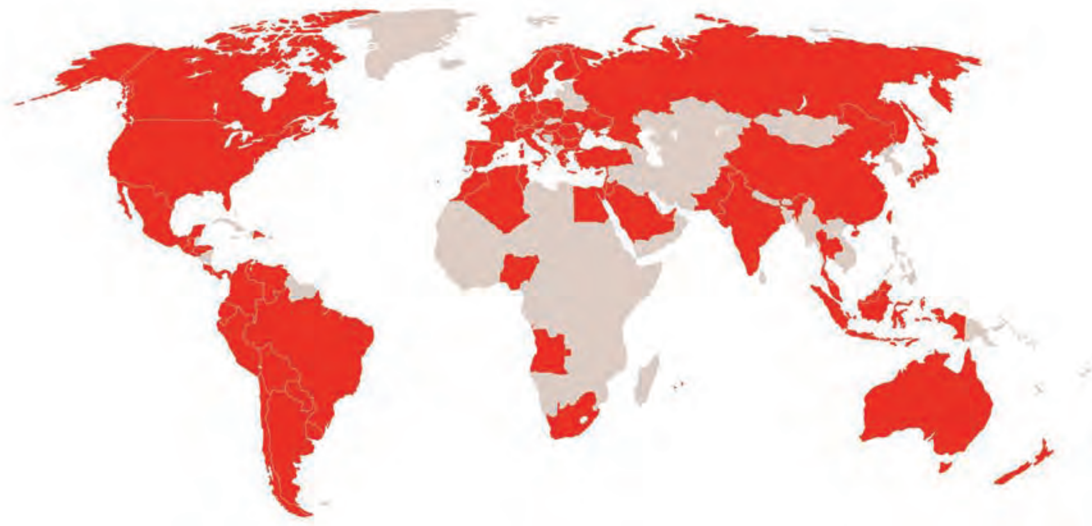

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