

MAZARS U.S. TAX DESK NEWSLETTER

April 2019



IN THIS ISSUE!

Welcome to the first edition of the Mazars U.S. Tax Desk Newsletter for 2019!

In this edition we discuss the many amendments to tax regulations which have commenced in 2019 in various countries. We explore and share our perspectives on:

- German CFC taxation;
- Dutch innovation box regime;
- New interest deduction limitation rules implemented in France;
- Country-by-Country reporting in Hong Kong; and
- Tax structuring of business combinations in Brazil.

The above is only a selection of the wide array of contributions in this issue. Please see page 2 for a full listing.

We are delighted that our publication is continuing to grow in content and circulation numbers. If you would like to share your country insights, please feel free to contact us.

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 **EUROPE**
 MAZARS

GERMAN CFC TAXATION - THE IMPACT OF THE US TAX REFORMS ON GERMAN INVESTMENTS IN THE US MARKET

BACKGROUND

The German Controlled Foreign Company (in the following “CFC”) rules were originally intended as provisions against abusive structures which aim at tax base erosion and profit shifting. However, due to the extensive wording of the German CFC rules, they apply to non-abusive cross-border investments as well.

TAX CONSEQUENCES

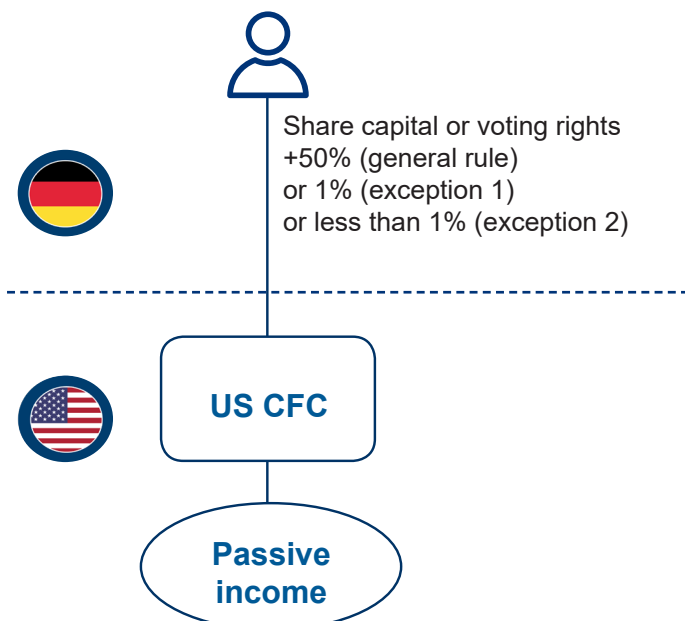
As far as the German CFC rules apply, income generated by a CFC (e.g. US LLC) could be subject to German corporate income and trade tax (combined approx. 30%) or individual income tax (progressive maximum rate 45%). Foreign taxes on the CFC income would be considered for the determination of the CFC income. If the German CFC rules generally apply, the German tax payer is obliged to file a CFC tax return. In case the German tax payer violates this obligation, penalties, or even criminal charges could occur at the level of the German investor.

REQUIREMENTS

The German CFC rules apply when the following requirements are generally met:

- Foreign corporation controlled by German tax payer
- Passive income
- Low tax rate

POTENTIAL GERMAN-US CFC STRUCTURE



Foreign company controlled by German taxpayer

a) Foreign company

An entity qualifies as foreign company, if it is a corporation within the meaning of German corporation income tax act with registered office outside of Germany. For the definition of what constitutes a corporation, it is crucial whether the articles of association of the foreign entity resemble more the requirements of a German corporation (e.g. GmbH) or a German partnership (e.g. KG). The qualification under non-German law is irrelevant. Thus, the US check-the-box system remains disregarded.

The German CFC rules also contain a treaty override for investments in foreign permanent establishments or foreign partnerships generating passive income in a low taxation country. It stipulates that the credit method applies instead of the exemption method.

b) Controlled by German taxpayer

Requirements:

- More than 50% of share capital or voting rights (general rule)
- More than 1% or even less than 1% (in case of income with capital investment character)

Passive income

Income is passive if it is not explicitly defined as active. The CFC rules contain an exhaustive list of what income qualifies as active. Passive income includes (not exhaustive):

- income from the exploitation of rights, if the German taxpayer does not prove that the CFC exploits own research and development activities conducted without participation of the German resident shareholder or an affiliated person thereto,
- income from renting or leasing of real estate if the German shareholder does not prove that the income would be tax exempt in Germany under a double tax treaty,
- income from leasing of movable assets if the German taxpayer does not prove that the CFC has ‘leasing company substance’ and conducts all its business without participation of the German shareholder or an affiliated person thereto;
- income from borrowing and lending of capital if the German taxpayer (interest income) does not prove that most of the capital is raised in foreign capital markets from unrelated persons and the same capital is lent to an ‘active’ foreign business or PE or to a German business or PE: therefore, income from financing activities is generally ‘passive’ income if capital is raised within the group or in Germany;
- capital gain arising from the disposal of shares in another company or the liquidation or reduction of share capital of such a company as far as the German tax payer does not prove that the capital gain is not attributable to assets

in that company which do not serve to generate passive capital investment income (e.g. interest).

Low tax rate

According to the German CFC rules, a low tax rate requires that the passive income is subject to an effective corporate income taxation of 25% or less. The effective tax rate would have to be determined under consideration of the Federal corporate income tax (21%) and the respective State tax.

US tax reform – Relevance for German CFC taxation of cross border investments in the US

The reduction of the Federal corporate income tax rate from 35% to 21% has made German CFC rules relevant for German cross border investments in the US (corporations, permanent establishments, or partnerships).

Due to the harsh penalties and potential tax fraud charges in case of the violation of the CFC tax declaration obligations, each investment into the US

should be subject to CFC analysis to take necessary actions and avoid adverse consequences for the German tax payer.

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BILL PASSED FOR RATIFICATION OF MLI BY LOWER HOUSE OF DUTCH PARLIAMENT

On February 12th, 2019 the Lower House of Dutch Parliament passed the bill for the ratification of the multilateral instrument (“MLI”). In June 2017, the Netherlands notified the OECD with its preliminary options and reservations. The bill follows this provisional list of choices with the exception of one amendment. The Netherlands intends to make a full reservation with respect to article 12 MLI: the artificial avoidance of the permanent establishment (“PE”).

BACKGROUND

The multilateral instrument is a key part of the OECD’s effort towards implementation of BEPS measures into tax treaties. The multilateral instrument intends to function alongside existing tax treaties and will modify the application of existing tax treaties in order for them to implement the BEPS measures.

For the specific tax treaties between countries, governments were asked to prepare lists of treaties to be covered by the multilateral instrument and also had to consider which options to select and reservations to make. Unilateral choices made by countries may not enter into force until both parties to a specific tax treaty agree to the same options and reservations.



THE NETHERLANDS

MLI-POSITION OF THE NETHERLANDS

The Netherlands initially indicated that it fell within the scope of the MLI with respect to almost all options. The Dutch Government also opted for article 12 MLI which aims to prevent the artificial avoidance of PE status by broadening the “agency PE” definition in existing bilateral tax treaties.

The bill now approved makes a full reservation with respect to article 12 MLI. According to the amendment, before the Netherlands can opt into art. 12 MLI, the Dutch government has to ensure that there is an effective dispute resolution mechanism in place with sufficient other MLI parties or there is either sufficient clarity on profit allocation to agency PEs.

Once there is more clarity on profit allocation or if there is sufficient progress with respect to dispute resolutions, the Government could submit a bill by the end of 2020 in order to withdraw the reservation.

NEXT STEPS

The Bill will now be presented to the Upper House. The Dutch government intends to complete the MLI ratification procedure early in 2019, aiming for general entry into effect of the MLI as from 1 January 2020 (depending on the ratifications by the Dutch treaty partners).

DUTCH INNOVATION BOX REGIME

Over the past number of years, the Dutch innovation box regime has undergone changes as a result of the outcomes of the OECD report on Base Erosion and Profit Shifting (BEPS) Action plan 5 and amendments to the effective tax rate of the Innovation Box.

Summarised below are the key features of the Dutch innovation box regime as per January 1, 2019.

WHAT IS THE INNOVATION BOX REGIME?

The Dutch Innovation Box regime aims to stimulate technical innovation in the Netherlands. Dutch based companies can benefit from an effective tax rate of only 7% (5% until 2017) for qualifying income from intangible assets. The normal Dutch corporate income tax rate is 19% / 25% (2019).

WHO CAN QUALIFY FOR THE INNOVATION BOX?

Taxpayers may qualify for the Innovation Box if they have:

- (i) created patented intangible assets as well as intangible assets; and
- (ii) have obtained an R&D statement (“WBSO verklaring”) with respect to the created asset.

In practice this means that in-house developed technological innovations qualify. The Innovation Box does not apply to marketing intangibles such as trademarks and logos.

WHAT CHANGES HAVE OCCURRED DUE TO OECD BEPS PROJECT?

As a result of BEPS Action Plan 5, the following adjustments have been implemented:

- (i) The entrance tickets to the innovation box; and
- (ii) Allocation of income that qualifies for the special tax rate of 7%.

R&D ACTIVITIES (ENTRANCE TICKET)

The new regulations distinguish between ‘small’ and ‘large’ taxpayers.

Small:

the total (global group-wide) net turnover is less than €250 million over a period of five years; and the qualifying intangible assets generate less than €7.5 million in profits over a period of five years. For the small taxpayers, the R&D certificate would continue to be a stand-alone ticket to the Dutch Innovation Box.

Large:

Taxpayers who exceed the thresholds for Small companies are considered Large. Large taxpayers only have access to the Innovation

Box if, besides an R&D certificate, they also have an exclusive legal license (e.g. a legal patent, a permit from an EU Member State, a registered utility model to protect innovation or software).

ALLOCATIONS OF INCOME

Originally, there were no restrictions to the amount of profits that can be allocated to the Innovation Box. Based on new rules, however, a taxpayer should be able to substantiate that the profit is related to the qualifying intangible assets (the so-called ‘Modified Nexus’ Approach).

This approach aims to divide R&D costs incurred in-house and the outsourced part of a taxpayer’s R&D-activities to a group company. This implies that the more R&D activities are outsourced to related parties, the less profits can be allocated to the intangible resulting from such R&D activities.

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OECD POLICY NOTE – ADDRESSING THE TAX CHALLENGES OF THE DIGITALISATION OF THE ECONOMY

The release of this OECD Policy Note on 23 January 2019 “Addressing the Tax Challenges of the Digitalisation of the Economy” builds on an Interim Report dating from March 2018 called “Tax Challenges Arising from Digitalisation”, which provided an in-depth analysis of value creation across new and changing business models in the context of digitalisation and the tax challenges they presented.

BACKGROUND

The challenges identified include the risks remaining after BEPS, for highly mobile income producing factors which can still be shifted into low-tax environments. Members of the framework did not converge on the conclusions to be drawn from this analysis, they committed to continue working together towards a final report in 2020 aimed at providing a consensus-based long-term solution, with an update later in 2019.

The framework will address two aspects of the BEPS project, namely:

- Pillar one - the broader challenges of the digitalised economy and the allocation of taxing rights,
- Pillar two – the remaining BEPS issues.

Most notably, the framework has undertaken the analysis of the above on a “without prejudice” basis.

PILLAR ONE

Pillar One looks at the present allocation of taxing rights including nexus or “country” issues. Multiple proposals have been submitted in this area, that would allocate more taxing rights to market or user jurisdictions in situations where the value is created by a business activity through participation in the user or market

jurisdiction that is not recognised in the framework for allocating profits.

The framework recognises that the implications of these proposals may reach into fundamental aspects of the current international tax architecture.

Some of the proposals would require reconsideration of the current transfer pricing rules as they relate to non-routine returns, and other proposals would entail modifications potentially going beyond non-routine returns.

The framework also goes beyond the limitations on taxing rights principally determined by reference to a physical presence, which is accepted as the present corner stone of the current rules and have identified three characteristics not linked to a physical location, notably;

- scale without mass;
- a heavy reliance on intangible assets; and
- the role of data and user participation.
- These characteristics of a highly digitalised businesses act together to create value by activities closely linked with a jurisdiction without needing to establish a physical presence.

The framework indicates that issues of profit attribution and nexus would need to be developed contemporaneously with each playing a key role in any solution ultimately adopted, noting that they may require changes to tax treaties. On nexus, the framework proposes to explore different concepts, including changes to the permanent establishment threshold, such as the concept of “significant economic presence” which was discussed in the Action 1 Report or the concept of “significant digital presence”, as well as special treaty rules.

In all cases, the proposals should lead to solutions that go beyond the arm’s length principle. However, any solution that seeks to address nexus must also address the closely related issue of profit allocation, or it is bound to fail.



PILLAR TWO

The second pillar will primarily look at an income rule and a tax on base eroding payments. Through these two key aspects the framework proposes to explore taxing rights that would strengthen the ability of jurisdictions to tax profits where the other jurisdiction, with taxing rights, applies a low effective rate of tax to those profits.

The proposal recognises the fact that countries remain free to set their own tax rates or not to have a corporate income tax system at all. Instead, the proposal considers that in the absence of multilateral action there is the risk of un-coordinated, unilateral action, seeking to attract and protect tax bases, with adverse consequences for all countries, large and small, developed and developing.

FOLLOW UP

A 32 page public consultation document has also been issued which seeks comments on several policy issues and technical aspects, setting out the “Revised Profit allocation and nexus rules” and the breakdown of the potential solutions along with in-depth analysis. While the second part of the note continues to set out proposals to address the continued risk of profit shifting to entities subject to no or very low taxation through the development of two interrelated rules: an income inclusion rule and a tax on base eroding payments.

Given the intention for the consultation to inform policy

makers, the consultation is open for three weeks and interested parties are invited to send their comments to the OECD no later than 1 March 2019.

SUMMARY

A dual approach recognises that the digitalisation of the economy is extensive, raises broader issues, and is most evident in, though not limited to, highly digitalised businesses. Questions raised of where tax should be paid, and if so in what amount, remain unanswered.

Further features of the digitalising economy magnify the BEPS risks and enable business models that shift profits to entities that escape taxation or are taxed at only very low rates.

Any proposed solution would require broad-based work that covers the overall allocation of taxing rights through revised profit allocation rules and revised nexus rules, as well as anti-BEPS rules.

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BELGIUM FINALLY INTRODUCES CORPORATE INCOME TAX CONSOLIDATION AS OF 2019

Belgium introduces tax consolidation as of 2019, based on a ‘Group Contribution’ system. Group companies in tax paying position will be able to make a group contribution to group companies in tax loss position, where the latter will be able to offset this group contribution against their current year tax loss.

BACKGROUND

On 22 December 2017, the Belgian parliament approved the Corporate Income Tax Reform Act, for which most of the measures took effect as of 2018 (the details of this tax reform are outlined in our Q1, 2018 issue).

The second step of the Belgian CIT reform includes measures which take effect as of 2019 and include CFC rules, the exit taxation, interest (30% EBITDA) limitation



BELGIUM

rule, the anti-hybrid rules, but also the introduction of tax consolidation, a small revolution in Belgian tax law.

Within Europe, various types of tax consolidation can be distinguished: Group contribution (Scandinavian countries) Group relief (United Kingdom, New Zealand and Singapore), Organschaft (Germany and Austria), Group Consolidation (fiscal unity in the Netherlands). Belgium was one of the few European countries that did not have any form of tax consolidation. The corporate tax base was determined separately for each Belgian group company.

The new Belgian regime is inspired by Scandinavian group contribution regimes. The conditions are however rather restrictive and rather complex.

90% MINIMUM DIRECT PARTICIPATION REQUIREMENT

A qualifying taxpayer is a Belgian company, or a foreign company established in the European Economic Area (EEA), i.e. the EU Member States and the three EEA

EFTA States Iceland, Liechtenstein, and Norway that:

- is the parent company, subsidiary or sister company of the Belgian taxpayer and whereby the capital is directly owned for at least 90%. In case of sister companies this implies that a parent company should own 90% of the capital of both the Belgian taxpayer and the qualifying taxpayer and;
- is affiliated to the Belgian taxpayer for an uninterrupted period of at least 5 years.

Companies which are indirectly affiliated are explicitly excluded from the Belgian regime due to the requirement of direct participation. The rule also excludes newly incorporated companies and no rollover provisions for intra-group transfer of shares.

The tax consolidation regime will also apply to “final” losses of foreign subsidiaries established in the EEA.

EXAMPLE

When all conditions are met, a profit-making company can transfer (part of) its 2019 taxable profits to a loss making company by means of a “group contribution agreement”.

Example: Company X has a tax loss of -500; company Y has a profit of 500.

Company Y will be able to transfer its profits of 500 to company X. In this event, company X will be taxed on a taxable result of $(-500+500 =) 0$, but at the same time will not be able to carry forward its tax losses of 500. Company Y will also not be liable to Belgian 2019 corporate income tax of 29,58%.

This example illustrates that the tax consolidation leads to an immediate cash flow advantage for the group.

The company receiving these profits can only offset its losses of the current year against the received group contribution. Historic losses incurred before 2019 are excluded.

MANDATORY TAX CONTRIBUTION AGREEMENT

Tax consolidation is achieved via a group contribution agreement that should be filed as annexe to the income tax return. A model agreement template will be issued by Royal Decree in due course.

The agreement relates to one and the same specific assessment year only.

The new regime is optional and flexible, as taxpayers are free to annually decide prior to the filing of the annual corporate income tax return whether or not to make group contributions and to determine the appropriate amount.

The Belgian tax consolidation regime is applicable as of the 2020 tax year for fiscal years starting on or after 1 January 2019. The Belgian rules appear to be in line with EU law.

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NEW INTEREST DEDUCTION LIMITATION RULES IMPLEMENTED

The implementation of the OECD's BEPS action plan into domestic EU legislation has been accelerated in France by the adoption of the EU anti-avoidance directive (ATAD) and the signature of the Multilateral Convention to Implement Tax Treaty Related measures to Prevent Base Erosion and Profit Shifting (multilateral instrument, or MLI).

In France, significant changes have been implemented by the French parliament, and surprised more than one notably with the implementation of the ATAD interest expense limitation as from 1 January 2019, even if initially France filed a request with the European Commission to defer the implementation of those rules until 2024.



FRANCE

The finance law for 2019 introduced rules relating to the interest expense deduction limitation and significantly revised the existing French rules by abrogating major rules already applicable i.e. notably (i) the existing thin capitalization rule; (ii) the “Carrez” rule which limited the deductibility of interest on debt related to the acquisition of shares when the investment was not managed and controlled by the acquiring French company or a related party established in an EU/EEA member state; and (iii) the general limitation of the deductibility of the net financial expenses to 75% of their amount.

The new rule implemented with effect from 1 January 2019 provides:

- net financial expenses will be deductible only up to the greater of 30% of the taxpayer's Tax EBITDA (i.e. taxable income subject to CIT, before offset of existing NOLs, less net financing expenses,

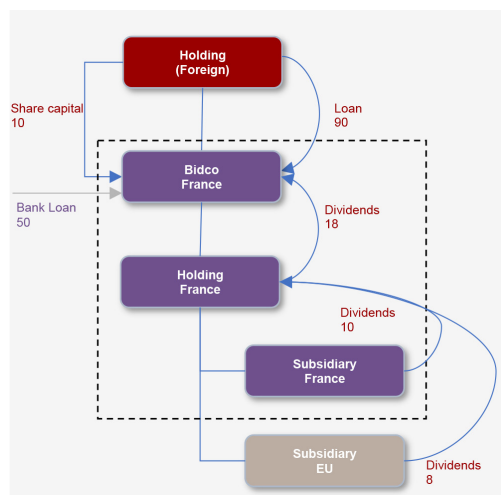
amortization allowed as a deduction, deductible provisions for depreciation and specific gains and losses taxable at a reduced CIT rate) or €3m;

- in the presence of a thin capitalized company (the new definition considering a company as thinly capitalized when the average amount of related party debts exceeds 1.5 times the company's net equity) the deductibility of net financial expenses will be capped to the greater of 10% of the taxpayer's Tax EBITDA or €1m. To be noted that a specific safeguard clause has been introduced for accounting consolidated groups: the thin capitalization limitation above should thus not apply when it can be demonstrated that the debt ratio of the accounting consolidated group is higher (or equal) to the taxpayer's own debt ratio;
- companies members of an accounting consolidated group (French GAAP or IFRS; note that US GAAP consolidation does not figure in the law – we expect a clarification in this respect in the Administrative Guidelines, not yet released) evidencing that their equity over assets ratio is higher or at least equal to the same ratio at accounting consolidation level, will be allowed to deduct additional 75% of the net financial expenses disallowed under the Tax EBITDA test;
- non-deductible interest can be carried forward for the full amount and without time limit. However, for the interest subject to the 10% Tax EBITDA limitation (i.e. interest paid to related parties when the taxpayer is thinly capitalized), only a third of the non-deductible amount can be carried forward without time limit;
- the unused deduction capacity of a FY can be used by the taxpayer during the next five years.

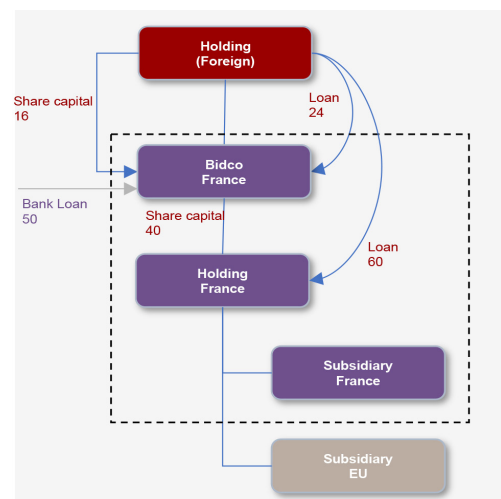
In the presence of standard financing structures at the level of French entities, and of course depending on the French entities Tax EBITDA, the new rules seem to be more favorable than the previous interest deduction limitation rules. If in the presence of the previous general limitation rule the non-deductible interest (i.e. 25% of the net financial expenses) were lost, under the new rule the non-deductible interest can be carried-forward with no time limit.

However, the abrogation of previous thin-capitalization tests will create for certain French group's structures new thin capitalization situations, notably:

- in the presence of high profitability groups which had a limited debt to equity ratio but were able to meet the 25% EBITDA ratio to avoid the qualification as thinly capitalized company.



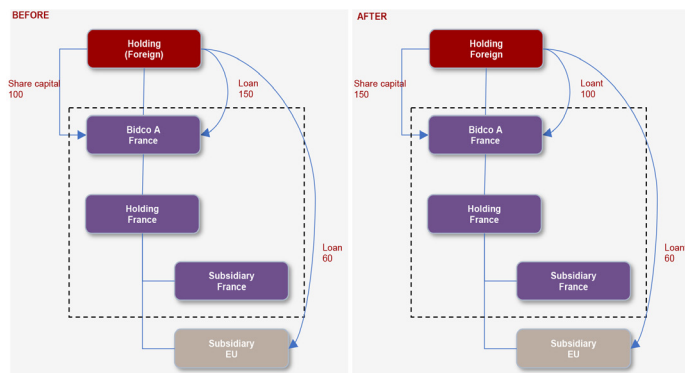
- in the presence of LBO's financing structures of French groups having double or triple holding companies would be highly impacted by the new rules, as the thin capitalization test will not be made anymore at the level of each French company (on a stand-alone approach), but at the level of the French tax consolidation itself. The new rule would impact the debt-push-down mechanisms used in the past.



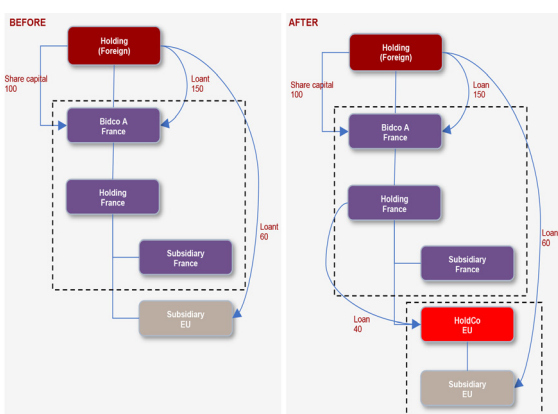
In the context of the new legislation, the existing financing structures of French groups should be scrutinized and analyzed to reduce the potential impact on the amount of non-deductible interest. It seems key to identify notably the new thin capitalization situations (cf. examples depicted above), as the interest paid to related parties disallowed at the level of thinly capitalized entities will be carried-forward for only one third (i.e. 2/3 of the non-deductible amount will be lost).

Few solutions could be contemplated to improve the interest expenses deductibility. These solutions should be analyzed on a case by case basis, at the level of French groups:

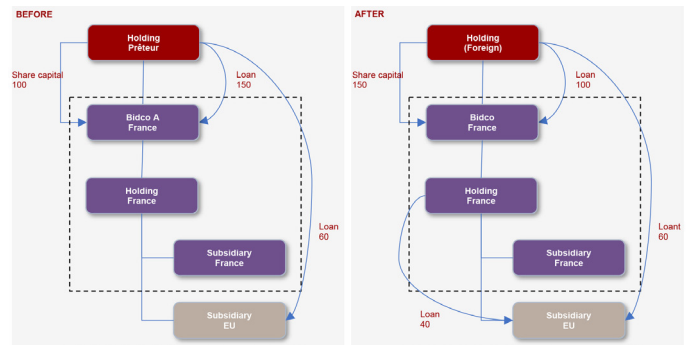
- capitalization of a portion of the existing loan. Such a capitalization would have a double benefit: (i) increase of the debt to equity ratio currently used to qualify a company as being thinly capitalized; and (ii) reduce the amount of the net financial expenses, subject to the Tax EBITDA test;



- internal reorganization, by implementation of a Holding company in countries where the group already acquired operational subsidiaries and transfer of the shares of that operational subsidiaries to the new Holding, in exchange for a debt, followed by an election for the tax consolidation regime between the new Holding and the operational subsidiary transferred. Such an internal reorganization would trigger: (i) a reduction of the net financial expenses at the level of the French group, as the French group will receive interest income from the new Holding company on the new debt created; and (ii) debt push down effects in other countries, resulting in a decrease of the corresponding taxable income;



- share capital reduction of subsidiaries having a high Tax EBITDA or dividend distributions financed with debt. Such operations would trigger (i) a reduction of the net financial expenses at the level of the French group; and (ii) debt push down effects in other countries, resulting in a decrease of the corresponding taxable income;



- improve the Tax EBITDA at the level of the French tax consolidated group, by managing the tax consolidation perimeter. Accordingly, the exclusion of entities having a low Tax EBITDA from the tax consolidation perimeter (i) could improve the Tax EBITDA of the tax consolidation; and (ii) would allow the excluded entity to benefit of the 3m€ threshold for the deductibility of its own interest expenses, on a stand-alone basis. Inversely, the inclusion of entities having a high Tax EBITDA in the tax consolidation perimeter could trigger a significant improvement of the tax consolidation's Tax EBITDA, allowing the deductibility of a higher amount of interest expenses at the level of the French tax consolidated group.

At this stage, there are still some uncertainties regarding the application of those rules e.g. the financial expenses definition is larger than before, and the application of the limitation to certain items still need to be clarified; the application of the extra-deduction to the groups consolidating their accounts under the US GAAP rules is not expressly mentioned in the law; no reference is made to the possibility to use the share capital instead of the own funds, when higher, to compute the thin cap ratio etc. The release of the Administrative Guidelines is expected to clarify these few elements. In any case, this new rule will impact the FY19 taxable result of the French companies. In order to avoid any adverse consequences, it is highly recommended to analyze as soon as possible the French companies' financing position.

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FISCAL AMENDMENTS FOR FY2019

2019 starts with a series of tax amendments in the Romanian legislative landscape. Set out below is a summary of the key legislative changes.

Amendments to the Fiscal Procedural Code

- New favourable provision has been introduced regarding the scheduling of outstanding liabilities.
- New provisions are introduced regarding the access of the Tax Administration to the necessary information and documents required in order to combat money laundering and terrorist financing;
- Classification of taxpayers into risk categories (classification system has been introduced for taxpayers in accordance with the following main classes of risks which will be determined for each taxpayer by the fiscal authorities: low, medium and high risk).

Special taxes, obligations and provisions

- Banking institutions will owe a tax on their financial assets, computed and payable at the quarter-end, if the ROBOR quarterly average exceeds the 2% benchmark. The tax due is between 0.1% and 0.5%. The tax expense is deductible for corporate income tax purposes; However, this envisaged provision is subject to further amendments and debate;
- Holders of licenses issued by the National Regulatory Authority for Energy will have to pay a contribution of 2% of the turnover of the previous year. During the period 1 April 2019 to 28 February 2022, the sale price of natural gas from the current domestic production will be set at RON 68/MWh; However, this envisaged provision is subject to further amendments and debate.
- With effect from 1 January 2019, online gambling organizers are required to pay a monthly tax of 2% of the total monthly participation fees collected;
- From 29 December 2018, the contribution related to the excessive consumption of tobacco products and alcoholic beverages under the Health Reform Law

95/2006 is eliminated;

- As of 29 December 2018, the legislation regarding the regime of the daily workers is amended. The fields of activity where the daily workers can be used are restricted and the number of days in which the activity can be performed is limited to a certain number of days.

New provisions have been introduced regarding the contribution mechanism to pension funds private administrated. The contributors may ask the transfer of the funds to the pension public system only after 5 years. Further, the minimum social capital with regards to the operation of private pension fund has been increased, i.e. from €4 million to a percentage of participants' contributions. In this regard, the concerned percentage increases progressively up to a maximum of 10% of the value of the contributions. In terms of deadline pertaining to 2018, pension funds must prove that they meet these minimum requirements for the social capital by 30 June and 31 December 2019.

Corporate taxes and other direct taxes

Deductibility of financing costs starting 1st of January 2019

The annual fixed deductibility threshold applicable to the exceeding financing costs has been increased from the equivalent in RON of €200,000 to €1 million.

The difference between the exceeding financing costs and the annual fixed threshold, will additionally be deductible up to the amount of 30% from the calculation basis (i.e. the accounting profit adjusted with the indicators mentioned in the Fiscal Code), up from a value of 10% applicable until the 31 December 2018.

For taxpayers that carried forward exceeding financing costs and that would cease their existence through a merger/spin-off, the respective costs carried forward are transferred to the newly incorporated company(es) or to the entities that will take over the patrimony of the company to cease its existence, proportionally with the assets transferred.



Controlled foreign companies

The exemption from the consolidation of the income registered by controlled foreign companies and the taxation of the income thereof at the level of the Romanian related party will be applicable only if the controlled foreign company meets cumulatively the following conditions:

- The controlled foreign company has its fiscal residence in a Member State of the EU, or in third party member of the Economic European Area;
- The controlled foreign company carries out significant economic activities, supported by employees, equipment, assets and locations, as demonstrated by the relevant facts and circumstances.

Value added tax

The general rate is 19%. Reduced rates are 9% (e.g. medicines, bread, flour, food etc.) and 5% (e.g. for journals, books, medicines, applied to residential sales under certain conditions).

With effect from 1 November 2018, all taxpayers are obliged to change their cash registers to fiscal electronic cash registers.

- The application of the reverse charge mechanism between VAT payers for certain supply of goods/ services is extended until 30 June 2022;
- Clarifications are provided related to the status of the taxable persons from a VAT perspective for intercommunity development associations
- Application of the 5% reduced VAT rate

With effect from 1 November 2018, the reduced 5% VAT rate has been extended to accommodation services, restaurant and catering services (exception of alcoholic beverages other than beer), admission to amusement and recreational parks and the right to use sporting facilities.

Adjustment to the taxable base

The adjustment of the taxable base and of the related VAT collected will be done, in case of bankruptcy of the counterparty with which the transaction has been performed, starting with the date of the court decision establishing the bankruptcy procedure or, if the case, the date of the bankruptcy.

If the bankruptcy process occurred prior to 1 January 2019 and no final court decision has been made, the adjustment will be made within 5 years from 1 January 2019.

Reduced VAT rate for supply of residential properties to private individuals

For the supply of residential properties with a maximum useful surface of 120 sqm and with a value of maximum RON 450,000 (excluding VAT) will be applicable the reduced rate of 5%, notwithstanding the number of acquisitions of this type performed by the same private individual.

Reduced VAT rate for certain types of transportation

The reduced rate of 5% is applicable for the following types of transportation:

- Transportation of passengers by trains or historical vehicles powered by steam traction for touristic or leisure purposes;
- Transportation of passengers via cable transportation installation (e.g. cable car, gondola lift, ski lift) for touristic or leisure purposes;
- Transportation of passengers by means of animal traction vehicles used for touristic and leisure purposes;
- Transportation of passengers by boats used for touristic or leisure purposes.



Personal income tax

Crypto-currencies have been explicitly included in the taxable category of income from other sources

Revenues obtained from the transfer of crypto-currencies have been explicitly included in the taxable category of income from other sources. This type of income must be declared through the annual personal income tax return.

This type of income is taxable at the standard personal income tax of 10% on the net income. Additionally, social security and health insurance contributions are applicable, if the revenue amount exceeds the threshold of 12 minimum wages per year.

The gain from the transfer of crypto-currencies representing the net taxable income is determined as the positive difference between the resale price and acquisition price (including direct cost of the transactions).

However, if the gain is below the amount of RON 200 per transaction, the income is tax exempt, with the condition that the total gain during a year does not exceed the RON 600.

Increase of the minimum gross wage

With effect from 1 January 2019, the minimum monthly gross wage guaranteed in payment, without including bonuses or other additions, will increase to RON 2,080 for a normal working schedule. For the employees assigned in positions for which high education studies are required and having at least one year of seniority in the higher education area, the minimum monthly gross wage will be of RON 2,350. Otherwise, the SSC is optional for the taxpayer. The Health Fund Contribution is capped at the level of the minimum salary per country.

All the other rights and obligations established under law will be determined by using the level of RON 2,080 of the minimum gross wage (e.g. medical allowance computation) commencing from 1 January 2019.

Tax exemption with regards to the salary income of individuals in the field of constructions

The minimum monthly gross wage for the period 1 January 2019 to 31 December 2019 in the construction sector is of RON 3,000 per month (without including other bonuses and additional payments). For the period of 1 January to 31 December 2028, the following tax exemptions are granted for the salary income realized by individuals in the field of constructions:

- Payment of income tax for the salary revenue is fully exempted;
- Social security contribution is reduced to 21.25%, from 25%;
- Payment of health contribution if fully exempted;
- Work insurance contribution is reduced to 0.337%.

In order to apply the exemptions, the following conditions should be cumulatively met:

- The employers must carry out activities in the construction sector – i.e. have certain NACE codes, as specifically detailed in the Ordinance;
- 80% of the annual turnover is achieved from the construction activities – in accordance with the object of activity mentioned in the Ordinance;
- The monthly gross salary income realised by the employees exempted is between RON 3,000 – RON 30,000.

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ASIA



MAZARS



PRC INDIVIDUAL INCOME TAX IMPLEMENTATION RULES AND RELATED CIRCULARS FINALIZED

Over the past number of months, the Chinese tax authority has issued various circulars detailing the new rules and regulations on the individual income tax (“IIT”). The final Implementation Rules (the “Implementation Rules”) and the circulars are to implement the new IIT law passed by the Peoples’ Congress in August 2018.

- 13 December 2018 - the State Council released the “Provisional Rules on the Specific Itemized Deduction for IIT purpose” (Guofa (2018) No. 41) (“Circular 41”)
- 18 December 2018 - the State Council finalized and announced the Implementation Rules which would take effect on January 1, 2019.
- 21 December 2018 - the SAT issued Public Notice (2018) No. 60 (“PN 60”) laying out the temporary

measures dealing with the claiming of itemized deductions.

- 27 December 2018 - the Ministry of Finance and SAT jointly released the circular Caishui [2018] No. 164 to specify the new tax preferential policies.

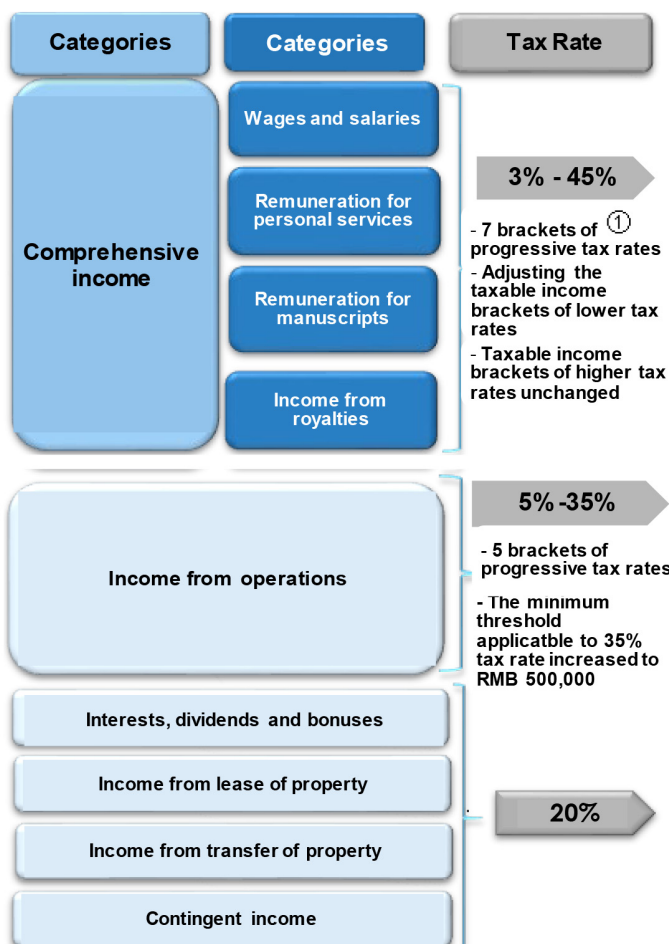
We summarize below the main changes and implications for individuals.

HIGHLIGHTS OF MAJOR CHANGES IN IIT

New taxable income categories

The new IIT law has consolidated certain taxable income categories, namely income from salaries and wages, income derived from remuneration for personal services, income derived from remuneration for manuscript and income from royalties into a category called “Comprehensive income”.

The following table shows the details of the new tax rates at ① on the comprehensive income. The monthly rate is only for reference.



New IIT rates		
	Annual Taxable Income	Tax Rate
1	Not exceeding 36,000	3%
2	Exceeding 36,000 to 144,000	10%
3	Exceeding 144,000 to 300,000	20%
4	Exceeding 300,000 to 420,000	25%
5	Exceeding 420,000 to 660,000	30%
6	Exceeding 660,000 to 960,000	35%
7	Exceeding 960,000	45%

	Monthly Taxable Income	Tax Rate
1	Not exceeding 3,000	3%
2	Exceeding 3,000 to 12,000	10%
3	Exceeding 12,000 to 25,000	20%
4	Exceeding 25,000 to 35,000	25%
5	Exceeding 35,000 to 55,000	30%
6	Exceeding 55,000 to 80,000	35%
7	Exceeding 80,000	45%

The basis of the taxable income is based on the net salary after deduction of individual social contributions, additional itemized deduction (see below) and CNY 5000 on monthly basis.

Based on the new rules, resident individual taxpayers who receive salaries and wages, will have IIT withheld on an accumulated monthly basis. If it is found that the employee overpays IIT, they may seek a refund at the end of the tax year.

Additional itemized deduction

One of the highlights of the IIT amendments is the addition of six itemized specific deductions. We have summarised these in the below table.

Deduction category	Annual	Monthly	Criteria
Child education (per child)	12,000 *	1,000	Eligible for parents with child (from 3 years old to higher education)
Continued education	4,800* (1)	400	Academic education
	3,600	N/A	Vocational education
Serious illness	Incurred amount between 15,000 and 80,000 (2)	N/A	Expenses borne by taxpayer with substantiation. Expense can be claimed for taxpayers themselves, their spouses and their non-adult children.
Rental cost	18,000	1,500	Municipalities directly under the Central Government, capital cities or other cities listed separately
	13,200	1,100	Cities with population above 1 million
	9,600	800	Cities with population below 1 million
Mortgage interest	12,000 * (3)	1000	For self-owned first property only and under commercial mortgage or housing fund
Elderly support	24,000	2000	To be divided by the supporting children

Maximum amount in a tax year

(1) The academic education has to be in China. The program cannot be longer than 48 months and if it is for under graduate education, the deduction can be claimed by the parents.

(2) The deduction can be claimed by the taxpayer for himself, his spouse, or his non-adult child.

(3) The maximum deduction period is 240 months.

EXPATRIATES' TAX PREFERENTIAL POLICY AMENDED

End of the preferential tax calculation on the so called “bonus or 13th month” from 1 January 2022

IIT on bonus payment, prior to the amendment of IIT law, is calculated out of the normal monthly salary and thus the individual can benefit a preferential tax calculation method. This rule will be maintained until 31 December 2021. Starting from 1 January 2022, the bonus will be integrated into the IIT calculation on the annual salary.

Change of tax calculation on the stock option derived from listed companies

From 1 January 2019 until 31 December 2021, the IIT on stock option will be calculated separately. The full amount applying the 7 brackets of progressive rate for comprehensive income. The policy with effect from 1 January 2022 is not yet clarified.

Expatriates' tax preferential policy

Six-year rule

Under the new IIT laws, an individual who would normally be considered as a non-resident of China due to absence of residential ties, could be deemed to be a Chinese tax resident in a particular year if he has spent 183 days or more in China during the relevant tax year. The individual would then be subject to IIT on his worldwide income in that tax year.















Under the Implementation Rules, for individuals who do not have residential ties in China but are deemed to be a Chinese tax resident under the 183 days presence test, they will not be subject to IIT on their worldwide income, as long as these “deemed tax residency” years would not be continuous and exceed 6 years, and during the 6 year

period, the individual has been outside China for a single period of more than 30 days. In order to obtain the tax exemption on non-China source income, the individual needs to file with the relevant tax authority. The 6-year period would start from any one year during which the individual has been outside China for a single period of more than 30 days. For example, if the individual has not been outside China for a single period of more than 30 days until the 6th consecutive year, not only should the individual be subject to the 6-year rule exemption for the preceding five years, but also for the subsequent five years.

It is an extension of one year from the previous 5-years exemption in the exposure draft of Implementation Rules issued in October 2018. The measure is to encourage expatriates to work in China.

The Implementation Rules also defines “ordinarily resident” as an individual having Chinese domicile, family ties in China and economic ties in China and because of these ties, has been habitually living in China.

In addition, the Implementation Rules also state that for an individual without residential ties in China in a particular tax year, if the individuals stays in China are in aggregate for 90 days or less, their employment income is paid by an overseas employer and the compensation would not be charged back to a Chinese entity or a permanent establishment of the foreign employer, the compensation should not be subject to China IIT.

Pay  Exempt 	Income derived from China		Income derived out of CHINA	
	Income borne by China entity	Income borne by Overseas entity	Income borne by China entity	Income borne by overseas entity
Less than 90 days/183 days				
More than 183 days for each year in less than 6 years in a row or 6 years or more in a row with a single trip of more than 30 days outside China				
More than 183 days for each year in 6 years or more without a single trip of more than 30 days outside China				

Obligation to declare the tax status

Based on the above status, expatriates through their bank or through the tax payer agent, must declare his/her individual tax status to the authorities in January 2019 in order to take into account in the IIT system from the tax bureau for the computation of the IIT.

End of tax-deductible items for expatriates:

The regulations provide that from 1 January until December 2021, expatriates can still enjoy these additional tax deductibles items listed below or choose to the specific itemized deductions, but not both.

- Housing rental
- Child education
- Language learning
- Home Travelling
- Meal & Laundry
- Relocation

Commencing with effect from 1 January 2022, the above items are no longer deductible. Expatriates should follow the specific deduction rules which are applicable to mainland Chinese taxpayers.

Anti-avoidance rules

The new IIT laws introduce anti-avoidance rules on individuals which empowers the tax bureaus to make tax adjustments to combat tax avoidance under the following circumstances:

- Transfer Pricing - transactions between the individual taxpayer and related parties are not independent and not at arm's length; and
- Profits are not allocated properly between the individual taxpayer and a related off-shore corporation which is set up in a low tax jurisdiction without reasonable and commercial needs, and the corporation is controlled by resident individuals or jointly controlled by resident enterprises;
- Inappropriate tax benefits derived through arrangements without reasonable commercial reason.

Under the draft Implementation Rules, the definitions for independent arm's length principles, related parties, commercial reasons, control, and low tax are predominately consistent with the anti-avoidance rules for corporations. With respect to related parties' transactions, it added to the definition of related parties to include husband and wife, immediate family, brothers and sisters, and anyone maintained or supported by the individual.

Under the final Implementation Rules, the above detailed explanations were removed. Nevertheless, it should be pointed out that the anti-avoidance rules applicable to individuals are now part of the legislation. It is expected that future circulars would be issued in this regard.



TAX AUTHORITY MOBILE APPLICATION

The tax authorities have launched the mobile app to collect taxpayers' information. If you are under conditions of the additional itemized deduction, you can declare your authentic information through the website and app, and update any change of your information in time.

The collection of the information can either be done through the application or by the company HR department.

MAZARS' VIEWS

The new IIT laws and the Implication Rules also enforce the use of anti-avoidance rules related to individuals, even though there had already been few cases previously whereby the Indirect Transfer rule, one of anti-avoidance measures, were imposed on individuals.

In conjunction with the information collected through enhanced information sharing between departments and the automatic exchange of financial assets information under the Common Reporting Standard (CRS), it is becoming very clear that there would be tighter rules and greater enforcement of tax obligation in China. Take for example, the recent high-profile case of the famous Chinese actress evading tax through the use of two contracts (so-called "yin-yang" contracts) is an indication of the tax authority's determination to enforce compliance. The Implementation Rules, Circular 41 and PN 60 provide helpful guidance to the application of the new IIT laws. Taxpayers should review their tax arrangements and ensure they understand their compliance obligations. Businesses should also consider the implications of the new rules and the withholding requirements, and devise **policies that would fit for the purpose of maintaining talents.**

HOW MAZARS CAN HELP YOU?

- Providing a dedicated payroll system tool for your HR department to help to collect the information and manage payroll, if you required.
- Assessing your company and yourself the possible implications of those changes from short term and long-term perspectives.
- Assisting your company and yourself in the compliance obligations arising from those changes.

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NEW TAX MEASURES PROPOSED IN COUNTRY-BY-COUNTRY REPORTING

The Inland Revenue (Amendment) (No. 6) Ordinance 2018 (the “Amendment Ordinance”) was passed into law in July 2018. This introduces a statutory transfer pricing regime and implements various minimum standards under the Organisation for Economic Co-operation and Development (OECD)’s Base Erosion and Profit Shifting (“BEPS”) Action Plans. The Amendment Ordinance adopts the three-tier documentation structure, comprising a Master File, Local File and Country-by-Country Reporting (“CbCR”) recommended in the OECD BEPS Action Plan 131

CBCR

The new law applies to the Hong Kong ultimate parent company of a multinational enterprise (“MNE”) group with prior year annual consolidated group revenues of HK\$ 6.8 billion or more (approximately €750 million), or a Hong Kong entity which is nominated as a surrogate filing entity. These entities will be required to file a CbCR in Hong Kong, unless the surrogate parent entity-filing-elsewhere exception applies.

A CbCR has to be prepared for accounting periods beginning on or after 1 January 2018, with the primary obligation to file falling on the Hong Kong ultimate parent company or the nominated surrogate filing entity. Generally speaking, the deadline for filing a CbCR is within 12 months after the end of the accounting period

to which the report relates. Where surrogate parent filing applies and a later deadline for filing CbCR is prescribed in the laws or regulations of the tax resident of the surrogate parent entity, the later deadline will be taken as the filing deadline for the CbCR concerned.

COUNTRY-BY-COUNTRY (“CBC”) NOTIFICATION

Even if a Hong Kong taxpayer does not have to prepare a CbCR because it is not an ultimate parent company or surrogate parent company of a MNE group, it may still need to file a CbC Notification. Hong Kong taxpayers that are part of a MNE group which has to file a CbCR overseas, will have an obligation to file a CbC Notification within three months after the end of the accounting period to which the ultimate parent company’s CbCR relates. This is to enable the Inland Revenue Department (“IRD”) to obtain the CbCR directly from the other tax authority through the automatic exchange of information mechanism for the exchange of CbCR .

As such, for accounting periods of the ultimate parent or surrogate parent beginning on or after 1 January 2018 and ending on 31 December 2018, the Hong Kong entity of a MNE group has to file the CbC Notification by 31 March 2019. Only one Hong Kong entity of a MNE group which has more than one Hong Kong entity has to comply with the requirement.

PENALTIES FOR NON-COMPLIANCE

Penalties will apply for non-submission of CbCR, including a HK\$ 50,000 to HK\$ 100,000 penalty plus a daily rate of HK\$ 500.

ACTION

Mazars can assist the designated Hong Kong entity of your group to prepare a CbC Notification and prepare a CbCR for the group. Please contact our team for details of the compliance requirements.

For assistance or additional information with respect to this tax news, please feel free to contact us.



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SOUTH AMERICA

 MAZARS



TRANSFER PRICING RULES IN ARGENTINA

INTRODUCTION

Following the modifications introduced by the 2017 tax reform, the Government published in December 2018 the regulatory decree introducing new requirements for the taxpayers in connection with the Action 13.

The new regulations require the following:

COUNTRY-BY-COUNTRY REPORTING

- Applies to MNEs with annual consolidated group revenue equal to or exceeding €750 million in the previous year. Regulations extend to subsidiary entities
- Applies for fiscal years beginning on or after 1 January 2017.
- Must be filed by the last business day of the twelfth month after the parent's fiscal year end.
- The report must be submitted in the local language and in electronic format .txt., which differs from the OECD XML schema.
- Argentinean entities are allowed to act as a surrogate.
- Notification must be submitted by the last business day of the third month after fiscal year end. The data needs to be uploaded through a website of the Argentine Tax Administration. In addition, a second notification is due by the last business day of the second month after the CbC deadline to inform if the CbC report was filed in the jurisdiction of the parent. Penalties for failure to notify range from ARS 80,000 to 200,000.

- Failure to file the report will result in penalties ranging from ARS 600,000 to 900,000. Other penalties include (i) categorization as high risk of being audited, (ii) suspension/exclusion in special tax regimes, and (iii) suspension in the applications to obtain non withholding certificates.

MASTER FILE

- MF requirement has been introduced for fiscal year commencing 1 January 2018 onwards.
- MF won't be applicable when the local taxpayer's transactions with related parties abroad and/or third parties located in non-cooperative jurisdictions/tax havens invoiced during the fiscal year do not exceed the total amount of ARS 3,000,000 (as a whole) or ARS 300,000 individually.
- As a general rule, documents filed with the local Tax Authorities must be written in Spanish or submitted along with a public (official) translation into Spanish.
- General automatic fines for not filing on time and general fines for not complying with formal requirements would apply.
- Further instructions from the local Tax Authorities in terms of format and/or contents are still expected.

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TAX STRUCTURING OF BUSINESS COMBINATIONS IN BRAZIL

The tax treatment of goodwill and the fair value, say the overprice paid for tangible and intangible assets, is harmonized with Brazilian accounting rules derived from the IFRS. The allocation of the fair value (overprice or underprice) is established in the mandatory Purchase Price Allocation appraisal, which must be prepared by an independent expert.

Tangible and intangible assets are amortizable provided that the appraisal supports their economic utilization. The residual difference not subject to allocation is the so-called goodwill based on future profitability subject to tax amortization at the rate of 1/60, maximum, each month. The legal condition for the amortization for tax deduction established in the tax legislation is a corporate reorganization between buyer and target. The PPA must be filed with the Federal Revenue Agency. Alternatively, a summary of the appraisal can be registered with the Notary Public Office for Titles and Documents. The filing is subject to a specific timeline and procedure. The stock purchase agreement will define the date of the acquisition

for legal purposes. The taxpayer will treat the overprice of assets as part of the cost of the assets or rights that originated the existing balance in the accounts on the date of acquisition of the interest participation. This will allow the calculation of the asset's depreciation or amortization.

Acquisition options range from direct acquisitions (where a non-resident entity acquires the interest participation in the Brazilian Target) to indirect acquisitions (through holding or operational companies or a combination of both). The main difference between the options regards the possibility of tax deduction and amortization in Brazil available for domestic acquisitions meaning that non-residents would have to push the deal down to Brazil to benefit from the tax regulations.

This alternative is convenient as the "goodwill tax regime" may apply if requirements are observed.

The caveat is that the Federal Revenue scrutinizes structures where buyer is a nutshell created as a vehicle of acquisition for the non-resident to obtain tax benefits in Brazil. Tax authorities challenge deals that lack economic substance and business purpose. Cases where nutshells are used for an acquisition followed by corporate reorgs to trigger tax benefits are considered high-risk. The tax authorities support the characterization of artificial structures based on the following doctrines: (i) substance over form, (ii) abuse of law/form, (iii) sham transactions, and (iv) economic substance and business purpose. These concepts call for the form of a transaction to be disregarded where legal acts involving the purchase of target and the subsequent merger to trigger tax amortization of goodwill are used in bad faith for achieving tax deductions and avoiding taxes. They argue the structure consists of a sham transaction under Brazilian law and the legal steps a simulation of what was intended. Tax courts focus on the economic aspects of the structuring deals.

In view of this, previous analysis of the structuring deal based on the Brazilian rules is crucial. Recommendations vary: preparation of formal signed and dated business plans and minutes of meetings approving the economics aspects of future deals, formalization of business objectives and strategy for the acquisition vehicle and target and of economic drivers for the overall structuring – if the tax driver happens to be present this is to be taken into account in view of the importance and economic impact, yet support should show that tax is not the primary motivation. Investors have to previously evaluate the need of support for the choice of the surviving entity upon a future corporate reorg between acquisition vehicle and target as corporate reorgs trigger Brazilian tax benefits. Tax courts validate evidences that indicate how reorgs come to facilitate the administrative and operational management of operations, lead to more resources and know-how, ease access to markets, supply chain consolidation etc. All this may be summarized as economic synergy.



BUSINESS MODELS FOR SOFTWARE COMPANIES

Brazil is one of the world's largest markets for the software and high value services industries. Clickwrap software, cloud-technology, even the less common shrink-wrap, all of them comprise a billionaire market. Non-residents investors adopt different strategy when engaging in businesses with Brazil, yet the main concern is the complex federal, state and city combined cross-border and domestic taxation. The adoption of indirect taxation, above all, allows Brazilian tax authorities to be less concerned about the typical global business models of this type of industry and results in heavy taxation for the government. Brazil works with no google tax or similar formula to prevent evasion. Although all this seems to attend the needs of the governments, the potential conflict of jurisdictions among authorities may result in tax disputes, assessments, inefficiencies for the market and higher costs. Compliance and prevention are key.

Non-resident companies may engage in businesses in Brazil by either acquiring existing entities, setting up subsidiaries or licensing fees (or entering into service agreements) with local clients without establishing a presence in the country. If the plan is to be present, the main investment vehicle is the limited liability company (LLC).

The decision for a presence in Brazil is often related to the commercial impact on the relationship with local clients. The business model is based on cost-plus arrangements. The Brazilian subsidiary receives an arm's length commission fee for marketing & sales (pre-sales and post-sales) support. Non-residents license their products to local clients who pay royalty fees subject to cross-border taxation - alternatively, cross-border fees may be channelled through local subsidiaries that play the role of collecting agents and this will bring other tax discussions. Technical support is also a key aspect. Different levels of support provided by the resident and non-resident entities are common and may be a source of local revenues for the Brazilian subsidiary.

Another model is based on license and sub-license agreements. Local subsidiaries are licensees of non-resident parents and sublicense the software to local clients. Subsidiaries typically have marketing & sales activities revenues combined domestic license fees. The "resale" through the sublicense arrangement attracts additional domestic direct and indirect taxation.

Non-resident software companies may also enter into commercial arrangements with exclusive or non-exclusive local distributors. Distributors may charge the non-resident all its tax and non-tax costs if they pay corporate income taxes based on gross revenues rather than net income plus tax adjustments, a more common international approach. In that case, distributors may want to transfer the indirect, direct taxes and payroll costs. Contractual negotiation should address that as experience shows this cost comes as a surprise, hence leading to a certain level of controversy between the partners. Under these arrangements, distributors sublicense software and/or provide services to local clients. Exclusivity requires transfer pricing analysis in Brazil as if the distributor were a subsidiary.

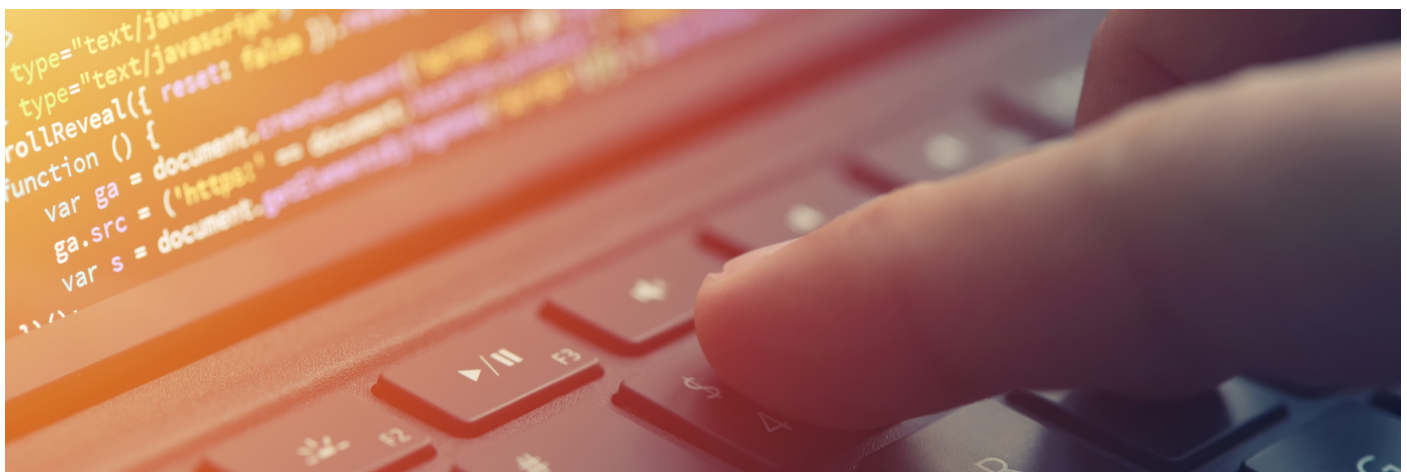
The different models raise different tax consequences. Payments due for them may be treated as royalties, service fees, eventually as intangible goods. The tax treatment of SaaS, IaaS and PaaS is also quite relevant in light of the present discussion – e.g., contractual arrangements, tax impact, permanent establishment questions. Each platform has specifics that may trigger different taxation, even if combined with non-cloudy technology. Global contracts often require local adjustments and appropriate tax language that take into account the specifics of the Brazilian regulations is crucial.

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 **HERE TO HELP**

 MAZARS

HERE TO HELP YOU!

International firms with a competitive advantage have real time access to insightful foreign tax knowledge. The right advisor helps to identify opportunities and to manage risk profiles. Given the far-reaching effects of the OECD BEPS project, awareness of legislative and regulatory changes has never been more important.

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