Corporate Tax Alliance

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Argentine hound dogs smell the rabbit across the border

by Daniel Rybnik & Axel Verstraeten

A widely extended urban legend in Argentina is that residents hold billions of dollars in financial accounts and real estate undeclared abroad. The government is both looking for ways to control the capital flight by means of tracking and restricting foreign exchange purchases and to uncover the veil of ignorance on foreign assets by way of international cooperation.

Argentina was the first South American country to sign the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters ("the Convention"), which enable the tax authorities of signatory states to exchange information for tax purposes irrespective of whether a double tax treaty or tax information exchange agreement is in force between them.

For Argentina, the Convention will enter into force on 1 January 2013 but will become effective for fiscal years starting as from 1 January 2014.

The Convention may apply to a broad range of taxes, including all compulsory payments to the general government except for customs duties, and goes beyond exchange of information on demand. For example: automatic exchange of information may be agreed upon between competent authorities.

Under the Convention, bank secrecy and a domestic tax interest requirement do not prevent a country from exchanging information. Also, under certain conditions, the information obtained can be given to law enforcement authorities to counteract corruption, money laundering and terrorism financing.

The Argentine Internal Revenue Service (AFIP) will be able to request administrative assistance only to those jurisdictions where the Convention is in force, which include Australia, Denmark, Finland, France, Georgia, Iceland, India, Italy, Mexico, Moldavia, Norway, Poland, Slovenia, South Korea, Spain, Sweden and United Kingdom.

Other countries that have signed the Convention but yet not ratified, accepted, approved it or made the deposit of the instrument of ratification, include: Azerbaijan, Belgium, Brazil, Canada, Colombia, Costa Rica, Czech Republic, Germany, Ghana, Greece, Indonesia, Ireland, Japan, Malta, Netherlands, Portugal, New Zealand, Romania, Russia, South Africa, Tunisia, Turkey, Ukraine and United States.

The Convention signed on 25 January 1988 was originally limited to either OECD or Council of Europe member countries. On 27 May 2010 a Protocol amending the Convention made it available to any state.

Argentina has also entered into Tax Cooperation and Mutual Assistance Agreements with Andorra, Bahamas, Bermuda, Brazil, Cayman Islands, Chile, China, Costa Rica, Ecuador, Spain, Guernsey, India, Italy, Jersey, Monaco, Peru, San Marino and Uruguay.

Besides, Argentina is a party to several double tax treaties that contain "exchange of information" provisions, including Australia, Belgium, Bolivia, Brazil, Canada, Denmark, Finland, France, Germany, Italy, Netherlands, Norway, Russia, Sweden and United Kingdom.

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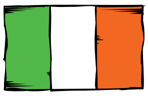
Budget 2013 implications for registering an Irish company in 2013 *by Brendan Sherry*



As expected, the main *corporate tax rate of 12.5% is being retained* and the Irish Government have once again reaffirmed their absolute commitment to same.

The main points for Directors of limited companies and those considering an Irish company setup are as follows:

Corporation tax exemption for start-ups
The 3 year tax relief for a start-up company is being reformed to allow any unused credits be carried forward beyond the first 3 years of trading. This is subject to the maximum amount of relief in any one year not exceeding the eligible amount of employers' PRSI in that year.

Research & Development (R&D) Tax Credit
The first €200,000 of qualifying expenditure will now benefit from the 25% R&D tax credit on a volume basis, with no requirement to refer to the 2003 base year spend. This is an increase of €100,000. For R&D expenditure in excess of €200,000 the relief continues to be based on incremental costs in excess of the 2003 spend. A full review of the R&D Tax Credit regime will be carried out in 2013.

Aviation sector
An accelerated capital allowances scheme, over seven years, will be introduced for aviation specific facilities. This will be in place for a five year period and will serve to further bolster Ireland's status as a leading player in the aviation sector.

FATCA Agreement with US
Ireland has reached agreement with the US in respect of compliance with FATCA, (Foreign Account Tax Compliance Act) which broadly seeks to facilitate the reporting of Irish accounts held by US persons, and the reciprocal exchange of information regarding US financial accounts held by Irish residents. This will be of particular interest to the financial services community.

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The main reasons to make the tax department in Libya refuse the declared result of the company *by Tariq Almontaser*

The Libyan Tax Revenue may refuse the taxable profit reported by a company and replace it with an amount that the tax inspector considers appropriate. The tax auditor will take this decision when the company has not kept regular records or there is any substantial defect, which leads to the belief that these records have not been kept on regular basis regardless the company's declared activity result (Net profit or Net Loss).

From our experience, we can provide guidance what defects in the accounting system potentially result in a refusal of the financial statement.

1. Lack of a documentary cycle concerning the payments and receipt of cash in other words the company does not have (authorizations for payments) with its logo, and controllably numbered.

2. There is a documentary cycle of cash payments and receipts, but there is no compliance with these cycles as if the authorization for payments is in chronological order, or there was abrasion of some information on financial records.

3. Lack of the proper set of the financial books, and records, such as general journal, subsidiary ledger of cash (payment and receipts) and inventory ledger.

4. If the tax auditors have any doubts about the foreign invoices of purchasing the imported materials (especially for company engaged in importing goods and materials into Libya), and those invoices are not endorsed by Libyan embassy in the country of company's head office or in the origin country of the imported material.

5. The company has the proper set of records or books. However, the tax auditor discovers that these records were not kept properly as if the financial transactions are not made on daily basis, there was an abrasion of financial information or failure to keep properly cash subsidiary ledger. In this case article 4 states that if the company refuses to submit the tax declaration (as mentioned in article 2) or the department refused the submitted declaration, the tax department may estimate the income on any basis that the department chooses.

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Tax Planning Opportunities in Cyprus *by Aspen Trust Group*

Since its accession to the European Union on the 1st May 2004, Cyprus has implemented a series of important changes to its fiscal regime to harmonise its tax legislation with the EU Directives and the EU Code of Conduct of Business. The resulting fiscal regime offers a range of very attractive tax advantages for structuring business through Cyprus, including the lowest corporate tax rate in the European Union.

The fiscal regime of Cyprus offers the following benefits:

- Introduction of the concept of tax resident and non-resident companies
- Introduction of an advance ruling procedure
- Taxation of worldwide income for tax residents and Cyprus-sourced income for non-residents
- Uniform corporate tax rate of 10%
- Tax-exempt business profits of non-resident companies
- Tax-exempt gains on the trading and disposal of securities
- Tax-exempt dividend income (subject to applicable criteria)
- Tax-neutral group reorganisations
- Tax-relief for group losses
- Tax-credits for foreign tax
- Tax-relief of 80% on intellectual property (IP) management company's profits (owner of IP)
- Full adoption of the EU parent-subsidiary directive
- Full adoption of the EU mergers directive
- Full adoption of the EU directive on mutual assistance and cooperation
- Full adoption of the EU royalty and interest directive

This fiscal regime coupled with an extensive list of double tax treaties, an enviable time zone location and a mature legal, accounting and banking infrastructure, places Cyprus high on the list of preferred jurisdictions for international tax planners.

This article highlights the main tax planning opportunities that Cyprus has to offer.

The Cyprus holding company

A Cyprus company can act as a holding company to effectively consolidate the ownership of a number of operating subsidiaries. Additionally, there are cases where a Cyprus company can act as an intermediate holding company to assist in the repatriation of dividends in a tax-efficient manner.

Dividends paid by the operating subsidiary

- **EU operating subsidiary**
  Dividends will be received in Cyprus with no withholding tax as per the provisions of the EU Parent-Subsidiary Directive.

- **Non-EU operating subsidiary**
  Dividends will be paid to the Cyprus holding company net of withholding tax. The level of the withholding tax is subject to the double tax treaty between Cyprus and the country of residence of the subsidiary.

For example, assuming that the operating subsidiary is resident in Russia, the withholding tax on dividends from Russia to the UK is 10%, to Japan - 15% and to Cyprus - 5%. Hence, a British or Japanese investor can set up an intermediary Cyprus holding company, thereby reducing the tax burden on the distributed dividends to 5%. Similarly, direct investment into an EU country by a non-EU investor may lead to a withholding tax imposed on the dividend. The use of Cyprus as an intermediary eliminates the burden of this withholding tax.

Jurisdiction of source	Withholding tax rate on dividend distribution
Austria	25%
Belgium	15%
Cyprus	0%
Denmark	28%
France	25%
Netherlands	15%
Spain	18%
Switzerland	35%
United Kingdom	0%
United States of America	30%

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