Corporate Tax Alliance

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Portugal: The time is now

by João Espanha

As you are aware, Portugal is facing the worst economic crisis in the last 100 years. With the deficit and public debt too high, Portugal was forced to ask the IMF, the EU Commission and the ECB (aka "the Troika") for financing, which came with some strings attached.

With the restrictions demanded by the Troika, and with an economy at the brink of default, Portugal is facing a massive consumption retraction, with the inevitable consequences on companies going bankrupt, unemployment skyrocketing, prices plunging – it's not easy for a Portuguese to live and work in Portugal these days.

But one's crisis is the other one's opportunity. Reading the economic papers before writing this, the attention goes to the titles that say (not kidding here):
- "Housing prices at the lowest ever",
- "Portugal on the radar of big investment – M&A and privatizations are here"

Portugal is becoming more attractive to foreigners, as you may check for yourselves. In the full memo we listed many attractions that Portugal offers to individuals and companies. These attractions include:

A Well organized and highly skilled health services, both private and public;
B Cheap housing both for buying and rental;
C Low cost of labour and services prices at their lowest.
D New and attractive tax regimes a reform of corporate taxation is on its way;
E High quality transport network;
F Close to all major European destinations;
G The best climate in Europe (well, this one is challengeable...)
H The best beaches in Europe (also challengeable...).

It is no paradise, though – and this is where assistance of an experienced professional becomes necessary. Due to historical reasons that go way back, our red tape is amazing. In spite of the fact that some say that Franz Kafka started his career when visiting Portugal, I can tell you that it is not true. On the contrary: if Mr. Kafka ever visited Portugal, he would be too ashamed to write his novels, as Portuguese imagination for bureaucracy is outstanding.

> "If Kafka visited Portugal he would be ashamed"

If you come from abroad and wish to live, work or do business in Portugal, you will definitely need the help of skilled lawyers. Our CTA Member in Portugal can help you here.

For more information about Portugal, visit: *www.corptax.org/publications*

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New tax legislation in Denmark *by Henrik Dietz & Claes Balle*

The Danish parliament has lately adopted new tax legislation in some areas. The taxation of individuals has been marginally increased whereas the taxation of corporations' capital gains on portfolio shares has been abolished. Danish corporations shall no longer pay tax on capital gains on unlisted portfolio shares, i.e. shareholdings less than 10 % of the capital of the company, if the shares are sold on 1 January 2013 or later.

> "no capital gains tax on unlisted portfolio shares"

A number of new tax laws proposed by the Danish Tax Minister during the autumn of 2012 were adopted close to the turn of the year. The adopted changes of the tax legislation include:

Witholding tax on dividends
Withholding tax on dividends from Danish corporations to foreign parent companies will now apply if the Danish corporation is regarded as a "conduit company" (concrete evaluation). Therefore in dept investigations should be if an intermediate holding company is considered set up in Denmark. This due to that that a 27% Danish dividend withholding tax may be imposed on dividends declared (on or after 1 January 2013) if the Danish company is not the beneficial owner of dividends received directly or indirectly on subsidiary or group shares and the taxation of the on-declared dividend is not eliminated under the EU parent-subsidiary directive. The withholding tax could be reduced under an applicable tax treaty if the recipient is the beneficial owner of the dividends.

Internal reorganisations involving shares in Danish companies
Further, dividend withholding tax will in certain cases be levied on foreign shareholders' sale of shares in Danish corporations to other group entities. This means that group-related transfers of shares would be treated as dividends subject to dividend taxation where the remuneration for the transfer is either entirely or partly not in the form of shares:

- Where the transferring company is nonresident, the transfer could trigger a 27% Danish withholding tax if the taxation cannot be eliminated or reduced under the EU parent-subsidiary directive or an applicable tax treaty.

- Where the transferring company is resident in Denmark, the 27% dividend withholding tax would apply if the transferor is unable to receive tax-exempt dividends (i.e. it owns less than 10% of the share capital of the transferring company).

Transfer pricing documentation
The fines imposed for insufficient or lacking transfer pricing documentation has been increased considerably with effect as of 1 January 2013. The rules will also apply to small Danish corporations if they are included in a larger national or international group of companies.

Primarily, the Danish Tax Authorities can ask a corporation to provide an auditor's statement regarding the corporation's transfer pricing documentation. The Tax Authorities can ask for this auditor's statement if the corporation has realised operational losses for a period of four consecutive years or if the corporation has controlled transactions with legal entities in non-treaty jurisdictions outside the EU.

Secondly, there will be a minimum fine in the amount of DKK 250.000 (approx. EUR 33.333) for corporations not providing a sufficient transfer pricing documentation. The fine may be reduced by 50 % if the corporation subsequently provides sufficient documentation. However, the fine may also be increased if the Tax Authorities increases the taxable income for the corporation.

Transfer pricing documentation must be produced for all group related corporations, i.e. corporations in which someone owns more than 50 % of the capital or more than 50 % of the votes.

Danish corporate tax rate reduces to 22%
The Danish government has proposed to reduce the corporate tax rate from 25% to 22%. The reduction is part of a plan to strengthen the Danish business environment in general. No tax legislation had been presented to the Danish Parliament yet.

Taxation tips and knowledge

by Tariq Almontaser

1 The Tax Authority usually accepts the result of company operations if it keeps on regular basis financial records or books according to article 43 of the executive regulation accompanying law no 11, the regulation states that a company is considered as keeping regular books and records, if the following records or books are kept:

A The general journal book. Almontaser Opinion: This book should be preapproved by Tax Department & Ministry of Justice in order to avoid any misusing or inserting papers etc. By the way this book should be handled manually. If the accounting system of the company is computerized that means the said book should be used in parallel; that is costly somehow. In spite of the fact that Tax Department recently ignoring General Ledger Book Keeping as a way of being compatible with the current accounting systems developments installed at taxpayers' establishments but they still ask the companies to use general journal book manually as mentioned below in point No. C.

B The inventory and balance sheet records and books.

C The recording of financial transaction should be carried out in the manner prescribed in article (58), (60) of the commercial law (they must be numbered and ratified by the court).

D Books of records items in which the movement of the quality and quantity of items are recorded, this kind of records should be kept by wholesaler, these records and books should be also numbered and notified by the tax department before being used.

2 The keeping of these records or books should not exempt from using other books or records imposed by commercial or any other laws, or required by the nature of the activities the company submitting the declaration is engaged in.

Almontaser Office's opinion

We think that the tax department tries to make the companies fully working under the international accepted accounting principles, and we have seen the lawmaker issued different point of view at the Bank Law No. 1 released in 2005 when he said in point No. 3 in article No. 97 that "reports have been extracted from any computerized systems should be accepted as official and Legal Books"; while the same law advices all banks to work under International Accounting Standards in point A article No. 26.

Singapore, an introduction

by Nico Derksen

Being located at the heart of the Asian and global growth engines, Singapore has for long played and continues to play a pivotal role in the world-wide economical scene. The global financial turmoil has an impact on Singapore as well, though the city-state has shown a remarkable resilience. After a contraction of the economy with 0.8% in 2009, the year 2010 brought an astonishing 14.5% growth, followed by a more modest 4.9% growth in 2011 but with a budget surplus of $2.3 billion. 2012 ended with a growth of 1.3%. The forecast for 2013 is kept at a conservative 1 to 3%.

The government of Singapore is fully aware of the dangers complacency can hold for a small country, and to remain relevant is continuously updating, deleting, and adding to the numerous incentives that are available for existing and new businesses. The 2012 budget introduced further attractive measures for especially R&D, investments, and improvement of productivity, continued in the recent 2013 budget. The latter has also a strong focus on the local small and medium enterprises (SME's), that also in Singapore form the backbone of the economy.

The pro-business attitude in Singapore is an element every newcomer to the city-state immediately recognizes. An often heard comment is that Singapore is governed like a company. Much of this can be credited to the founding fathers of Singapore that have always governed with the long term benefits of the population in mind. With a virtually one party political system, election pressures were unknown, and therefore there was no need for populist behavior. The 2011 elections however showed a significant shift in the political landscape, with the ruling party only gaining 60+% of the votes. This is one of the clear signs of the maturing of Singapore as a society, which will add to the diversity of the country, but also will challenge certain government policies over time.

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Some statistics
Pro-business environment

- World's number one easiest place to do business (World Bank, Doing Business 2012 Report).
- World's number 2 most competitive country, and number 1 in Asia (The Global Competitiveness Report 2011-2012, World Economic Forum).
- World's number 1 best business environment (EIU, Country Forecast 2011 Report).

Strategic location

- World's number 1 city with the best investment potential (BERI Report 2011-II).
- World's number 2 most transparent country (IMD, World Competitiveness Yearbook 2011).
- World's number 7 and Asia's number 1 least corrupt country (IMD, World Competitiveness Yearbook 2011).

World-class workforce

- World's number 1 labour force (Beri, Labour Force Evaluation measure 2011-I Report).
- World's number 2 best labour/ employer relations (The Global competitiveness Report 2011-2012, World Economic Forum).
- World's number 5 most business conducive labour regulations (The Global competitiveness Report 2011-2012, World Economic Forum).

Wide Treaty Network

- 69 Double Tax Agreements in force, 10 more signed and waiting for ratification.
- 12 Tax Information Exchange Agreements.
- 18 Free Trade Agreements.
- 39 Investment Guarantee Agreements.

If we look at the above global statistics, it becomes clear why Singapore is or should be on the short list for investment of almost every multinational corporation, and also every SME that wants to invest into Asia.

Tax system
The basis tax system is attractive for international business. Singapore operates a quasi territorial system, meaning that only income sourced in, or brought back into Singapore can be subjected to tax. Combined with capital gains not being subject to tax, extensive exemptions like on dividend income, no withholding tax on dividends and a low general corporate income tax rate (17%) as well as moderate personal income tax rates (top rate being 20%), Singapore offers very low effective tax rates.

Incentives
On top of the above, a comprehensive package of specific exemptions, tax incentives, soft loans, and grants was established as a means to, on the one hand, encourage the development of desirable economic activities and, on the other hand, to help companies to improve efficiency, strengthen capabilities and explore new opportunities in their business. Typically, tax incentives provide tax relief by way of concessionary rates as low as 5%, or exemptions on qualifying income. The sheer number of incentives, the number of agencies involved, and the fact that certain incentives are only granted on incremental activities make that an early study and broad discussions are recommended.

Nico Derksen has founded International Tax Management Pte Ltd in 2012. He started his international tax career in 1992 at the Dutch Revenue Service, and joined the international tax practice of Ernst & Young in 2000. For EY he has worked in the US, the Netherlands, the US, Slovenia, India, and Singapore. Nico publishes articles and lectures regularly on international tax topics. He is also an Associate Faculty at UniSIM. Nico joined the CTA in 2012.