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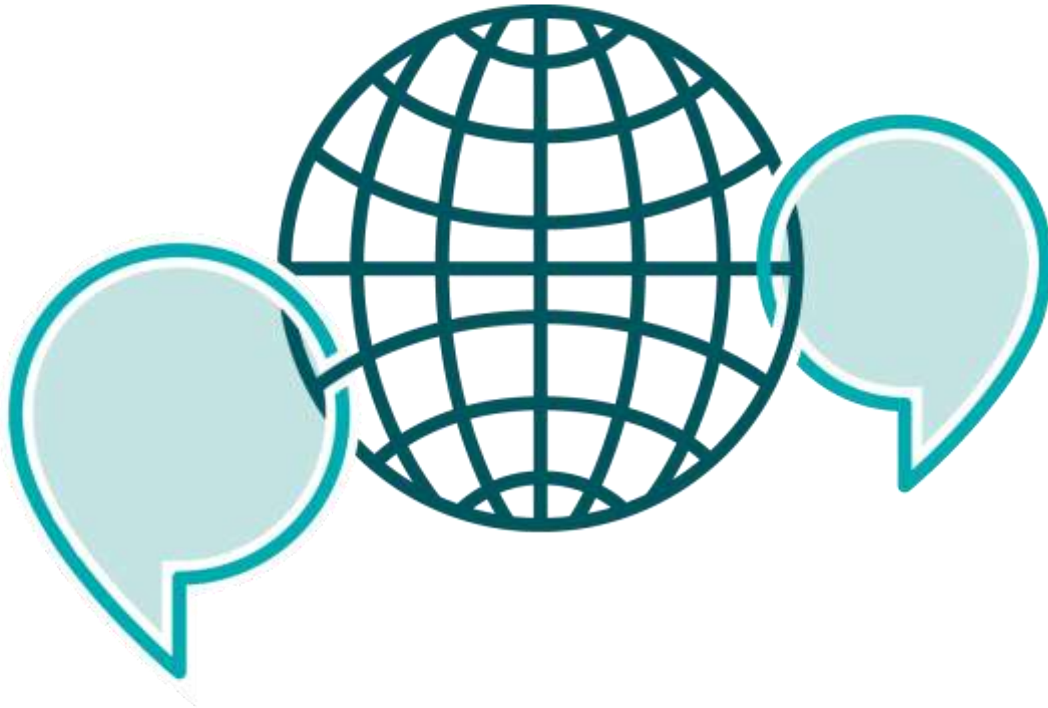

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The blockchain and company accounts

The blockchain is set to revolutionise the infrastructure underpinning financial services and many other industries, including the audit and accounting profession.

While many people associate the blockchain with digital currencies such as bitcoin, its potential is being realised across many sectors, including financial services, health, property, energy, trade and government.

What is blockchain technology?

Blockchain technology is a system based on distributed ledgers – a database of assets or transactions that can be shared across multiple nodes in a network giving each participant their own copy, with any changes reflected in every copy almost simultaneously.

Every transaction is recorded as a 'block' of data, and each new block has an encrypted copy of the previous block included within it. Blocks are then linked using cryptographic signatures to create a 'chain' of activity or transactions that are time-stamped, distributed and tamper-proof.

Therefore, the blockchain creates an incorruptible ledger of information, where falsifying or destroying the entries to conceal activity is practically impossible.

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Impact on company operational and financial environment

The blockchain enables companies to record both sides of a transaction simultaneously in a shared ledger in real time rather than having to keep reconciled records of financial transactions in separate, privately-managed databases or ledgers. It is poised to end traditional methods of invoicing, documentation, contracts, registries, inventory systems, and payment processing for businesses.

Therefore the need for traditional double-entry bookkeeping will become obsolete, as the verification of the integrity and compliance of a company's accounting will be fully automated within the blockchain.

This will also have a knock-on effect on the audit process. Antonis Polemitis, CEO of the University of Nicosia, a leader in the blockchain field, says: "Blockchains will ultimately revolutionise auditing. They can provide machine-readable, continuously-synchronised accounting records between counterparties, something that will increase transparency and allow for ongoing automated audits."

Pace of change

There is great scepticism about the pace of change and the extent of the disruption that the blockchain may cause.

Many in the business community believe that due to the complexity of the technology and the fact that it is still in its infancy, the blockchain still has a long way to go before its true capabilities can be understood. Others believe that the huge hype and investment into the technology mean businesses will start feeling its impact within the next few years.

Regardless of the precise pace and extent of change, the blockchain will undoubtedly alter the relationship between companies and their accountants and auditors. In the future, accountants and auditors are likely to focus increasingly on areas requiring judgement, such as complex transactions, internal control mechanisms, analytics, forecasting, IT audits and controls, valuations and other matters on which they can add real value.

For more information, contact:

Susana Poyiadjis
Nexia Poyiadjis, Cyprus
T: + 357 22 456111
E: susana.poyiadjis@nexia.com.cy
W: www.nexia.com.cy

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China renews efforts to promote foreign direct investment

Proposals aimed at boosting foreign direct investment in China are set to give investors more opportunities for doing business in the country.

Although newly-approved foreign investment projects in China have been consistently growing at more than 10% year-on-year, the actual value of foreign direct investments (FDI) has fallen by around 2% over the same period. Acknowledging that inbound FDI is crucial to China's overall economic health, the Chinese State Council met in July to discuss this issue and proposed a series of measures to encourage increased foreign investment.

The resulting key policy proposals are summarised below.

Reducing investment restrictions

In keeping with policies implemented in the various pilot free trade zones, restrictions on foreign investment projects will continue to decrease, and a 'negative list' system used to determine disallowed or restricted investments will be fully implemented.

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There will also be an expansion in foreign investment access to China's markets in a wide range of services, including transportation, telecommunications, outsourcing, banking, insurance and securities.

Tax incentives

Tax policies will be modified to incentivise certain foreign investments. For example, foreign investors may directly reinvest the profits distributed by their Chinese entities without being charged withholding tax, as long as they are investing in key strategic industries and other criteria are met. Tax reductions will be offered to companies engaged in advanced, hi-tech, and high value-added services.

Local governments are encouraged to provide tax incentives to multinational companies that set up regional headquarters in their jurisdictions. The ministries will also continue to promote foreign investment in national development and/or economic development zones throughout the western and northeastern provinces. Again, the aim is to bring higher value-added industries into these traditionally 'old industry' areas.

Foreign talent

Systems that facilitate the entry of foreign talent into the country will be streamlined. There is a particular focus on attracting 'high end' foreign talent through relaxation of many the current restrictions. Some of the key changes include offering long-term work permits or work-type residence permits, and relaxing the conditions under which foreigners can be awarded permanent residence.

Improving the ease of doing business

The relevant ministries have been tasked with optimising the business environment for foreign investors by cleaning up related laws and regulations, and by repealing regulations that are inconsistent with the principle of opening up the country to increased foreign investment.

This effort includes improving mechanisms for foreign investor communication with government authorities, protecting the free cross-border transfer of profits and other investment earnings, supporting mergers and acquisitions of domestic entities by foreign investors, allowing foreign investors to participate in mixed ownership of state-owned businesses, and improving the mechanisms for protection of intellectual property owned by foreign-invested entities in China.

Policy roll-out

At the time of writing, the only policy that has been officially released outlines the incentives offered to advanced technology service enterprises. *Cai Shui [2017] #79* not only provides for a reduced corporate income tax rate of 15% to registered companies that perform high value-added

outsourcing services, but also delineates less stringent qualification criteria than those currently used for hi-tech businesses. Additional, formal policies are expected in 2018.

While questions remain as to how quickly and to what extent the policy shifts outlined above will be implemented, it is generally agreed that foreign investors will soon have increased options for entering China's markets and doing business in the country.

For more information, contact:

Flora Luo or Scott Heidecke
Nexia TS Shanghai Co. Ltd, China
E: floraluo@nexiats.com.cn
E: scott@nexiats.com.cn
T : +86 21 6047 8716
W: www.nexiats.com.cn

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How are UK businesses preparing for Brexit?

In the face of ongoing uncertainty around the world, many businesses are reconsidering their corporate structure. In the UK, some businesses are girding themselves for the prospect of a 'no deal' Brexit.

The UK's Brexit divorce bill is apparently now close to being agreed, at up to £39 billion.

There are, of course, many risks from Brexit that will influence the thousands of board decisions that decide the fate of UK plc. If any of these risk factors, say a reduction of EU nationals in the workforce, resonates with a company's business model, then it will start to alter company behaviour.

So what is UK plc doing to prepare itself for the risks around Brexit?

The long position

Firstly, UK companies are 'going long' on volatility. The data shows record levels of cash currently being held by UK plc as a buffer. This is also true of other operational current assets, such as stock. Dozens of economists are predicting catastrophe and the OECD says the UK should slam Brexit into reverse. The long position is evidence that the current sentiment among UK businesses is that whatever happens in the long term, markets are probably going to hate it in the short term.

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Currency and interest rates

At the same time, UK companies are disposing of the pound and moving assets overseas if the opportunity presents itself. They are also expecting another round of quantitative easing (QE). The Bank of England interest rate rise in November did not seem to alter UK plc sentiment, given the wider context of Brexit. More QE is something else that has been priced-in already.

Winners and losers

Lastly, UK companies are selling, renegotiating or divesting themselves of the 'losers' – operations that are negatively impacted by Brexit risks – and buying into the 'winners'. The big opportunity, potentially, is being outside the customs union, outside of a tariff regime, and benefitting from world markets.

Questions of corporate structure

All of this comes back to companies having the best corporate structures in place. These are the questions forward-thinking companies are asking:

- Are there risks that can be ring-fenced?
- Can a more credible, cleaner lending proposition to the bank be presented?
- Can authority be delegated to the next generation of management teams, empowering them to be more responsive and transparent?
- Can we exploit the position the UK may find itself in, needing to rapidly become more globally competitive?
- And finally, is UK plc making best use of group tax relief, substantial shareholding exemptions and reliefs around asset transfers?

For more information, contact:

Luke Morris
Scrutton Bland, UK
T: +44 7584 097 633
E: luke.morris@scruttonbland.co.uk
W: www.scruttonbland.co.uk

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GST on overseas low value imports into Australia

From 1 July 2018 Australian goods and services tax (GST) will apply to sales of low value goods imported by consumers into Australia.

There is currently a GST threshold exemption of AUD$1,000 that applies to purchases of imported goods by consumers in Australia. This is mainly because the cost of collecting GST on imported goods costing AUD$1,000 or less (i.e. low value goods) would far exceed the amount of GST collected on such small purchases from overseas.

The low value goods exemption has led to a large increase in online purchases from offshore-based suppliers to the detriment of local Australian retailers.

New GST position from 1 July 2018

From 1 July 2018, overseas vendors, electronic distribution platforms and goods forwarders with a GST turnover of AUD $75,000 or more (calculation of turnover is limited to Australian sales only), will have to account for GST on sales of low value goods to consumers in Australia.

The 10% GST impost on low value goods will only apply to supplies made to Australian consumers (e.g. purchasers not registered for GST or GST-registered purchasers that acquired such low value goods solely for private purposes).

The Government's intention is to ensure that low value goods imported by consumers will face equivalent GST treatment to goods that are bought locally.

How will these low value import changes work?

Rather than lower the threshold, the Government has simply decided to remove the threshold altogether, meaning all goods supplied by offshore vendors to non-registered consumers will be subject to GST (i.e. consumers that purchase such low-value goods from overseas will pay 10% more for these goods than they do currently).

There is, however, uncertainty as to the best way to collect and remit the GST on such transactions. Under the proposed vendor registration model, the overseas seller or overseas operator of an electronic distribution platform system (e.g. Amazon or eBay), will have to register for GST – a potentially unworkable solution from an enforcement perspective.

For more information, contact:

Stephen Rogers or Roelof van der Merwe
E: srogers@nexiasydney.com.au
T: +61 2 8264 0600
E: rvandermerwe@nexiaaustralia.com.au
T: +61 3 8613 8875
W: www.nexia.com.au

Careful planning is key to global M&A

Global cross-border M&A transactions continue to go from strength-to-strength despite political uncertainties. In this environment, research and due diligence are more important than ever.

Global M&A volume in 2017 continued to grow year-on-year, reaching more than US$1.5 trillion for the first three quarters of 2017. Over 40% of transactions were cross-border.

Many signals point to this pace continuing in 2018, particularly in the US. However, the big wild card is clearly the extent to which political events in the US and around the world will result in increased protectionism or other upheavals in areas such as taxation, regulation and finance. So far, the deal markets appear largely unfazed, and rising US equity valuations provide plenty of 'dry powder' for stock deals.

It is difficult to predict what will happen in 2018 with the Trump administration continuing to develop its focus, the UK inching towards Brexit, and China's mixed signals on outbound investment and capital movements. However, both US sellers and non-US buyers are expected to remain interested in the opportunities presented by investment in the US, and perhaps more so in a world where economic nationalism is on the rise.

Areas of focus for cross-border M&A

To be able to fully realize post-deal synergies and shareholder value, management teams should focus on due diligence, planning, and execution when developing and implementing integration and sequencing strategies.

- Due diligence
  - Know your countries: Collect all relevant company data and regulatory requirements to ensure you are making informed decisions.
- Planning
  - Start early: Bring in local and regional teams early in the integration process (and begin planning before the close of the deal) so that processes can run smoothly from day one.
  - Emphasise speed to value: Develop a plan for efficient integration that targets synergies that can be realized quickly, such as financial, sales and employees.
- Execution
  - Manage centrally, implement locally: Develop a cohesive central governance structure but engage in-country teams to execute.
  - Expect roadblocks: Consider mitigation steps early and move quickly to help overcome any hurdles.

As always in global M&A, the highs and lows for 2018 are likely to include many surprises. Sophisticated market participants will need to continually refine their strategies and tactics as the global and local environment develops. However, the fundamental rules of the road for successful M&A transactions remain the same and are eminently capable of being mastered by well-prepared and well-advised acquirers from all parts of the globe.

For more information, contact:

Craig Arends
CliftonLarsonAllen, U.S.
T: +1 612 397 3180
E: craig.arends@CLAconnect.com
W: www.claconnect.com

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Alternative finance opportunities in Malta

Investors in Malta can take advantage of a number of the country's alternative finance options, including its Prospects platform, investment-based crowdfunding, preference shares and a well-stocked securitisation rule book.

Listing on the Prospects platform

Malta's Prospects platform gives SMEs access to its capital markets. Compliant with MiFID, Prospects allows SMEs to raise capital by issuing bonds/shares or by selling existing shares to investors beyond inner circles without the need for security or collateral.

International SMEs can apply for access to Prospects if they meet at least two of the following three criteria:

- Average of less than 250 employees during the financial year
- Total balance sheet not exceeding €43m
- Annual net turnover not exceeding €50m

An authorised corporate adviser must be appointed by the respective company.

Investment-based crowdfunding

Investment-based crowdfunding, where businesses raise finance by placing a project idea on an internet-based platform and inviting individuals to invest in that idea, can be an interesting alternative. In return, investors usually acquire equity in the business proportional to the amount initially invested and share in the profits if the business venture is successful.

The Malta Financial Services Authoriry (MFSA) regulates investment-based crowdfunding in Malta.

Preference shares

The M&A of a private company may cater for the possibility of the company issuing preference shares, which can be attractive for prospective investors. Holders of preference shares are generally granted extraordinary decision-making powers in specific matters, such as the right to appoint individuals on a board of directors and vetoing decisions made at a general meeting.

Securitisation

Securitisation vehicles in Malta may be set up in the form of a company, investment company, commercial partnership, trust or by any other legal structure which has the prior approval of the MFSA. Moreover, any asset, whether existing or future, movable or immovable, tangible or intangible, including risk, can qualify as a securitisation asset.

Uniquely regulated securitisation cell companies can be created to avail themselves of segregated cells (via a resolution) that cater for an array of securitisation transactions. No prior approval is needed unless securities are to be issued to the public. Such companies can be set up through public or private companies, with each company having to satisfy minimum statutory requirements. Each cell is composed of assets that are segregated and independent of assets and/or liabilities contained in other cells.

For more information, contact:

Oliver Zammit
T: +356 21637778
E: oliver.zammit@nexiabt.com
W: www.nexiabt.com

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India’s changing transfer pricing landscape

India has made a number of changes to its transfer pricing rules following the 2017 Budget.

The Indian Government has recently taken steps to bring its transfer pricing rules into alignment with OECD guidelines. These include the signing of various advance pricing agreements (APA) and Mutual Agreement Procedures (MAP), and a number of reforms introduced in the 2017 Budget.

Specified domestic transactions

Tax-neutral domestic-related party transactions are now exempt from the transfer pricing provisions. The provisions of the Income Tax Act, 1961 (the Act), which deals with expenditure in respect of payment made by a taxpayer to a domestic related party (e.g. a director's remuneration, salary to a related person, purchases or payment for services), have been abolished from FY2016/17. The domestic transfer pricing provisions will now only apply to entities eligible to avail themselves of tax-linked incentives or tax holidays.

This is a welcome relief for taxpayers and tax consultants who had seen it an unnecessary compliance burden as it covered the transfer of funds between tax neutral entities. However, taxpayers may still need to deal with any litigation relating to issues in previous years.

Secondary adjustment

The Finance Bill 2017 has introduced the concept of secondary adjustment on transfer pricing adjustments.

In line with international practice, secondary adjustment means that where there is an enhancement in taxable profits or a reduction in losses due to primary adjustment of transfer prices charged to an associated enterprise (AE), the additional amount receivable from the AE should be repatriated by the taxpayer within the prescribed timeframe in the country of the taxpayer (in this case India).

Primary adjustment is simply a variation in price charged by the taxpayer to the AE on an arm's length basis, i.e the price charged if the transaction would have been entered into with an independent third party.

If the amount of primary adjustment is not received by the taxpayer within the prescribed timeframe, a secondary adjustment in the form of notional interest on the outstanding amount receivable from the AE (deemed as an advance) should also be considered for tax by the taxpayer and tax needs to be paid on this amount. Notional interest will be payable by the taxpayer if a transfer price or the primary adjustment exceeds INR10 million (approximately US$155,000) and is not repatriated to India within the prescribed timeframe. The secondary adjustment is applicable if primary adjustment has been made in any of the following ways:

a) *suo moto* by the taxpayer, i.e while filing a return of income the taxpayer computed an arm's length price which is more than the price already charged by the taxpayer to the AE, then the variation in price can be considered for tax when computing the tax liability
b) by the assessing officer at the time of assessment
c) determined in an Advance Pricing Agreement, and
d) made as per safe harbour rules or settlement under a MAP.

The concept of secondary adjustment is widely accepted in many countries. But the way it is being incorporated in India marks a transformation in the transfer pricing regulations as it not only requires repatriation of funds, but also a notional interest charge.

There remains some uncertainty regarding how the provisions related to secondary adjustments would apply in practice.

For more information, contact:

Disha Ajmera
Chaturvedi & Shah, India
T: +91 22 3021 8500
E: disha.a@cas.ind.in
W: www.cas.ind.in

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The improving investment climate in India

In the last year, India has risen 30 places in the World Bank's Ease of Doing Business rankings following a number of reforms aimed at improving investor-friendliness and the country's overall business environment.

Over the past few years India has witnessed a steady increase in foreign direct investment (FDI) inflows. In FY2016/17, FDI grew by 9% to US$43.5bn, compared with the US$40bn in FY2015/16. In the World Bank's latest ease of doing business report, India's ranking has increased 30 places to 100 in 2018, up from 130 in 2017.

All this follows the Government's efforts to address systemic issues and promote investment by simplifying business processes and compliance requirements.

Developing a better business environment

The Government has implemented a doing business scorecard for every state, based on the Department of Industrial Policy and Promotion's (DIPP) 340-point Business Reform Action Plan. Each state has been given a score depending on the ease with which business operations can be carried out in line with the World Bank's parameters. This has encouraged each state to improve on its individual

regulatory processes, which has led to a nationwide improvement in several areas including incorporation and regulation.

Reduced paperwork

Setting up a new business has been made easier with the introduction of Form SPICe (INC-32), which integrates and consolidates several forms that were previously required for incorporation.

Tax reform

The new Goods and Services Tax (GST) has streamlined tax rates and compliance across the country. Corporate tax compliance has also been made easier with the introduction of an online payment system for payments made to Employee Provident Funds.

Insolvency and Bankruptcy Code

The new Insolvency and Bankruptcy Code provides a much-needed legal framework to recover stressed assets for banks and financial institutions. Minority investor protection has been bolstered by increasing the remedies available in cases of prejudicial transactions between interested parties in both Mumbai and Delhi.

Other changes

Other initiatives such as the liberalisation of FDI, the dissolution of the Foreign Investment Promotion Board (FIPB), the new Fast Track Exit and Fast Track Merger scheme and demonetisation (the Government's initiative to curb corruption and black money) have all helped make the country more attractive to investors.

For more information, contact:

Manoj Gidwani
SKP, India
T: +91 22 6730 9000
E: manoj.gidwani@skpgroup.com
W: www.skpgroup.com

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Succession and legacy planning with the use of Singapore Foreign Trusts

Singapore's foreign trust scheme is set to close to new entrants from 30 March 2019, so it may be worth considering how it could fit into a family's wealth planning arrangements.

Singapore is considered one of the most economically and politically stable countries in Asia. One of the world's largest financial centres, it is supported by well-developed laws and regulations, technology infrastructure and fuelled by a fluid and educated workforce.

Singapore's corporate tax rate of 17% is among the lowest in the region and has various tax exemption schemes targeted at specific industries in which the Government wants to boost investment. Furthermore, Singapore's tax system meets international standards and is not considered to be a 'harmful or preferential' tax regime.

Features of a Singapore foreign trust

Singapore's foreign trusts enjoy a wide range of tax exemptions on specified income from various designated investments. These include passive-sourced income such as interest, dividends, rental

income derived from outside Singapore and gains from the disposal of certain designated investments, subject to certain conditions which are usually easily achievable.

A foreign trust is defined as a trust that is created in writing and in which every settlor and beneficiary must be:

- Individuals who are not citizens or residents of Singapore.
- Foreign companies, i.e. companies that are not incorporated or resident in Singapore (subject to further conditions).
- Other persons who are not resident in Singapore or constituted or registered under any written law in Singapore.
- Trustees of other trusts which are regarded as foreign trusts (subject to further conditions).
- Trustees of certain philanthropic purpose trusts.

In addition, the trust has to be administered by a registered trustee company in Singapore.

Sunset clause

Families considering use of these trusts as part of their wealth planning should act now as a sunset clause has been implemented meaning the foreign trust scheme will lapse. Foreign trusts set up on or before 30 March 2019 (sunset date) under Section 13G of the Singapore Income Tax Act will continue to be 'grandfathered' so long as the nucleus that defines the trust remains the same.

A foreign trust can still continue to be regarded as a foreign trust for the purposes of Section 13G even if a settlor or beneficiary of the trust who is an individual subsequently becomes a citizen of Singapore or resident in Singapore, subject to conditions.

For more information, contact:

Edwin Leow or Shaun Zheng
Nexia TS, Singapore
E: edwinleow@nexiats.com.sg
E: shaunzheng@nexiats.com.sg
T: +65 6534 5700
W: www.nexiats.com.sg

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News round-up

Argentina passes comprehensive tax reform bill

Argentina's five-year tax reform plan aims to reduce the tax burden to stimulate economic growth.

Argentina's package of tax reforms aims to attract investors and increase the economy's competitiveness, while reducing inequality in the tax burden and avoiding a drop in tax revenues. The reform bill, which was approved by Congress on 28 December 2017, includes regulations to provide greater tax transparency of trust and investments by Argentinian individuals and entities residing in foreign countries, as well as a labour amnesty to encourage the registration of previously unregistered employees.

Corporate income tax

There will be a gradual decrease in the corporate tax rate applied to non-distributed profits (from 35% to 25%). An additional tax on dividends will be established to reach a 35% corporate income tax rate.

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Personal income tax

Several exemptions on financial investments held by Argentinean individuals will be eliminated or subject to a 'reduced' tax rate. Gains on real estate transfers will be taxed.

VAT

VAT recovery related to investments will be accelerated. Digital services provided by non-residents will be subject to VAT.

Social security contributions

There will be a gradual exemption of social security tax on a reduced part of gross salaries. The cap on employees' contributions with regard to social security taxes will be abolished.

Tax on debits and credits on Argentinian bank accounts

Tax credits will be offset against income tax payable.

Turnover and stamp tax

As these are both provincial taxes, the Executive Power is currently negotiating reduced rates with regional governments.

Excise tax

Taxation on certain goods such as mobile phones, TVs and mid-range cars will be abolished, and there will be an increase in tax on goods such as aircrafts, vessels, alcoholic beverages and sodas.

Other amendments include changes to tax procedural regulations, tax treaties to avoid double taxation and advance pricing agreements.

For more information, contact:

Roberto Murmis or Noemi Cohn
Abelovich, Polano & Asociados SRL Nexia, Argentina
E: rmurmis@estabe.com.ar
E : ncohn@estabe.com.ar
T: +54 11 4312 8525
W: www.estabe.com.ar

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Malaysia introduces earning stripping rules

Malaysia is set to replace thin capitalisation rules with earning stripping rules, confirming its commitment to the OECD's Base Erosion Profit Shifting (BEPS) initiative.

Malaysia's 2018 Budget announced on 27 October 2017 includes the introduction of earning stripping rules (ESR). These will come into operation on 1 January 2019 and will replace the existing thin capitalisation rules (TCR).

Under the ESR, the interest deduction on loans between related companies within the same group will be limited to a ratio determined by the Inland Revenue Board of Malaysia (IRBM). These will range from 10% to 30% of a company's earning before interest and taxes (EBIT) or earning before interest, tax, depreciation and amortisation (EBITDA). The IRBM is expected to issue more detailed guidelines relating to ESR in due course.

The introduction of ESR follows Malaysia's commitment to a number of initiatives, including the OECD's BEPS action plans. The Prime Minister has also agreed to the Automatic Exchange of Information (AEOI) from September 2018, and the Forum on Harmful Tax Practices (FHTP) before 1 January 2019.

The automatic exchange of information between countries will help ensure tax transparency and have a major impact on transfer pricing compliance.

A note on TCR

TCR were announced in Malaysia's 2009 Budget but implementation was deferred several times because of its potential effect on foreign direct investments (FDI). The intention of TCR was to encourage and control foreign investment to achieve a reasonable level of actual capital investment instead of treating funds as loans to Malaysia and repatriating excessive interest on foreign holding company loans. With excessive interest disallowed as a deduction, investors could consider the prudence of converting their funds into Malaysia as share capital instead of loans. However, since 2009 the implementation of TCR has been deferred several times and it will now be replaced by ESR and so will not see the light of day.

For more information, contact:

Gary Yong or Tham Sheue Yi
Nexia SSY Malaysia
E: garyyong@nexiassy.com or sheueyi@nexiassy.com
T: +60(3) 5039 1811
W: www.nexiassy.com

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Belgian corporate tax reform

Belgium has decreased corporate income tax rates, with start-ups, innovative companies and companies venturing into new investments expected to benefit the most.

The Belgian Government is lowering corporate tax rates with the aim of stimulating the economy and attracting foreign investment. Start-ups, innovative companies and companies venturing into new investments are expected to benefit most from this reform.

To compensate for the lower rates, the tax base will, in essence, be broadened by abolishing or reducing a number of existing tax deductions.

The corporate income tax rate will decrease from its current level of 33.99% in phases. In 2018 and 2019, the rate will be 29.58%, and from 2020 it decreases to 25%.

A rate of 20.4 % for SMEs will apply from 2018 on the first €100,000 of income. This rate will be further decreased to 20% from 2020.

From 2018 onwards, the 0.412% rate for capital gains on shares will be abolished and a 100% deduction on qualifying dividends will apply.

For more information, contact:

David Lornoy
VGD, Belgium
T: +32 9 210 80 11
E: david.lornoy@vgd.eu
W: be.vgd.eu

Nexia International

If you have any queries or require further guidance please contact the Nexia marketing team.

Nexia marketing team
Nexia International
71 Kingsway
London
WC2B 6ST
E: marketing@nexia.com
T: +44 (0)20 7436 1114

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