# TABLE OF CONTENTS

About Guide to Going Global ......................................................... 2
Argentina .................................................................................. 4
Australia .................................................................................. 11
Austria .................................................................................... 18
Belgium ................................................................................... 29
Brazil ...................................................................................... 34
Canada .................................................................................... 45
Chile .......................................................................................... 50
China ....................................................................................... 56
Colombia .................................................................................. 61
Finland ..................................................................................... 72
France ...................................................................................... 77
Germany ................................................................................... 83
Hong Kong, SAR ................................................................. 89
Hungary .................................................................................... 95
India ........................................................................................ 102
Ireland ...................................................................................... 108
Israel ...................................................................................... 115
Italy .......................................................................................... 121
Japan ....................................................................................... 126
Luxembourg ............................................................................ 131
Mexico ..................................................................................... 139
Mozambique ............................................................................ 147
Netherlands ............................................................................. 154
Norway ..................................................................................... 160
Poland ....................................................................................... 166
Portugal .................................................................................... 171
Romania ................................................................................... 176
Russia ...................................................................................... 183
Singapore ................................................................................ 192
South Africa ............................................................................. 197
South Korea ............................................................................. 202
Spain ........................................................................................ 206
Sweden ..................................................................................... 211
Switzerland ............................................................................. 216
Taiwan, China ......................................................................... 222
Turkey ...................................................................................... 227
Ukraine ..................................................................................... 232
United Arab Emirates ......................................................... 237
United Kingdom ....................................................................... 241
United States .......................................................................... 248
Zimbabwe ............................................................................... 253
INTRODUCTION


GUIDE TO GOING GLOBAL SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics companies need to know.

The Guide to Going Global series reviews business-relevant corporate, employment, intellectual property and technology, global equity and tax laws in key jurisdictions around the world.

TAX

Multinational companies continue to expand globally at an ever faster pace. Successful expansion depends, in part, on strategic and effective tax planning and compliance. This guide, brought to you by DLA Piper’s Tax group summarizes the key features of tax laws in 41 popular jurisdictions.

This guide addresses common tax questions, by jurisdiction, including:

- Taxation of resident companies and non-resident companies
- Availability of tax holidays, rulings, and favorable tax regimes
- Ability to use losses to offset income
- Anti-deferral (ie CFC) rules
- Withholding taxes
- Employment tax issues

With more than 300 tax lawyers and economists in offices throughout the Americas, Europe and Asia Pacific, DLA Piper’s global tax advisory services help multinational companies address the complex challenges of international commerce and business operations as well as manage and resolve tax audits. Our global tax group also assists clients in structuring a wide range of transactions, from private equity deals to corporate acquisitions and disposals. We provide these tax services across our global platform, while at the same time offering clients the benefits of the attorney-client and work-product privileges.

The information in this guide is an accessible, high-level summary of the tax laws in each jurisdiction. This is not a substitute for legal or tax advice. If you have specific questions or require detailed advice, we encourage you to contact one of the attorneys listed in the contributors section of this guide.

We hope that you find this guide valuable and we welcome your feedback.
This publication is provided to you as a courtesy, and it does not establish a client relationship between DLA Piper and you, or any other person or entity that receives it.

This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

DLA Piper and any contributing law firms accept no liability for errors or omissions appearing in this publication and, in addition, DLA Piper accepts no liability at all for the content provided by the other contributing law firms. Please note that tax law is dynamic, and the legal regime in the countries surveyed could change.
ARGENTINA

RESIDENCE AND BASIS FOR TAXATION

In Argentina coexist 3 levels of taxation: federal, provincial (state) and municipal level.

An entity is deemed resident for tax purposes when it is incorporated in Argentina under the laws of Argentina. An Argentine individual is considered a tax resident unless they lose their tax residence status by choice, obtain legal residence in other country or by fact, when the individual is outside the country for at least a 12-month period, with certain exemptions.

Domestic

Local entities and resident individuals are subject to income tax on domestic and foreign source income.

Foreign

Non-resident entities or individuals are taxed on income of Argentine source. The tax applicable is the income tax that comprises corporate earnings and capital gains. In general, a local resident paying to a foreign entity or individual is obliged to withhold income tax. The withholding rate varies in connection with the type of payment.

Permanent establishments are taxed as local entities on income attributable to the permanent establishment.

Income tax on indirect transfer

Income tax on an indirect transfer may apply if a non-resident entity is transferred provided that at least 30 percent of value of the entity is represented by assets located in Argentina and provided that the transferor owns at least 10 percent of the capital of such entity.

TAXABLE INCOME

Domestic

In general, the taxable income in the income tax for resident entities and resident individuals is equal to gross earnings minus deductions. In general, all expenses incurred to obtain, maintain and preserve taxable income are deductible unless expressly forbidden.
**Foreign**

Non-resident entities and individuals are taxed on income of Argentine source by way of income tax. The local resident paying to a foreign entity or individual is obliged to withhold the income tax at a 35-percent (or 15-percent for some gains as capital gains) tax rate applied on a presumption of taxable income that varies in connection with the concept by which the payment is made. The presumption of taxable income can be from 35 percent up to 100 percent of the amounts paid.

For incomes connected to the transfer of shares, bonds or titles, or incomes connected with the rental of real estate or the transfer of assets located in Argentina owned by a non-resident, the non-resident individual or entity is entitled to choose to apply the presumption of income or to present evidence of all the expenses incurred and deduct those expenses from the gross amount to be paid.

**TAX RATES**

**Domestic**

Local entities are subject to an income tax rate of 30 percent for the fiscal year 2020 and 25 percent as of the fiscal year 2021.

In general, local individuals are taxed at a progressive tax rate that goes from 5 percent to 35 percent, except for earnings with a fixed tax rate. Those are the following:

- For local individuals, the transfer of sovereign bonds or any title is taxed at a 5-percent income tax rate if the title is issued in Argentine pesos, or 15-percent income tax rate if a share of a corporation is transferred, or if the title or sovereign bond is issued in Argentine pesos with an adjustment clause or in foreign currency except an exemption results applicable.

- The transfer of real estate by a local individual is taxed at a rate of 1 percent of income tax.

**Foreign**

In general, non-resident entities and individuals are taxed at an income tax rate of 35 percent applied on the presumption of taxable income with effective tax rates of 12.5 percent up to 31.5 percent (see Taxable Incomes). Some concepts are not taxed at the general 35-percent tax rate and are taxed to a specific tax rate.

- Transfer of sovereign bonds or any title (public or private) is taxed at a 5-percent income tax rate if the title is issued in Argentine pesos, or 15-percent income tax rate if the title is issued in Argentine pesos with adjustment clause, or in foreign currency except an exemption results applicable. The transfer of shares of a local corporation is taxed at a 15-percent income tax rate. This assumes that the foreign beneficiary is in a jurisdiction considered as cooperative for tax purposes.

- Dividends paid to a non-resident individual or entity are taxed at a 7-percent tax rate for the fiscal year 2020 and 13 percent as of the fiscal year 2021.

- The applicable tax rates can be lower if a double taxation treaty is applicable.
**TAX COMPLIANCE**

Local entities and individuals are obliged to fill tax returns at the federal, state and municipal level depending on their activities. Tax returns must be filled on a monthly or yearly basis depending on the tax.

Information regimes are applicable to certain activities. Advance payment regimes are applicable for some taxes.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

In some cases, taxpayers are entitled to present to the tax authorities a request for a ruling on a specific case. The ruling is binding for the consultant.

Tax incentives

There are tax incentives at the federal, state and municipal level which target specific activities, such as renewables and software services and development.

**CONSOLIDATION**

Not applicable for this jurisdiction.

**PARTICIPATION EXEMPTION**

Argentina tax legislation does not provide for a participation exemption.

Dividends paid by a local entity to another local entity are exempt from income tax. Dividends are only taxed when distributed to a local individual or to a foreign entity or individual.

**CAPITAL GAIN**

Capital gains are taxed by the income tax.

Domestic and foreign, see Taxable income and Tax rates.
Income tax on indirect transfer

Income tax on indirect transfer may apply if a non-resident entity is transferred provided that at least 30 percent of value of the entity is represented by assets located in Argentina and provided that the transferor owns at least 10 percent of the capital of such entity. When the transfer is carried on intragroup, the income tax on indirect transfer is not applicable.

DISTRIBUTIONS

Distributions are taxed as dividends. Regardless of the tax residence of the recipient, dividends are taxed at a 7-percent tax rate for the fiscal year 2020 and 13 percent as of the fiscal year 2021.

Domestic and foreign, see Taxable income and Tax rates.

LOSS UTILIZATION

Losses can be carried forward and can be offset with future profits for a 5-year period.

Losses considered to be of Argentine source can be offset only with profits considered to be of Argentine source. Losses considered to be of foreign source can only be an offset of foreign-source profits.

TAX-FREE REORGANIZATIONS

In Argentina, it is possible to carry on an intragroup reorganization with no tax effects. Mergers, spinoffs or partial spinoffs are exempted from income tax, VAT and turnover tax if certain requirements are met.

Income tax on indirect transfers can also be carried on with no tax costs if it is an intragroup transfer.

ANTI-DEFERRAL RULES

According to CFC rules, the profits of a foreign entity directly or indirectly owned by a local entity or individual should be declared and taxed in the fiscal year of accrual in the following cases:

- Trusts: When the trust is revocable, when the settlor is also the beneficiary or when the resident individual or entity has full control of the trust
- When the foreign entity is not considered a tax resident of the jurisdiction where it is incorporated
- When:
  - The local individual or entity directly or indirectly owns at least 50 percent of the capital of the foreign entity
  - The foreign entity does not have sufficient structure to carry on its business or when at least 50 percent of the profits of the foreign entity are passive income
The taxes paid by the foreign entity in the country where it is incorporated are less than the 25 percent of the income tax that would be payable in Argentina (this requirement is deemed as occurred if the entity is incorporated in a non-cooperative jurisdiction).

FOREIGN TAX CREDITS

Subject to conditions and limitations, foreign tax credits are available for foreign income taxes paid.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Domestic and foreign

When a local entity or a non-resident individual or entity sells or transfers real estate property located in Argentina, income tax is triggered.

For resident individuals, if the real estate property that is being transferred has been acquired by the seller before January 1, 2018, no income tax is applicable, and the local individual must pay a special tax on transfer of real estate property.

There is the possibility of a tax deferral on the income tax applicable to the sale of a real estate property using a sale and replacement mechanism.

TRANSFER PRICING

Argentine transfer pricing rules apply to transactions between an Argentine party and a foreign related entity or any entity domiciled in a tax haven jurisdiction, a jurisdiction considered as non-cooperative, or that is subject to a privileged tax regime.

Argentine transfer pricing rules follow arm’s-length rule and follow the OECD guidelines with some divergences.

WITHHOLDING TAX

(see Taxable income and Tax rates.)

Domestic

Payments made by banks and financial institutions to local entities or individuals in the case of interests on bank deposits or financial investments are subject to income tax withholding.

Dividends paid by a local entity to a local individual are subject to income tax withholding. The tax rate applicable is 7 percent for the fiscal year 2020 and 13 percent as of FY 2021.

Foreign

Non-resident entities or individuals are taxed on their income considered to be of Argentine source.
The local payer is obliged to withhold the income tax at the time of the payment. Tax rates and presumptions of taxable income vary in connection with the type of payment made.

Tax treaties may reduce or eliminate withholding of income tax.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

Capital gains are taxed by the income tax (see Taxable income and Tax rates.).

Stamp duty or stamp tax is a provincial tax triggered by the entering of written agreements signed by both parties. The tax rate applicable varies in connection with the province and in connection with the agreement. Tax rates are of 0.2 percent up to 5 percent of the total amount of the agreement.

There are legal mechanisms to avoid the payment of stamp tax by entering into an agreement as an offering letter.

Transfers of shares, assets and real estate property are taxed under the income tax (see Taxable income and Tax rates.).

**EMPLOYMENT TAXES**

Employers must withhold income tax and social security contributions. Employers also must pay their share of social security contributions. These taxes are deductible by an employer for Argentine income tax purposes.

**OTHER TAX CONSIDERATIONS**

**Provincial taxes - Turnover tax**

Turnover tax or gross income tax is a tax collected by the province. The taxable event is the performance of commercial or industrial activity in the territory of the province. Tax rates can be 0.5 percent up to 6 percent in connection with the activity applied on the gross income. Some activities are charged with higher tax rates, such as online gambling, which is taxed at a 15-percent tax rate in the Province of Buenos Aires.

In some provinces, turnover tax is also applicable to the import of digital services.

Every province has its own turnover tax. However, the turnover tax collected by each province is similar, although different tax treatments may be applicable for certain activities.

**Tax benefits**

For some activities, there are special tax benefits at the federal level and provincial level.

There are tax benefits for an investment in renewable energy, software production and services, investments in capital assets, biodiesel fuel and mining.

The benefits may include partial or full exemptions, accelerated depreciation and drawback.
VAT on the import of digital services

The federal government collects VAT on the importation of digital B2C services. The taxpayer is the local resident unless the service provider has a fixed place in the Argentina. The tax rate is 21 percent.

PAIS Tax

The PAIS tax is applicable to the purchase of foreign currency by resident individuals. It is also applicable when a local individual pays for services to a foreign entity using their credit/debit cards. The tax rate is 30 percent, or 8 percent when the service being paid is already taxed with the VAT on digital services.

Double taxation treaties

Argentina has signed tax treaties with Germany, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, United Arab Emirates, Spain, Finland, France, Italy, Mexico, Norway, Netherlands, the UK, Russia, Sweden and Switzerland (all in force), and Japan, Luxembourg, Turkey, China, and Qatar (signed but not yet in force).

KEY CONTACTS

Augusto Nicolás Mancinelli
Partner
DLA Piper (Argentina)
a.mancinelli@dlapiper.com.ar
T: +5411 411 45500
View bio
RESIDENCE AND BASIS FOR TAXATION

A resident company is a company that is incorporated in Australia. It also includes a company that carries on its business in Australia and either its central management control is in Australia or its voting power is controlled by shareholders resident in Australia.

As part of the Federal Budget 2020-21, the Australian Government announced that legislative amendments will be made to clarify that a company which is incorporated outside Australia will only be treated as an Australian tax resident if it has 'significant economic connection' to Australia (i.e., where a company has its central management and control and core commercial activities being undertaken in Australia).

**Domestic**

A resident company is subject to income tax on all of its income and capital gain from sources anywhere in the world.

**Foreign**

A non-resident company is generally taxed only on income from Australian sources and capital gains recognized on taxable Australian property. A network of Double Taxation Agreements (DTA) operates to modify these rules, including reducing the rate of withholding taxes.

Australia is also a signatory to the OECD’s multilateral instrument (MLI). The Australian Government has enacted legislation which gave the multilateral instrument the force of law in Australia from January 1, 2019. The multilateral instrument will progressively modify Australia’s DTAs between Australia and other relevant signatory countries.

TAXABLE INCOME

**Domestic**

Taxable income of a resident company is equal to assessable income less allowable deductions.

**Foreign**
Taxable income of a non-resident equals Australian-sourced income less allowable deductions incurred in respect of that income. Residents of countries that have a DTA with Australia are only subject to income taxes on business profits in Australia if they carry on business in Australia at or through a permanent establishment. There is no branch profits tax in Australia.

**TAX RATES**

Both resident companies and non-resident companies (with Australian-sourced income) are subject to income tax at the company tax rate of 30 percent, unless they qualify for a lower rate (26 percent for the 2020-21 income year and 25 percent for later income years) by satisfying specific requirements (i.e., having an aggregated turnover of less than AUD50 million and satisfying an active income test).

**TAX COMPLIANCE**

Federal income tax returns must be lodged annually. The Australian tax year, or year of income, ends on June 30. A Substituted Accounting Period may be adopted as the income tax year with the written approval of the Commissioner.

Increased administrative penalties are imposed on entities with annual global income of AUD1 billion or more that fail to adhere to tax disclosure and related obligations. The increased administrative penalties apply from July 1, 2017 and:

- Increased the maximum penalty to AUD555,000 for multinational companies which fail to meet their reporting obligations and
- Doubled the penalties related to making false and misleading statements to the Australian Taxation Office (ATO) with a view to discourage multinationals from being reckless or careless in their tax affairs.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

The ATO and the different state/territory revenue offices issue public rulings, determinations, interpretative decisions and practice statements that set out their views on the operation of the relevant federal or state law.

In addition, a taxpayer can seek certainty in respect of their tax affairs by applying for a private ruling. A private
ruling is legally binding on the Commissioner.

Tax incentives

There are tax incentives for specific activities, including research and development, and deductions for certain mining and primary production industries. In addition, lower withholding tax rates (15 percent) are available for distributions to certain non-residents from eligible withholding managed investment trusts (MITs).

From July 1, 2019, certain income derived by MITs considered to be active business income will no longer be eligible for the 15-percent MIT tax rate (e.g., MIT cross staple arrangement income, MIT agricultural income and MIT residential housing income). Rental income from commercial and industrial real estate continues to be eligible for the 15-percent MIT tax rate.

**CONSOLIDATION**

For income tax purposes, an Australian head company of a wholly owned group of Australian resident entities can elect to consolidate with its wholly owned Australian subsidiaries and form a consolidated group. For a consolidated group, the group is treated as a single taxpayer and intra-group transactions are ignored for income tax purposes.

Goods and services tax (GST) grouping and payroll taxes grouping are also available.

**PARTICIPATION EXEMPTION**

A Capital Gain Tax (CGT) exemption is available for the sale of an active foreign business by an Australian resident company.

Dividends received by resident corporate tax entities (e.g., companies and corporate limited partnerships) that have a 10-percent or more equity interest in a foreign subsidiary are generally exempt from further Australian income tax.

However, these need to be addressed on a case-by-case basis.

**CAPITAL GAIN**

Capital gain tax forms part of the income tax regime. CGT applies to net capital gain relating to assets and notional assets acquired after September 19, 1985. Capital gain or loss is calculated on the proceeds from the disposal of the asset less its cost base and any incidental costs associated with its purchase and disposal. The taxable part of the gain is treated as assessable income. Where the sale proceeds are less than the unindexed cost base, the taxpayer will incur capital losses. These losses may only be offset against current or future capital gain.
Some assets are exempt from CGT, and certain concessions are available for eligible Australian entities (e.g., 50 percent CGT discount for resident individuals and trusts and a 33.3-percent discount for complying superannuation funds).

**DISTRIBUTIONS**

Dividend distributions by companies are taxable for shareholders. Subject to integrity measures, Australian resident shareholders may be entitled to a tax credit for corporate tax paid by the company. Dividends to foreign residents are prima facie subject to withholding tax at 30 percent, which may be reduced under a DTA, subject to satisfying the integrity measures under the MLI (e.g., the Principal Purpose Test) where applicable. In addition, certain exemptions are available in domestic tax law (e.g., for dividends paid out of taxed profits).

Capital distributions are taxable for shareholders to the extent they exceed the cost base of the shareholder’s shares in the company.

**LOSS UTILIZATION**

Company tax losses can be carried forward indefinitely, subject to satisfying certain loss utilization tests.

From January 1, 2021, eligible companies with annual turnover of less than AUD5 billion may also carry-back tax losses from the 2019-20, 2020-21, or 2021-22 income years to offset previously taxed profits in the 2018-19 or later income years, subject to satisfying the relevant requirements and integrity measures.

**TAX-FREE REORGANIZATIONS**

Tax-free reorganization provisions include CGT exemptions, exemptions for intragroup transactions in a consolidated group and a stamp duty exemption for corporate reconstructions.

**ANTI-DEFERRAL RULES**

Under the controlled foreign company (CFC) rules, a resident entity may be subject to income tax on a current basis on "attributable income" of the entity’s controlled foreign companies.

**FOREIGN TAX CREDITS**

Where foreign-sourced income is included in a taxpayer’s assessable income, foreign income tax offsets are available at the lesser of the foreign tax paid or the Australian tax payable.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

Foreign residents are generally exempt from Australian CGT except where the relevant asset is a direct or indirect interest in Australian real property (including through an interposed entity).
From May 9, 2012, the 50-percent CGT discount allowed for gains made by individuals on Australian real property is reduced for any periods in which the taxpayer has been a foreign resident during the period of ownership. From July 1, 2016, a new foreign resident CGT withholding tax (CGT WHT) regime applies in Australia. On July 1, 2017, changes came into effect for the CGT WHT rules. Under the current and updated CGT WHT rules, unless an exemption applies, purchasers of direct or indirect interests in Australian real property are required to withhold 12.5 percent of the purchase price and remit this to the ATO if at least 1 of the vendors is a foreign resident. The CGT WHT is not a final tax as the vendor may claim a credit for the tax withheld when lodging its tax return for the relevant year.

From December 12, 2019, a law change meant that the CGT main residence exemption is no longer available to foreign tax residents, except in certain limited circumstances.

TRANSFER PRICING

Arm’s-length principles are applied to transactions between related parties under an international agreement.

Australian rules are similar in many respects to the OECD guidelines, with certain differences such as the transfer pricing documentation requirements and the Commissioner’s reconstruction powers.

In addition to satisfying transfer pricing documentation requirements, multinational entities with an annual global income of AUD1 billion or more are required to provide the ATO with 3 statements (a master file, a local file and a country-by-country, or CbC, report) within 12 months after the end of their income tax year. These statements require multinationals to report details regarding their international related party dealings, revenues, profits and taxes paid by jurisdiction. These measures took effect from income years commencing on or after January 1, 2016.

WITHHOLDING TAX

Dividends, royalties and interest

Generally, a 30-percent withholding tax rate applies to dividends (unless an exemption is available under domestic law (for example, dividends paid out of taxed profits – or DTA) and royalties and 10 percent for interest, which may be exempted under Australia’s domestic law or reduced under a DTA.

The concessional withholding tax treatment for dividends, royalties and interests continue to be available under a DTA that is modified by the MLI, provided that the relevant integrity measures (e.g., the Principal Purpose Test) are satisfied.

Service fees

Generally, no withholding tax applies to service fees, unless the services fees are regarded as royalties.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

No capital duty. Stamp duties and transfer taxes may be imposed at the state and territory level on transfers of assets and other "dutiable transactions," which includes certain transfers of shares in "landholders."
Where applicable, exemption may be available on application to, and approval by, the relevant state/territory revenue office.

From July 1, 2016, share transfer duty was abolished in all states and territories.

**EMPLOYMENT TAXES**

Employers must withhold federal income tax from wages paid to employees. Employers also must pay Fringe Benefits Tax and Payroll Tax where applicable.

**OTHER TAX CONSIDERATIONS**

*Anti-avoidance regime and OECD BEPS-related developments*

Australia has a general tax anti-avoidance regime. The regime empowers the Commissioner to deny a tax benefit if, where a taxpayer obtains tax benefit in connection with a scheme, the tax benefit would not have arisen without the scheme, and under an objective test there was a dominant purpose of entering into the scheme to obtain the tax benefit.

In an effort to tackle multinational anti-avoidance, Australia’s general tax anti-avoidance regime was amended with the introduction of the Multinational Anti-Avoidance Law (MAAL) which was operative from January 1, 2016. The MAAL applies to multinational entities with an annual global income of AUD1 billion or more and is targeted at multinational entities entering into contrived arrangements to avoid a taxable presence in Australia.

Further, Australia’s general tax anti-avoidance regime was amended with the introduction of the Diverted Profits Tax (DPT), which applied from July 1, 2017. The DPT is targeted at multinational entities with an annual global income of AUD1 billion or more that have entered into contrived arrangements to shift taxable profits out of Australia.

Under Australia’s domestic law, protection under double tax treaties is not available for Australia’s general tax anti-avoidance rules, which include the MAAL and DPT.

In addition, the Australian Government has introduced rules targeting hybrid mismatches, which has generally applied from January 1, 2019. These rules are generally in line with OECD’s BEPS Action 2, with certain modifications including a specific integrity rule targeting interposed entity structures.

*Superannuation*

Employers must make superannuation contributions to their employees’ nominated super fund, at the rate prescribed by the relevant legislation.

*Workers’ compensation*

Employers are required to take out insurance with an approved insurer covering the employer's full liability for workers’ compensation as well as damages.

*Goods and Services Tax (GST)*
GST is a form of value added tax (VAT). It applies at a rate of 10 percent to taxable supplies of goods, services and other things that are connected with Australia.

From July 1, 2017, GST has applied to inbound intangible supplies made to Australian Consumers, but GST will not usually apply if the same inbound intangible supply is instead made to an Australian business. This reform is referred to as the "Netflix Tax."

From July 1, 2018, GST has applied to inbound supplies of goods with a value of less than AUD1,000 which are made to Australian Consumers. This may capture online sales of goods made by non-residents to Australian consumers where the goods are shipped directly to Australian customers.

From July 1, 2019, offshore sellers of Australian commercial accommodation (including online sellers) are required to include sales of Australian accommodation in their GST turnover. Where the GST turnover totals AUD45,000 or move in a 2-month period, the offshore sells are required to register for, charge and pay GST.

**KEY CONTACTS**

**Jock McCormack**  
Head of Tax, Australia  
DLA Piper Australia  
jock.mccormack@dlapiper.com  
T: +61 2 9286 8253  
View bio
AUSTRIA

RESIDENCE AND BASIS FOR TAXATION

A corporate entity (i.e. limited liability corporation [GmbH] or a stock corporation [AG]) is treated as a domestic entity for corporate income tax purposes if its registered seat (legal seat) or the effective place of management is located in Austria. The “place of effective management” is located where the day-to-day management of the company is actually carried out and not where singular board decisions are formally made. However, the definition of place of effective management under Austrian tax law does not significantly deviate from its definition under the Organisation for Economic Co-operation and Development (OECD) guidelines.

Domestic

Global income of a domestic entity generally is subject to Austrian taxation.

Foreign

Only certain income of legal entities which are neither seated in Austria nor have their effective place of management in Austria is subject to limited corporate income tax in Austria. Such income would be treated as connected with Austria under the applicable rules.

TAXABLE INCOME

The annual financial statements prepared in accordance with commercial/accounting law are the basis for determining the taxable income. Valuation methods may be used for both assessments pursuant to commercial/accounting law as well as for tax purposes, unless tax laws provide otherwise. Adjustment of profit or loss shown in the financial statements is to be made in order to level out any difference resulting from applying tax law or commercial/accounting law (Mehr-Weniger-Rechnung). Depreciation for tax purposes is generally in line with depreciation in accounting/financial statements. If depreciation stated in the financial statement exceeds the amount admissible under tax law, the provisions of tax law prevail, resulting in a difference between taxable income and the annual result. Goodwill acquired in the course of a takeover (asset deal) must be amortized over a period of 15 years for tax purposes. Buildings are to be depreciated. The depreciation rate ranges between 2.5 percent (eg, a factory) and 1.5 percent (eg, residential buildings) on a straight-line basis.
TAX RATES

Due to the qualification of corporations as independent tax subjects, a distinction must always be made between tax ramifications at the level of the company and those at the shareholder level. Profits of corporate entities are taxed at the company level at a flat rate of 25 percent corporate income tax (Körperschaftsteuer). Payments where the recipient is not disclosed (Empfängerbenennung) may attract a 25 percent surcharge and are not tax deductible.

The planned tax reform for 2021 includes a reduction in wage and income tax rates. Details of the relief for the economy have not yet been specified. Measures can be expected, such as a reduction in corporation tax from 25 percent to 21 percent over the course of several years.

TAX COMPLIANCE

The Austrian tax laws stipulate a number of tax compliance provisions, including an obligation to keep books and records (usually for 7 years), an obligation to file annual tax returns, generally, until June 30 (corporate tax and value-added tax, which may be extended if the entity is represented by a tax advisor) and notification duties. However, if the company is represented by an Austrian certified tax advisor, the tax return can be submitted by March 31 of the 2nd following year.

Horizontal monitoring

Beginning in 2019, corporations that fulfill certain requirements can apply for horizontal monitoring. Through the implementation of an internal control system, verified by tax advisors or auditors and extended disclosure requirements, horizontal monitoring can replace traditional tax audits.

ALTERNATIVE MINIMUM TAX

Corporations are subject to a minimum corporate income tax of 5 percent of the statutory minimum capital (GmbH EUR1,750 (5 percent of EUR35,000), GmbHs founded after 2013: reduced to EUR500 in the first 5 years after formation, EUR1,000 for subsequent years, AG EUR3,500 (5 percent of EUR70,000)). Special provisions apply for banks and insurance companies.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Since January 1, 2011, an Advanced Ruling is available. A complete disclosure is required. A notification is only issued subject to the condition that the applicable legal facts on which the tax authorities’ assessment is based do not change. A request for an Advanced Ruling may only be filed with the tax authority that is competent locally with regard to the subject matter for the relevant facts. With respect to content, such Advanced Ruling may be
received as of January 1, 2019 to the areas of restructuring (Umgründungen), international tax law, transfer prices, group taxation (Gruppenbesteuerung) and tax avoidance questions and, as of January 1, 2020, to VAT issues. An Advanced Ruling is subject to an administrative fee (Verwaltungskostenbeitrag), whereby amounts from EUR1,500 up to a maximum of EUR20,000 can be charged, depending on the requesting company’s turnover. In addition, non-binding rulings are also available and have a high practical relevance.

Tax incentives

An invention premium is granted as a tax refund, which is directly credited or paid to the corporate entity. The premium equals 14 percent of the expenses for specific research and development activities. The premium is granted as a tax refund and may be claimed at the end of the tax year. An opinion of the Austrian Research Promotion Agency (FFG) is required. The premium applies to research and development activities with respect to expenses paid to companies or permanent establishments located in an EU or EEA country. The premium may also be claimed for contract research projects limited to expenses of EUR1 million per annum.

Tax incentives related to COVID-19

A lot of COVID-19 packages and support measures were provided by several federal institutions, e.g., the Austrian Ministry of Finance, the Austrian Social Security Institution for Self-Employed, and the Austrian Health Insurance Fund, as well as the Austrian federal states, municipalities, and professional organisations. They have introduced facilitations for tax payments, postponed annual income tax return due dates, as well as the disclosure of deadlines for the annual financial statements, made special a short-time work model available and also provides guarantees and subsidies (e.g. subsidy for fixed costs) across Austria and the federal states.

CONSOLIDATION

Group Taxation (Consolidation)

In 2005, a new system of group taxation (Gruppenbesteuerung) was introduced. The system of group taxation allows allocating profit or loss of domestic members of such tax group to the holding company, which is the only taxpayer for the whole group with respect to corporate income tax. In addition, losses from foreign directly held subsidiaries may be utilized against Austrian income, subject to certain requirements and restrictions, but have to be recaptured if utilized in subsequent periods in the foreign jurisdiction.

In general, the only requirements for becoming a group member of a tax group is a direct or indirect major shareholding in a corporation and the execution of a group consolidation contract. However, there are certain additional provisions for foreign entities. Furthermore, the group members must apply for group taxation with the competent tax authorities. A tax group must be in existence for a period of at least 3 years. If a group member withdraws from the group before this period has elapsed, such group member’s tax will be assessed as if it never had been a group member.

Excessive Interest (interest barrier)

The new Section in the Corporate Income Tax Act, entitled "Zinsschranke" (interest barrier), is intended to implement the provisions of Art 4 ATAD2 limiting the deductibility of interest payments into national tax law, for the purpose of determination of the arm’s length nature of related party financing. These provisions aim to combat any profit shifting by groups of companies in the form of excessive interest payments by limiting the deductibility of excess debt capital costs.
§ 12a Corporate Income Tax Act sets out the basic rule of the interest barrier, according to which excess interest is only deductible to the extent of 30 percent of the taxable EBITDA or contains an tax-free amount of EUR3 million, i.e. excess interest up to this amount is to be immediately deductible as a business expense regardless of the amount of the taxable EBITDA. Any financing expenses in excess of the aforementioned amount will be non-deductible but can be carried forward.

PARTICIPATION EXEMPTION

Austrian dividends distributed to a resident company are exempt from corporate income tax under the national participation exemption rules (Beteiligungsrentertragsbefreiung). Foreign dividends distributed to a resident company are also exempt from corporate income tax. However, there are special provisions that differ between companies that are resident in an EU member state or in a state with which Austria signed an extensive tax administrative assistance agreement.

CAPITAL GAIN

Capital gains resulting from the sale of a shareholding in a resident company are subject to corporate income tax. Capital gains resulting from the sale of a shareholding in a foreign company are, in general, exempt from corporate income tax. However, there are detailed special provisions and restrictions that apply in such cases.

DISTRIBUTIONS

Distributions (Dividends)

Dividends paid to a domestic or non-domestic individual are subject to a 27.5 percent income withholding tax rate (Kapitalertragsteuer). Austria’s double tax treaties may provide for a reduced withholding tax rate, which could apply at source or by way of a refund procedure. Claiming the reduced rate may require certain documentation, including a residency certificate. Austrian dividends paid to resident individuals are not subject to further income tax if the 27.5 percent income tax has already been withheld at source.

Dividends distributed to domestic or foreign corporations are, in general, subject to a 25 percent withholding tax. An exemption from withholding taxation of dividends distributed to an Austrian or EU parent company is applicable, provided that the following conditions are met:

- The shareholder is a corporation resident in Austria or in another EU member state and the shareholder has held at least a 10 percent interest for 1 year.

Additionally, withholding tax relief may be provided for recipients resident in countries with a double tax treaty with Austria. Dividends paid to foreign corporations are only exempt from Austrian withholding tax if the activities of the foreign company go beyond those of a mere holding company, that staff is being employed and business premises are used.

If dividends are paid to domestic or non-domestic individual or corporate shareholders optionally by dissolution of the share premium of a company, there is no income withholding tax due. Such dividends are paid without source
Taxation and are treated as capital repayment (Einlagenrückzahlung).

**LOSS UTILIZATION**

Tax losses (resulting from operating revenues) may be carried forward for an indefinite period of time and may be offset against both trading income and capital gain. However, for corporations, only 75 percent of current income may be offset against tax losses brought forward; thus, 25 percent of current income is invariably subject to tax.

This limitation does not apply to individuals. Excess tax losses can still be carried forward. Loss carrybacks are not permitted.

**TAX-FREE REORGANIZATIONS**

According to the provisions of the Austrian Reorganization Tax Act (Umgründungssteuergesetz), reorganizations of partnerships and corporations may be carried out tax-neutrally under certain conditions. In the case of cross-border reorganizations, it is especially essential that a possibly existing right to tax of the Republic of Austria continues to exist. If the requirements of the Reorganization Tax Act are (intentionally) not fulfilled, the reorganization is tax effective, which could be useful in specific situations.

**ANTI-DEFERRAL RULES**

No text yet.

**FOREIGN TAX CREDITS**

No text yet.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

**Real estate transfer tax**

In addition to the real estate transfer tax (up to 3.5 percent from the purchase price), the real estate registration duty (1.1 percent) will be levied. In the case of real estate transfers within the closer family circle a tax rate of 2 percent applies, the rate for transfers without compensation is subject to different levels (0.5 percent for a property value of below EUR250,000, 2 percent up to EUR400,000, and 3.5 percent over EUR400,000). For transfers in connection with corporate restructuring under the Reorganisation Tax Act, the tax rate amounts to 0.5 percent of the property value. Specific taxes exist also for some specific industries (eg, banks, insurances, airlines).

In case of direct transfer of at least 95 percent of the shares in an Austrian or foreign company possessing Austrian real estate, a real estate transfer tax of 0.5 percent from the fair market value of the real estate becomes due.

**VAT on acquisition and sale of real estate**
Sales of real estate are usually VAT exempt, but an option to VAT liability can be exercised under certain circumstances and in this case, 20 percent VAT will be due. An entrepreneurial purchaser can request a refund of VAT (input tax). In the case of changes in VAT treatment, the input tax must also be adjusted pro rata.

Direct acquisition of real estate – Asset Deal

The real estate investor can acquire real estate in Austria by the means of an asset deal (e.g. direct acquisition of real estate) or by means of a share deal (e.g. acquisition of a corporation owning real estate).

In case of an asset deal, the seller transfers all or part of a business to the buyer. The property is transferred directly via purchase contract, inheritance or donation (for example).

Gains are taxed at 25 percent corporation tax for corporations (up to 55 percent for natural persons according to the progression tax rate).

Real estate transfer tax up to 3.5 percent of the purchase price in the case of transfer against payment, but at least of the value of the land plot and registration fee of 1.1 percent of the purchase price (including VAT) will be levied.

Indirect acquisition of real estate – Share Deal

In the case of a share deal, only shares in a company owning real estate are transferred.

Capital gains on the sale of shares in Austrian corporations by private persons/ partnerships/single entrepreneurs in the amount of 27.5 percent and by corporations corporate income tax of 25 percent generally will be levied.

The transfer of company shares is VAT exempt and Real estate transfer tax for the acquired real estate amounts to 0.5 percent of the real estate value at change of shareholders in partnerships or association of shares in partnerships when more than 95 percent are transferred within 5 years to new shareholders or in case of an reorganisations according to UmgrStG will be collected. No registration fee, will be levied as the real estate continues to be the property of the company.

TRANSFER PRICING

INTERNATIONAL BUSINESS-RELATED ISSUES

Controlled Foreign Companies (CFC) and thin capitalization

Beginning in January 2019, the Austrian government introduced a Controlled Foreign Company Rule. According to this rule, passive income of foreign subsidiaries in low-taxed countries (equal or below 12.5 percent) will be added to the income of the Austrian shareholder, if certain conditions are fulfilled. The CFC rule applies to foreign entities which are controlled by a domestic entity that holds more than 50 percent of the voting rights alone or together with its affiliated companies. These rules only apply to non-distributed profits of the CFC arising especially from the following categories of passive income: interest or any other income generated by financial assets, royalties or any other income generated from intellectual property, dividends, financial leasing, income from insurance and banking, etc. An exemption is available if a CFC carries out substantial economic activity through engagement of staff, equipment, property and buildings, as evidenced by relevant facts and circumstances. If only
1/3 or less of the total income of the foreign entity falls within the categories of passive income as listed above, the foreign entity will not be considered a CFC. In general, tax rules as the substance-over-form-principle, beneficial ownership concept and other anti-abuse rules remain.

Austrian tax law does not provide for specific thin capitalization rules. However, the Austrian courts have developed various principles to determine under which circumstances debt financing from shareholders is to be treated as equity for tax purposes. With regards to an interest deduction, intragroup interest payments by Austrian companies to foreign connected low or non-taxed entities are not recognized for tax purposes.

Double taxation treaties

Austria has signed 100 double taxation treaties with other countries to avoid double taxation of income or gains arising in one territory and paid to residents of another territory. These treaties either grant a credit against Austrian tax for foreign taxes paid on the same income (e.g., with the US, UK, Japan and Italy) or exempt foreign-source income.

If there is no applicable tax treaty, the Austrian Ministry of Finance may grant unilateral relief in order to avoid double taxation.

Transfer Pricing

Transfer pricing documentation based on the OECD Transfer Pricing Guidelines (master file, local file, country-by-country report) must be prepared and submitted with the Austrian tax authorities according to the Austrian Transfer Pricing Documentation Law. The size of required documentation depends on the turnover of a corporate entity.

All business transactions between related parties, one of which is a resident while the other is a non-resident, must be effected at arm’s length, or at fair market value. Following from this principle, should a company through a transfer pricing transaction pay more for a service to a non-resident related party than what would be considered at arm’s length in accordance with the Austrian corporate tax law, then the excess amount of the transaction would not be a deductible expense for the resident company for profit tax purposes. In Austria, 5 methods that can be used for establishing whether the business transactions between related parties are agreed at market prices, which are in line with the OECD Transfer Pricing Guidelines (comparable uncontrolled price method, resale price method, cost plus, profit split method, and transactional net margin method).

Business transactions between related parties and prices agreed between them will be recognized for tax purposes and accepted by the tax authorities if the taxpayer has in its possession, and provides upon a request from the tax authorities, details on the method used for determining the transfer prices.

WITHHOLDING TAX

Withholding Tax

In regards to dividend distributions, see the explanations above. In regards to interest, no withholding tax becomes due in Austria, as long as the beneficial payee is a corporate entity or an individual, resident in a state with whom Austria has automatic exchange of information (otherwise withholding tax of 25 percent or 27.5 percent may become due). Royalties are subject to 20 percent withholding tax, subject to tax treaty limitation or limitation according to the EU Interest and Royalty Directive.
Exit Taxation

In the case of a transfer of assets that formed part of a business from Austria to a foreign country (e.g. allocation of assets to a foreign branch), 25 percent latent capital gains generally are taxed at the time of the transfer. The same applies if the Austrian taxing rights regarding an asset are lost due to other circumstances. In case these assets are transferred to and taxing rights are lost vis-à-vis an EU/EEA member state, it is possible to apply for a payment by instalments (i.e., 7 years for non-current assets and 2 years for currents assets).

Reporting Obligations under DAC 6

The aim of the DAC6 is to prevent aggressive tax planning by strengthening the control of the activities of tax intermediaries. According to the proposal, these intermediaries, such as tax advisors, accountants and lawyers who design and/or offer tax planning models, are to be obliged to report models that are considered potentially aggressive. By means of defined “hallmarks,” models are to be identified that must be reported to the tax authorities. The fact that a model must be notified does not mean per se that it is harmful, but only that it may be of interest to the tax authorities to examine it more closely. While some models have perfectly legitimate purposes, the aim is to identify those where this is not the case.

The reportable tax arrangements must be reported to the competent national authority within 30 days. The Member States are in turn to be required to exchange the information thus obtained automatically among themselves via a central database. Member States would be obliged to impose penalties on intermediaries who do not comply with the transparency rules.

Member States had until December 31, 2019 to implement the Directive into national law. The new reporting requirements apply from July 1, 2020. Member States must then exchange information every 3 months, namely within 1 month of the end of the quarter in which the information was received. The first Automatic Information Exchange took place on October 31, 2020.

Hybrid Mismatch

As of January 1, 2020 and based on the provisions of EU Directives (ATAD and ATAD II), provisions on hybrid mismatch are in effect. These provisions define the tax treatment of cross-border hybrid mismatch arrangements. Hybrid mismatches are the consequence of differences in the legal characterization of 2 jurisdictions regarding payments (financial instruments) or entities that arise as a result of interaction between these 2 jurisdictions.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Stamp duty

Austria levies stamp duty on certain legally predefined transactions for which a written contract has been established. Stamp duty has to be paid if at least 1 Austrian party is involved or, even if a contract is concluded between non-Austrian parties only, if the subject of the contract relates to Austria. The Austrian administration's understanding of a ‘written contract’ is very broad and covers not only paper contracts but also contracts concluded by electronic means (e.g. electronically signed emails).

Relevant legal transactions subject to stamp duty include:
• Instructions (2 percent)

• Rental agreements: e.g. rental contracts for movable or immovable property, leases (1 percent)

• Declarations of surety and specific guarantees (1 percent)

• Mortgage (1 percent)

• Assignments of receivables (0.8 percent)

It should be mentioned that exemptions are available. Loan and credit agreements are not subject to stamp duty.

EMPLOYMENT TAXES

Austrian wage tax is a withholding tax which has to be paid by the employer but is also partly borne by the employee. Along with this wage tax, the employer also has to pay social insurance contributions and other taxes. As a general, but very rough rule approximately 50 percent of the salary costs for an employee are taxes and social security contributions.

OTHER TAX CONSIDERATIONS

Digital services tax

In 2020 a digital tax of 5 percent on online advertising for large companies was introduced in Austria.

Online advertising services are subject to the digital tax if they are provided for remuneration by online advertising providers in Austria and only for large multinational companies with a worldwide revenue of at least EUR750 million and a yearly domestic revenue at least EUR25 million.

Advertising tax

The purpose of the Advertising Tax Act is to tax advertising services in print media, radio and outdoor advertising at 5 percent of direct remuneration. A prerequisite for the obligation to pay the tax is an advertising service which is provided in Austria against payment. Advertising on the Internet on homepages, Web TV or Web radio is exempt from the advertising tax.

Inheritance and gift tax

There is no inheritance and gift tax in Austria.

Excise taxes

Excise taxes are for example imposed on petroleum, tobacco products and alcoholic beverages.

VAT

Under the Austrian VAT law, companies and individuals, independently carrying out an active business on a
permanent basis are qualified as entrepreneurs for VAT purposes. Non-residents may also be subject to VAT if they carry out taxable transactions in Austria.

Under the provisions of the Austrian Value Added Tax Act (VATA), the following transactions are taxable:

- The supply of goods and services within Austria for a consideration by taxable persons within the scope of their business;
- The withdrawal of goods and rendering of services for the taxable person himself (self-supply);
- The import of goods from a country outside the EU;
- Intra-Community acquisitions of goods.

**VAT place of supply**

A supply of goods is deemed to have taken place within Austria if the goods were located in Austria at the point at which the power of disposition was transferred. In the case of the dispatch or transport of supplies of goods, the supply is deemed to have been made from the point at which the goods are handed over to the forwarding agent.

The place of supply primarily depends on whether the supply is made to a taxable person (B2B) or to a non-taxable person (B2C). For supplies of services to taxable persons, the general rule is that the place of supply of services should be the place where the recipient is established (B2B general rule). Services supplied to nontaxable persons should be taxed at the place where the supplier has established its business (B2C general rule). However, there are numerous exceptions to these general rules.

**VAT rate**

In general, an Austrian VAT rate of 20 percent exists. A certain limited range of goods and services is taxed at the reduced rate of 10 percent (e.g. books, food, restaurants, passenger transportation, medicine, hotel accommodation) or 13 percent (e.g. animals, seeds and plants, cultural services, museums, zoos, film screenings, wood, ex-vineyard sales of wines, domestic air travel, public pools, youth care, athletic events). Certain other transactions are exempted from Austrian VAT (e.g. export transactions).

Due to the COVID-19 pandemic, the Austrian government has announced and already introduced several measures, including VAT reductions, to strengthen the economy. This includes a reduction of the VAT rate for certain supplies of respirators and COVID vaccine from 20 percent to 0 percent, reduced VAT rate of 5 percent for supplies of all food and beverages in restaurants and other catering establishments, access to museums, cinemas, or musical events, and supplies in the publishing sector and hotels until December 31, 2021.

**VAT exemptions**

The numerous exemptions from VAT can be classified in 2 categories, depending on whether or not they preclude the deduction of input VAT.

The following supplies of goods and services are VAT exempt (with the loss of input VAT recovery): health services, financial, banking and insurance services, securities and share transactions, sales of immovable property, unless the taxable person opts to pay VAT, and supplies of small businesses (up to EUR35,000 net per annum).
Input VAT Deduction

Entrepreneurs are entitled to deduct Austrian input VAT insofar as the input VAT does not result from goods/services purchased that are directly linked to certain VAT-exempt categories as mentioned above. To be entitled to deduct input VAT, the entrepreneur must obtain an invoice from one’s supplier that fulfills certain formal requirements.

Reverse Charge

Under the reverse charge system, the VAT liability of a non-resident business is shifted to the recipient of the supply. The reverse charge system applies to all supplies of services, installation supplies of goods rendered by nonresident taxable persons in Austria.

VAT Filling

The monthly/quarterly VAT return must be submitted until the 15th of the 2nd month following the month/quarter concerned. The Annual VAT return must be filed until June 30 of the following year if filed electronically. If represented by a tax advisor, an extension until March 31 of the 2nd year following the year concerned might be granted within the quota agreement, although earlier filing may be requested by the Austrian tax authorities.

KEY CONTACTS

Dimitar Hristov
Partner
DLA Piper Austria
dimitar.hristov@dlapiper.com
T: +43 1 531 78 1112
View bio
BELGIUM

RESIDENCE AND BASIS FOR TAXATION

Domestic
According to Belgian tax law, a corporation is resident of Belgium if it has its registered office, main establishment or place of effective management in Belgium.

Foreign
Non-resident entities can be subject to Belgian non-resident income tax if they realize income that is sourced in Belgium or income that is connected with a Belgian establishment (or a permanent establishment in case a double tax treaty is in place).

TAXABLE INCOME

Domestic
The taxable income of a corporation includes its worldwide income, less allowable deductions. For Belgian corporate tax purposes, taxable income is determined on the basis of the approved Belgian GAAP annual accounts, subject to certain adjustments in accordance with the Belgian Income Tax Code.

Foreign
Non-resident entities can be liable to pay Belgian non-resident income tax on specific types of income. Computation of the taxable base is generally subject to the same rules that apply to the corporate income tax for resident companies.

TAX RATES

Resident companies are subject to a standard corporate income tax rate of 25 percent. The first income band of EUR 100,000 of small companies is subject to a lower rate of 20 percent, provided that certain conditions are met.
TAX COMPLIANCE

In principle, domestic corporate income tax returns must be submitted to the tax authorities by the date mentioned on the official tax return form. The deadline for filing may, however, not be shorter than 1 month as from the date on which financial statements were approved by the shareholder’s annual general meeting and may not be longer than 6 months from the end of the financial year.

ALTERNATIVE MINIMUM TAX

Belgian legislation does not provide for alternative minimum tax.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Certainty over the application of Belgian tax laws to a specific transaction or situation can be obtained by means of a formal ruling involving the agreement of the Advance Ruling Commission (Service des Décisions Anticipées en matières fiscales / Dienst Voorafgaande Beslissingen in fiscale zaken).

Tax incentives

Subject to certain conditions, a company may benefit from investment, IP and R&D related tax incentives.

CONSOLIDATION

Pursuant to the latest corporate tax reform, a corporate income tax consolidation regime has been introduced as of January 1, 2019 (assessment year 2020).

PARTICIPATION EXEMPTION

Dividend income received by a Belgian company is subject to corporate tax at the standard rate. The Belgian participation exemption regime, however, allows for a deduction of 100 percent of the received dividend amount if certain conditions are met.

CAPITAL GAIN

Capital gains realized on the disposal of business assets are treated as business income. Standard corporate tax rates apply in such case. Subject to reinvestment of the sales proceeds in qualifying assets and certain other conditions, the taxation of the capital gain realized on business assets may be deferred.
Subject to certain conditions, capital gains realized on the disposal of shares may be tax exempt. Capital losses may be deductible depending on the underlying asset.

**DISTRIBUTIONS**

Distributions paid by a corporation to its shareholders are treated as dividends. Distributions that stem from paid-in capital, as defined under Belgian tax law, are, subject to certain conditions, not subject to income tax.

**LOSS UTILIZATION**

Losses may be carried forward indefinitely, but their use in a given tax year is limited to EUR 1,000,000 plus 70 percent of the taxable basis in excess of EUR 1,000,000. Any carried-forward tax losses that cannot be used due to this limitation may be further carried forward indefinitely. The remaining 30 percent of the taxable basis in excess of EUR 1 million will be subject to normal corporate income tax rates.

**TAX-FREE REORGANIZATIONS**

Qualifying reorganizations (merger, demerger, partial demerger, contribution of a universality of goods or a business line) involve the direct transfer of all assets and liabilities from the transferor to the receiving company.

Subject to certain conditions, national and EU cross-border reorganizations can be performed under a tax-neutral regime under which capital gains would not be taxed. The regime provides for restrictions on the transferability of certain deductions (e.g., tax losses) from the transferor to the receiving company.

**ANTI-DEFERRAL RULES**

CFC

A CFC-regime has been introduced as of January 1, 2019 (assessment year 2020) in compliance with the EU Anti-Tax Avoidance Directive 2016/1164 of July 12, 2016.

Subject to certain conditions, non-distributed profits stemming from foreign controlled artificial constructions will be attributed to the taxable base of the controlling Belgian entity.

**FOREIGN TAX CREDITS**

Foreign tax credits are available for foreign taxes paid, subject to limitations.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

Certain real property fund structures benefit from a favorable tax regime in Belgium.
TRANSFER PRICING

Belgium generally adheres to the OECD transfer pricing guidelines. The arm’s-length principle therefore constitutes a basic transfer pricing principle in Belgium. Advance pricing agreements (whether unilateral, bilateral or multilateral) may be obtained.

WITHHOLDING TAX

Dividends, royalties, interest, etc.

A 30 percent withholding tax applies to the payment of dividends, royalties and interest. Domestic law provides for reduced rates and exemptions in certain circumstances. The applicable rate may further also be reduced under an applicable double taxation treaty.

Service fees

Withholding tax may, under specific conditions, apply to service fees paid to non-residents, subject to certain conditions.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

There is no capital duty. Share transfers are not subject to stamp duty or transfer tax. Stamp duties and transfer taxes may, however, be imposed on other transactions (e.g., transfer of real estate).

EMPLOYMENT TAXES

Employers must withhold federal income tax on the salaries paid to their employees. Employers must also pay social security contributions on such salaries. Such social security contributions are tax deductible in the hands of the employers.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.
KEY CONTACTS

Philippe Hinnekens
Partner
DLA Piper UK LLP
philippe.hinnekens@dlapiper.com
T: +32 (0) 2 500 1500
View bio
RESIDENCE AND BASIS FOR TAXATION

Domestic

A legal entity incorporated under Brazilian legislation will be treated as a domestic legal entity.

A Brazilian national is automatically a resident while legally domiciled in Brazil or, if not domiciled in Brazil, upon his or her election to be treated as a resident for tax purposes.

Foreign

In principal, foreign legal entities are not subject to Brazilian taxes except when carrying out activities in Brazil through a permanent establishment.

Foreign individuals are considered residents for tax purposes from the moment they enter the country to work under an employment contract. Foreign individuals appointed to management positions in Brazilian companies (officers) are required to obtain a permanent work permit and a visa.

Non-resident individuals and legal entities who render services to a Brazilian party are subject to Brazilian withholding income tax received from Brazilian sources. Other taxes may apply depending on the transaction at hand.

TAXABLE INCOME

Domestic

Corporate income tax (IRPJ)

As a general rule, Brazilian legal entities are required to pay corporate income tax (IRPJ) in Brazil. The IRPJ may be calculated under two different methods, the actual profits method or under the deemed profits method.

Brazilian legal entities are taxed by the IRPJ on their worldwide income and capital gains, regardless of their origin. Under the actual profits method, the IRPJ may be accrued and paid on a quarterly or annual basis. If quarterly, a 15 percent rate will levy over the net income of the period, plus a 10 percent surtax over the net income exceeding
BRL$60,000, per quarter.

On the other hand, if the IRPJ is calculated annually, taxpayers are required to anticipate monthly installments, which are calculated on an estimated income basis. The estimated income shall correspond to 8 percent up to 32 percent of the total monthly gross revenue, depending on the taxpayer’s activity, in addition to any capital gains perceived in the period, as well as other revenues and positive results incurred by the company. Over this estimated basis, the IRPJ shall levy at a 15 percent rate, plus an additional 10 percent surtax over the estimated income that exceeds BRL$20,000 per month.

At the end of the year, the taxpayer may request the reimbursement of overpaid amounts, or be required to pay the difference between the amount paid monthly and the one calculated based on the annual income.

Note that certain taxpayers are allowed to accrue the IRPJ under the deemed profits method, as long as certain thresholds set in the legislation are met.

Under this method, the IRPJ is calculated on a quarterly basis. Similar to the monthly anticipations made under the actual profits method, the taxable basis of the IRPJ will vary from 8 percent up to 32 percent of the legal entity’s revenues, depending on the taxpayer activity. Over such basis, the IRPJ shall levy at a 15% rate, in addition to a 10 percent surtax on the excess of deemed profits of BRL$60,000, per quarter.

Please note that if the deemed profits method of taxation is adopted, the taxpayer will not be able to make any adjustments to the IRPJ’s taxable basis.

**Social contribution on net income (CSLL)**

The CSLL is a social contribution that funds the social security system. The CSLL is assessed on net profits before income tax (ie, IRPJ) and after the adjustments for non-deductible items and deemed profits.

The rules for calculating the CSLL are substantially the same as those for IRPJ. In effect, CSLL is a true corporate income tax surcharge, that levies at 9 percent rate over taxpayer’s net income specifically adjusted for CSLL purposes.

Together with the IRPJ, the combined corporate income taxes rate (ie, IRPJ and CSLL) for most companies is currently 34 percent.

**Interest on net equity (INE)**

INE is a hybrid instrument used to transfer funds from a company to its shareholders and, simultaneously, generate a deductible expense at the company level. Accordingly, INE may be paid or credited to the relevant shareholder, provided that the company:

- Duly deliberates the INE’s payment or credit Has retained or current year earnings and
- Follows specific thresholds limits set in the legislation

The amount of INE to be paid or credited to the shareholder shall be calculated by applying the government long-term interest rate (Taxa de Juros de Longo Prazo - TJLP), calculated on a pro rata die basis, over the following net equity accounts:
Corporate capital

Capital reserve

Profit reserve

Treasury shares and

Accumulated losses.

The withholding income tax shall be levied over amounts paid or credited at a 15 percent tax rate.

For purposes of corporate income tax (IRPJ and CSLL) deduction, the following limits must be adopted, whichever is higher:

• 50 percent of the taxpayer's net profit accrued at the end of the year before the INE deduction or

• 50 percent of the sum of the accumulated and reserve profits

We highlight that the Brazilian Government is studying possible changes to the rules regarding the payment of INE and its respective tax effects.

**TAX RATES**

See Taxable income.

**TAX COMPLIANCE**

Legal entities must file tax returns at federal, state and local levels depending on their activities. Some of these returns are monthly obligations.

**ALTERNATIVE MINIMUM TAX**

Brazilian legislation does not provide for alternative minimum tax.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax rulings**

On certain issues, taxpayers can request a private letter ruling that applies only to the specific issue.

**Tax incentives**

Brazil provides for different types of tax incentives at the federal, state and local levels, which target the development of specific regions of the country or specific activities.
CONSOLIDATION

Brazilian tax legislation does not provide for consolidation.

PARTICIPATION EXEMPTION

Brazilian legislation does not provide for participation exemption. As a general rule, dividends received from other domestic legal entities are exempt. Note, however, that the Brazilian Government is studying possible changes to the rules regarding the payment exemption.

CAPITAL GAIN

Capital gain recognized by a legal entity is taxed at the same rate as ordinary income for IRPJ and CSLL purposes. Non-operating losses are deductible. However, non-operating losses accrued in previous years can only be offset in future years with profits of the same nature.

For individuals and non-residents, as from January 1, 2017, capital gains earned as a result of the disposal of assets and rights of any nature are taxed at progressive rates varying from 15 percent up to 22.5 percent.

DISTRIBUTIONS

Distributions paid by a Brazilian legal entity to shareholders are treated as tax-free dividends, regardless of where the shareholder is domiciled. As mentioned above, the Brazilian Government is studying possible changes to the rules regarding the payment exemption.

LOSS UTILIZATION

Under the actual profits method, net operating losses generated in a given period/year can be used to offset up to 30 percent of the taxable income the accrued on the subsequent period/year.

TAX-FREE REORGANIZATIONS

The recognition of gains or losses in reorganizations can be structured at cost and deferred.

ANTI-DEFERRAL RULES

As a general rule, profits of controlled foreign companies are taxable in Brazil every December 31, regardless of when profits are made available. Optional specific consolidation rules for direct and indirect controlled foreign companies may apply, including relief for foreign losses subject to certain conditions and limitations.
FOREIGN TAX CREDITS

Subject to conditions and limitations, foreign tax credits are available for foreign income taxes paid.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Brazil provides for a special and optional tax regime for real estate developments.

TRANSFER PRICING

Brazilian transfer pricing rules apply to transactions between a Brazilian party and a foreign related entity or any entity domiciled in a tax haven jurisdiction or subject to privileged tax regime. In general, Brazilian transfer pricing rules follow arm's-length principles but deviate significantly from the OECD guidelines as it provides for only certain methods and fixed statutory margins. The legislation allows taxpayer to freely choose the method as there is no best method rule and no functional analysis required.

WITHHOLDING TAX

In general, payments made to non-residents are subject to WHT in Brazil. As a general rule, payments to non-residents for services rendered to Brazilian residents and payments to non-resident individuals as work compensation are subject to the general WHT at a 25 percent rate.

However, interest, royalties and other fees that are not paid in connection to the provision of services are taxed at a 15 percent rate.

The WHT shall also be levied at a 15 percent rate over the provision of technical services, administrative assistance and other similar services, which do not involve transfer of technology.

Note that payments made to entities located at low tax jurisdictions are subject to the WHT at a 25 percent rate. Tax treaties may reduce or eliminate WHT.

Other taxes may be imposed on the local source of payment depending on the nature of the transaction.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Brazil does not impose capital duty or stamp duty. Transfer taxes may be imposed at the state (ITCMD) or local level (ITBI) as discussed above.

EMPLOYMENT TAXES

Employers must withhold income tax and social security tax. Employers also must pay their share of social security tax, unemployment tax and other payroll charges in respect of compensation paid to employees. These social and payroll taxes are deductible by an employer for Brazilian corporate income tax purposes.
OTHER TAX CONSIDERATIONS

Contribution for intervention in the economic domain (CIDE)

The contribution is due for payments made in connection with:

- License agreements
- Acquisition of technological know-how or
- Agreements involving cross-border transfer of technology

CIDE also applies to the cross-border provision of technical services, administrative assistance and other similar services that do not involve the transfer of technology.

CIDE is generally imposed at a 10 percent rate over the total amount paid, credited, delivered or remitted abroad to non-resident beneficiaries.

Welfare contributions on gross revenues (PIS/COFINS)

The Contribution to the Social Integration Program (PIS) and the Contribution to Finance Social Security (COFINS) are welfare contributions that are levied over a taxpayer’s gross revenue. Currently, there are 2 methods of calculating PIS/COFINS, the cumulative and non-cumulative methods.

The cumulative method is applicable to cooperative organizations, immune or exempt entities companies, financial institutions, insurance companies and taxpayers that accrue the corporate income tax in accordance with the deemed profits method. Under such method, the PIS shall apply at a 0.65 percent rate, whereas the COFINS will apply at a 3 percent rate.

The non-cumulative method is applicable to most legal entities. The main purpose of this legislation is to avoid the cascading effect of the welfare contributions by granting tax credits that can be offset with PIS/COFINS payable amounts. Currently, PIS and COFINS apply at a combined rate of 9.25 percent, with PIS at 1.65 percent and COFINS at 7.6 percent.

The taxpayer is entitled to calculate tax credits over the following expenses:

- Acquisition of goods for resale
- Inputs (ie, goods and/or services) that are deemed as necessary and essential for the maintenance of the taxpayer's activities
- Acquisition of electric energy
- Payment of leases related to buildings, machinery and equipment
- Lease expenses derived from leasing transactions (arrendamento mercantil)
- Acquisition or manufacture of machinery and equipment to be leased to third parties, or used in the
manufacture of products intended for sale, and/or for incorporation as a fixed asset

- Buildings and betterments in third-party real estate property to be used in the company's operations

- Storage and freight costs, incurred in sale transactions, supported by the seller

- Meal coupons, transportation and uniforms provided to employees by a company that engages in cleaning, conservation and maintenance services and

- Intangible assets, acquired for the utilization in the manufacture of goods destined for sale or in the rendering of services.

Furthermore, PIS and COFINS shall not apply to:

- Revenues resulting from export transactions, whose payment represents an inflow of foreign capital into Brazil and

- Revenues derived from domestic sales by trading companies (empresas comerciais exportadoras) with specific export purposes

Originally, under the non-cumulative system, a taxpayer’s financial revenues were taxed by PIS/COFINS at a 0 percent tax rate (except those derived from interest on equity perceived by holding companies and hedge transactions). However, the tax rate applicable to these specific revenues is now 4.65 percent, with PIS at 0.65 percent and COFINS at 4 percent.

The concept of "gross revenues" for the calculation of the PIS and COFINS under the cumulative system has been changed under legislation. Accordingly, "gross revenues" for such purposes is defined as:

- The results of the sale of goods and provision of services

- The result of operations on behalf of third parties and

- Revenues derived from taxpayer’s main activity that are not comprised as retail of goods and provision of services

**PIS and COFINS over import transactions (PIS/COFINS-import)**

PIS and COFINS are also charged on import transactions of goods and services. As a general rule, in respect of the importation of goods, PIS shall apply at a 2.1 percent rate and COFINS at a 9.65 percent rate. Whereas, in respect of the importation of services, PIS shall apply at a 1.65 percent rate, and COFINS at a 7.6 percent rate.

Please note that the importation of certain goods, such as pharmaceuticals, are taxed at specific tax rates. In addition, with respect to certain import transactions, a COFINS 1 percent surcharge may apply.

The tax basis shall be the customs value of the imported goods or the amount charged for the service by the foreign contractor.

Taxpayers that are subject to the PIS/COFINS under the non-cumulative system are allowed to accrue tax credits
from the PIS and COFINS paid on their imports and offset them against the PIS and COFINS accrued over their respective gross revenue.

**Federal excise tax (IPI)**

IPI is a Federal value-added tax, which applies to manufactured products, either to their importation or manufacture in Brazil. IPI rates may vary depending on the type of product and whether it is regarded as essential.

**Import duty (II)**

II is due upon customs clearance of imported products on an ad valorem basis. The rate varies, depending on the tariff classification of the product imported.

As mentioned above, import transactions are also subject to the PIS/COFINS-import and to the IPI. Import transactions are also taxed by the State VAT (ICMS). These taxes, along with II, are calculated as follows:

- The II and the PIS/COFINS-import are imposed over the good's customs value (ie, CIF value)
- The IPI is levied on the CIF value plus II and
- The ICMS is levied on the CIF value plus II, IPI and ICMS itself

**Export tax (IE)**

IE applies to the export of certain listed goods and the tax is calculated on an ad valorem basis. The tax rate varies depending on the type of product exported.

**Financial transaction tax (IOF)**

The IOF applies to several types of transactions such as credit, exchange and insurance, loans, as well as on transactions involving gold, financial asset or exchange instruments. IOF rates and basis vary depending on the nature of the transaction.

**State VAT on sales and services (ICMS)**

Similar to the IPI, the ICMS is another value-added tax on sales, communication and transportation services, payable upon the importation of a product into Brazil, the sale of a good in the Brazilian market, or upon the provision of certain communication and intrastate and interstate transportation services.

ICMS rates and tax benefits vary from State to State and depend on the type of transaction (eg, import, intrastate or interstate sale of goods, communication or transportation services, etc.).

The ICMS non-cumulative system permits a taxpayer to offset the ICMS paid in acquired goods and services against the ICMS due on subsequent taxable transactions (eg, sale of goods and services subject to ICMS tax). The difference is the amount due to the state government.

Note that State ICMS legislation may attribute the responsibility to pay the ICMS to a legal entity that, although it did not perform the relevant taxable transaction per se, had an indirect relation to it. An example is the responsibility for paying the ICMS attributed to electricity generator or distributors on 1 or more operations,
from production or importation until the end consumer.

Specific rules apply to operations with hydrocarbons, such as oil, lubricants and natural gas.

**Estate and gift tax (ITCMD)**

ITCMD is a state tax that is levied on the transmission of movable or immovable assets as a result of donation or in the event of the death of the owner. As a general rule, ITCMD is subject to rates varying from 4 percent to 8 percent, depending on the state, over the fair value of the movable asset, real estate or transmitted rights.

**Tax on services (ISS)**

ISS is a municipal tax that applies to the price charged for the provision of certain listed services. Rates vary from 2 percent to 5 percent, depending on the type of service and the particular municipality in which the party rendering the services is located.

The ISS shall also apply to the importation of services. In such circumstances, each municipality may set forth in the relevant municipal legislation that the contracting parties located in Brazil are liable for collecting the relevant tax.

The ISS shall not apply to the exportation of services, except over those developed in Brazil and whose results also occur in Brazil, even if the contracting party is a foreign resident.

**Real estate property tax (IPTU)**

IPTU is a municipal tax levied annually, at progressive rates according to the appraised value and use of the real estate, and over the ownership, possession and use of urban realty.

**Real estate transfer tax (ITBI)**

ITBI is a municipal tax on the transfer of real estate. The rates may vary according to the actual value of the transaction or the appraised value of the property, whichever is higher.

**Individual income taxation (IRPF)**

Brazilian tax legislation distinguishes individual residents from non-residents. As mentioned above, a Brazilian national is automatically a resident while legally domiciled in Brazil or, if not domiciled in Brazil, upon their election to be treated as a resident for tax purposes.

In general, resident individuals are subject to tax on their worldwide income, regardless of nationality (universal taxation), while non-residents are generally subject to tax in Brazil only on Brazilian source income (limited taxation).

A foreign individual will be considered to be a tax resident in Brazil when:

- Admitted to the country under a permanent visa or
- Admitted to the country under a temporary visa, and
Under an employment relationship for purposes of Brazilian law, on the day such relationship is established or

Upon completing 184 days, consecutive or not, of physical presence in Brazil within a 12-month period

The duration of the time period for this visa begins on the day the foreigner enters Brazil, independent of the calendar year. The days counted are only those days spent within the country, interrupted upon the moment they leave Brazil and recommenced if they return.

Tax residents are subject to income tax on worldwide income on a cash basis for each year, even if the income is generated abroad. An individual income tax return should be filed by the last business day of April to report income received in the previous year, with no extensions.

Brazil has a different set of rules for ordinary income, capital gains, income received from abroad and from individuals and income from financial products.

Ordinary income is subject to progressive rates ranging from 7.5 percent up to 27.5 percent.

Compensation received from a Brazilian company for services provided under an employment relationship or as an individual contractor is subject to WHT at monthly progressive rates also ranging from 7.5 percent up to 27.5 percent, depending on the amount of income perceived.

In the annual income tax return, the taxpayer must report all ordinary income received from all Brazilian payment sources on a consolidated basis. Consolidated ordinary income will be subject to income tax at the progressive rates mentioned above. Because each payment source calculates WHT separately, without taking into account the taxpayer’s overall income and bracket, the taxpayer might be required to make an additional tax payment upon filing of the annual income tax return.

Capital gains resulting from the disposition of assets and other rights, including investments in the capital markets (ie, disposition of stocks, commodities and other rights) are subject to income tax at capital gains, at rates varying from 15 percent up to 22.5 percent.

Income received from paying sources located abroad and from individuals in Brazil are subject to a mandatory monthly tax payment (Carnê Leão), which is due at the same progressive tax rates applicable to ordinary income mentioned above. The tax must be collected until the last business day of the following month.

Financial income from Brazilian sources is subject to a final withholding tax system performed by the financial institution. Tax rates shall vary according to the type of investment and also on the term under which it was made.

Brazil provides double taxation relief through a foreign tax credit system applicable to income tax paid to countries with which Brazil has entered into a tax treaty or on a reciprocity basis when the source country also grants a foreign tax credit for taxes paid in Brazil on Brazilian source income. The Brazilian tax authorities have agreed on a reciprocity basis with the United States, Germany, United Arab Emirates and United Kingdom.
KEY CONTACTS

Alex Jorge
Partner and Co-Head of Tax
Campos Mello Advogados in cooperation with DLA Piper
alex.jorge@cmalaw.com
T: + 55 11 3077 3515

Humberto Marini
Partner and Co-Head of Tax
Campos Mello Advogados in cooperation with DLA Piper
humberto.marini@cmalaw.com
T: + 55 21 2217 2011
RESIDENCE AND BASIS FOR TAXATION

A corporation formed in a Canadian jurisdiction is treated as a Canadian-resident corporation for Canadian tax purposes. Also, a corporation formed outside of Canada can be treated as a Canadian-resident corporation if its central “mind and management” is in Canada, subject to any relief provided under an applicable tax treaty.

Domestic

A resident corporation is subject to Canadian tax on its worldwide income. A Canadian-resident corporation generally is not subject to Canadian tax on the income of its foreign subsidiaries unless an anti-deferral provision applies (eg, the foreign accrual property income rules).

Foreign

Non-resident corporations are not generally subject to Canadian income tax except on:

- Income earned from carrying on business in Canada
- Income arising on the disposition of taxable Canadian property and
- Certain types of cross-border payments subject to non-resident withholding taxes. Income tax treaties can reduce or eliminate these taxes.

TAXABLE INCOME

Domestic

Taxable income of a resident corporation is generally equal to all gross income less applicable deductions.

Foreign

Income earned in Canada (including one-half of capital gains arising as a result of the disposition of taxable Canadian property) is generally subject to Canadian income tax at general tax rates. Branch profits tax may also apply to income earned in Canada that is repatriated by a non-resident corporation. Income tax treaties can
reduce or eliminate these taxes.

**TAX RATES**

The federal general corporate tax rate for 2021 is 15 percent on general active business income, and the combined federal and provincial corporate tax rates for 2021 range from 23 percent to 31 percent depending on the provinces in which the permanent establishments of a corporate taxpayer are located.

**TAX COMPLIANCE**

Corporate income tax returns are generally due no later than 6 months after the end of each tax year. A corporate income tax return must generally be filed no later than 3 years after the end of the relevant tax year to receive a tax refund.

**ALTERNATIVE MINIMUM TAX**

Corporations (non-resident or resident) are not subject to federal alternative minimum tax in Canada.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

Under certain circumstances, taxpayers can request a private letter ruling that applies to the specific issues addressed therein.

**Tax incentives**

There are tax incentives for specific activities, including in respect of scientific research and experimental development and certain Canadian production, resource exploration and development and renewable energy activities.

**CONSOLIDATION**

Canada does not allow income tax returns to be filed on a consolidated basis for affiliated or related corporations.

**PARTICIPATION EXEMPTION**

There is no general participation exemption for dividends or capital gains recognized on the stock of foreign subsidiaries. If certain ownership and source requirements are satisfied, a deduction may apply with respect to
dividends received from certain domestic and foreign corporations.

**CAPITAL GAIN**

One half of a capital gain earned by a corporation is required to be included in computing the taxable income of the corporation. Capital losses may be applied to reduce capital gains, but not regular income, of a corporation for tax purposes.

**DISTRIBUTIONS**

Distributions paid by a corporation are generally treated as dividends of the payer corporation. Certain distributions on shares of a corporation, such as returns of capital (to the extent of the paid-up capital in respect of the relevant shares), may generally be returned to shareholders on a tax-free basis.

**LOSS UTILIZATION**

Non-capital losses may generally be carried forward 20 taxation years and back 3 taxation years, subject to certain loss limitation rules. Net capital losses may generally be carried forward indefinitely and back 3 taxation years, subject to certain loss limitation rules.

**TAX-FREE REORGANIZATIONS**

Certain qualifying corporate reorganizations, combinations and divisions may be eligible to be executed on a tax-deferred basis for federal tax purposes, subject to the detailed statutory restrictions in the *Income Tax Act* (Canada). Certain special rules apply to cross-border reorganizations.

**ANTI-DEFERRAL RULES**

**FAPI**

Under the foreign accrual property income (FAPI) rules, a Canadian-resident corporation may be subject to tax on a current basis in respect of "passive income" of a controlled foreign affiliate.

**OIFP**

Under the offshore investment fund property (OIFP) rules, a Canadian-resident corporation may be subject to tax on a prescribed basis in respect of interests in certain non-resident entities.

**FOREIGN TAX CREDITS**

Subject to certain limitations and restrictions, foreign tax credits or deductions may be available to be claimed in respect of certain foreign taxes paid.
SPECIAL RULES APPLICABLE TO REAL PROPERTY

Generally, any gain realized by a non-resident person on the disposition of Canadian real property may be taxable in Canada.

TRANSFER PRICING

Arm’s-length principles generally are applied under Canadian tax law to transactions between related entities. The applicable Canadian rules are similar in many respects to the OECD guidelines, with certain material differences.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc

A 25-percent withholding tax applies to dividends, certain royalties, interest payments to non-arm’s length persons, rent and certain other payments made by a resident corporation to a non-resident person, subject to reduction under an applicable income tax treaty.

Service fees

Withholding tax may apply to certain payments in respect of services rendered by a non-resident, particularly where the services are rendered in Canada, subject to reduction under an applicable income tax treaty.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

No general capital tax or stamp duty. Transfer taxes may be imposed at the provincial level.

EMPLOYMENT TAXES

Employers must withhold federal income tax, Canada Pension Plan (CPP), or Quebec Pension Plan (QPP), contributions and Employment Insurance (EI) premiums. Employers must also pay the employer’s portion of the CPP (or QPP) contribution and the employer’s portion of the EI premium in respect of compensation paid to employees. These taxes are generally deductible by an employer for Canadian income tax purposes. Other withholding obligations and taxes may apply at the provincial level.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.
KEY CONTACTS

Kevin Fritz
Partner
DLA Piper (Canada) LLP
kevin.fritz@dlapiper.com
T: +1 416 941 5397
View bio
RESIDENCE AND BASIS FOR TAXATION

Any company incorporated in Chile is considered a resident company. Likewise, if a company is incorporated in a foreign country, but either its central management, its voting power or an essential part of its operations is located in Chile, it is considered a resident company for Chilean tax purposes (ie, Permanent Establishment).

Domestic

According to the Chilean Income Tax Law (CITL), all individuals and entities domiciled or resident in Chile are subject to income tax on revenues obtained in Chile or abroad (worldwide income principle).

Foreign

Non-domiciled or nonresident individuals or entities in Chile are subject to tax on their local source income. However, foreign individuals that are domiciled or resident in Chile will pay taxes in Chile only on their local income during the first 3 years following their settlement in Chile.

TAXABLE INCOME

Corporate Income Tax ("Impuesto de Primera Categoria")

Domestic

Taxable income of a domestic corporation is equal to all gross income less applicable deductions (costs and expenses).

Foreign ("Impuesto Adicional")

Non-domiciled and nonresident entities may be liable to pay Chilean nonresident income tax on specific types of income.

TAX RATES
The Chilean Income Tax Regime is structured as an integrated system in which corporate income tax paid by companies could be credited against the final taxes payable by shareholders or equity holders.

Corporate income tax is paid by the entity on its income and is payable on an accrued basis. The tax rate applicable to companies is 27 percent. Shareholders or equity holders must pay final taxes on effective distributions. In this case, shareholders or equity holders are entitled to credit, in general, 65 percent of corporate income tax paid by the company against final taxes according to the partially integrated regime. Nevertheless, foreign investors domiciled in a country with a double taxation treaty in force with Chile are entitled to credit against final taxes the total amount of the corporate income tax paid by the entity. In this regard, distributions to foreign investors are taxed at 35 percent and the corporate income tax paid by the company is fully creditable. Therefore, the final tax burden to foreign investors in this situation is 35 percent.

There is an alternative tax regime for small and medium companies with annual income below USD2.6 million. In this regime, the corporate income tax rate is 25 percent and the owners pay final tax on effective distributions. In this regime corporate income tax is fully creditable against final taxes.

However, due the Covid-19 pandemic effects, the tax rate has been temporarily reduced to 10 percent for years 2020, 2021 and 2022.

**Personal tax**

Individuals domiciled or resident in Chile must pay personal tax (Impuesto Global Complementario) on their total income obtained during a year (dividends, interests, fees, among others). Personal tax has a progressive rate ranging from 0 percent to 40 percent.

**Value-added tax**

Value-added tax (VAT) applies on sales of tangible goods. Likewise, certain types of services related to industry, commerce, mining, extractive activities, insurance, banking, telecommunications, publicity, hospitals, laboratories, entertainment and digital services, among others, are subject to VAT.

In general, Chilean VAT law contains very limited exemptions. These include professional services (ie, legal services, consulting).

The VAT rate is 19 percent.

**TAX COMPLIANCE**

Corporate income tax returns must be filed before the end of April. Likewise, the company must submit monthly tax returns based on gross income obtained within a month.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**
Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Chilean tax authorities issue general rulings (Circulares) aimed to implement or clarify application of tax regulations. Taxpayers may request to the Chilean tax authorities a specific ruling (Oficio) to determine the taxation of particular operations. Nevertheless, such rulings shed light on the application of tax regulations and could serve as precedent for other cases.

Tax incentives

There are tax incentives for the activities performed by companies to foster economic development of certain types of activities and local economic growth.

CONSOLIDATION

Not applicable for this jurisdiction.

PARTICIPATION EXEMPTION

Dividends received by local entities from Chilean subsidiaries are tax exempted.

CAPITAL GAIN

Capital gains obtained in the sale of shares or equity rights are subject to final taxes or corporate income tax, whichever is applicable depending upon the quality of the seller (Chilean resident individual, foreign investor or company).

Transfer of publicly traded debt instruments (securities) or shares may be tax-free if certain requirements are met. Preferential rates may apply if there is a double tax treaty in force.

DISTRIBUTIONS

The distributions paid by a corporation are treated as dividends for the shareholders and are subject to final taxes. Corporate income tax paid by the corporation is creditable against final taxes.

LOSS UTILIZATION

Net operating losses may be carried forward indefinitely, unless changes in the ownership structure of a company with tax losses occur, in which case tax losses will be forfeited. Carryback only applies when a company with losses receives dividends from a subsidiary. Carryback will terminate progressively from 2020 until 2024.
TAX-FREE REORGANIZATIONS

Corporate reorganizations (mergers, de-mergers and capital contributions) may have a tax-neutral effect when certain requirements are met.

ANTI-DEFERRAL RULES

Under the controlled foreign company (CFC) rules, the passive income received or accrued by the controlled entities will be considered in turn to have been received or accrued by their controllers in proportion to the direct or indirect participation they have in the controlled entity at the end of the respective fiscal year.

FOREIGN TAX CREDITS

Foreign tax credits are available for taxes paid abroad, subject to limitations stated by the CITL. The tax credit amount may vary if a double tax treaty is applicable.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Properties in Chile are subject to a real estate tax, which shall be paid each year in 4 installments (in April, June, September and November). The amount of the tax to be paid will depend upon the estimated value of the property (avalúo fiscal) performed by the SII (Chilean tax authority). The rates vary depending on the qualification of the soil, type of construction and use of the land, capped at 1.4 percent over the fiscal valuation of the property.

Nevertheless, there is a surtax on real estate which value exceed CLP400 million (approximately USD500,000).

The lack of payment will entitle the tax authority to commence judicial actions against the landowner to obtain the payment of the outstanding debt through public auction of the property and the eviction of any person who is occupying the property, unless there is a lease agreement executed by public deed and registered in the Mortgage and Liens Registry prior to the judicial actions.

TRANSFER PRICING

The price of cross-border transactions between related parties must be at arm’s length; otherwise, the Chilean tax authority is entitled to assess and impugn said price.

Transfer pricing regulations applied by the Chilean tax authorities are according to OECD standards.

WITHHOLDING TAX

The general WHT rate is 35 percent for payments to non-domiciled, non-resident individuals or entities. Such WHT shall be withheld by the payer.
A reduced rate may apply under certain conditions or to certain types of services or if a double tax treaty applies.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

**Stamp tax**

The stamp tax taxes documents or transactions involving a money lending operation (e.g., loans, promissory notes, any other document event those dematerialized issued).

The stamp tax rates are:

- 0.066 percent of the document's face value for every month or fraction of a month lapsed between its execution and maturity, and may not exceed 0.8 percent.
- 0.332 percent of the document's face value for the documents payable on demand or without a maturity date.

Non-payment of the stamp tax bans the execution of the debt before the Chilean Courts.

**EMPLOYMENT TAXES**

All employment income (e.g., salaries, wages, allowances, bonuses, participations) is subject to payroll tax (Impuesto Único de Segunda Categoría) on a monthly basis. Said income is taxed according to a progressive scale ranging from Único de Segunda Categoría exemption to 40 percent.

Employers shall withhold and pay this tax on behalf of the employee.

**OTHER TAX CONSIDERATIONS**

**Municipal Tax**

There are several municipal taxes, the most relevant being the commercial patent (Patente Comercial). This municipal tax must be paid by everyone who engages in a for-profit activity (whether professional, industrial or commercial) within the territory of such municipality.

 Obtaining and paying a commercial patent must be done in the municipality where the company has its registered commercial address or branches. The rate of municipal tax ranges from 0.25 percent to 0.5 percent of the tax net worth (Capital Propio Tributario) of the company. If the company opens branches in different municipalities, the commercial patent must be paid proportionally.
KEY CONTACTS

Rodrigo Alvarez Aravena  
Partner  
DLA Piper  
ralvarez@dlapiper.cl  
T: +56 2 2798 2603  
View bio

German Vargas Dominguez  
Senior Associate  
DLA Piper  
gvargas@dlapiper.cl  
T: +5 62 2798 2686  
View bio
CHINA

RESIDENCE AND BASIS FOR TAXATION

A resident enterprise is an enterprise established in China under the laws of China or an enterprise that is established under the laws of a foreign country (region) but that maintains its place of effective management in China.

Domestic

A resident enterprise is subject to enterprise income tax in China on its worldwide income.

Foreign

A non-resident enterprise is subject to enterprise income tax in China only if:

- It has derived China-sourced income by an establishment or place in China, or it has income incurred outside China but effectively connected with its establishment or place in China or
- It has derived China-sourced income even if it does not have an establishment or place in China, or the income is not effectively connected with its establishment or place in China.

TAXABLE INCOME

Domestic

The taxable income of a resident enterprise is the balance of its annual gross revenue less all applicable deductions and losses.

Foreign

The taxable income of a non-resident enterprise is either the balance of its China-sourced gross revenue less all applicable deductions when the income is derived by or effectively connected with its establishment or place in China, or the gross revenue derived from China when the income is not effectively connected with its establishment or place in China.
**TAX RATES**

The standard enterprise income tax rate is 25 percent, with a few preferential tax rates applicable to qualified enterprises.

The standard withholding income tax rate for non-resident enterprises is 10 percent, which may be reduced by applicable tax treaties.

**TAX COMPLIANCE**

A resident enterprise must report and pay enterprise income tax on an annual basis, with quarterly provisional tax filings. The annual enterprise income tax return is due by May 31 of the following year. A non-resident enterprise may have to file an income tax return on its own if it has an establishment or place in China or may be subject to tax withholding by a withholding agent as applicable.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Tax holidays are available to certain encouraged industries, such as basic infrastructure projects, environmental protection and energy and water conservation projects and software enterprises.

**Tax rulings**

There is no established procedure for advance tax rulings.

**Tax incentives**

Preferential tax rates are available to certain encouraged enterprises, such as High and New Technology Enterprises and encouraged investment in West China as well as certain encouraged industries in certain selected areas.

Tax exemption or deduction is applicable when an enterprise has generated certain encouraged types of revenue, such as revenue from agriculture, forestry and technology transfer.

**CONSOLIDATION**

Consolidated tax filing of multiple enterprises is not allowed unless otherwise prescribed by the State Council. However, if a foreign company has more than 2 establishments in China, it may elect to have the main establishment in China make a consolidated tax filing for other establishments if it satisfies the conditions imposed by the PRC tax authority.
PARTICIPATION EXEMPTION

Dividends received by a resident enterprise from another resident enterprise are exempt from enterprise income tax, except for dividends paid by a publicly listed enterprise to a shareholder that has continuously held the shares for less than 12 months.

CAPITAL GAIN

Capital gain is included in taxable income and is not otherwise differentiated from other types of income.

DISTRIBUTIONS

The part of the distribution equivalent to retained earnings is treated as a dividend; the remaining part is treated as return of capital, with any exceeding amount being treated as capital gain.

LOSS UTILIZATION

Loss can be carried forward for 5 years in general, and may be extended in limited scenarios, for example, 10 years for certified High and New Technology Enterprises.

TAX-FREE REORGANIZATIONS

Reorganizations (e.g., equity purchases, asset purchases, mergers or splits) may be subject to "Special Tax Treatment" (tax deferral) upon meeting certain substantive and procedural conditions. Additional restrictions are applicable to cross-border reorganizations.

ANTI-DEFERRAL RULES

The general anti-avoidance rule (GAAR) of the enterprise income tax law may be cited by the Chinese tax authorities to make adjustments on transactions that do not have reasonable business purposes.

A classic application of the GAAR is in the context of an indirect transfer. The transfer of shares of an offshore intermediate company that holds significant assets in China may be recharacterized as a direct transfer of the equity in the underlying China operating company if the indirect transfer is found no reasonable business purpose. It may then give rise to the China capital gain taxes.

CFC

If an offshore company is established in a low-tax jurisdiction (with an effective income tax rate below 12.50 percent) and is "owned or controlled" by Chinese residents (enterprises and/or individuals), the Chinese resident shareholders must include in their taxable income the profits of the offshore company even if the offshore company has not actually distributed any profits without reasonable business needs.
Thin-Capitalization Rule

If the ratio of debt to equity received by an enterprise from related parties exceeds the prescribed limit (currently 2 to 1 for non-financial enterprises and 5 to 1 for financial enterprises), the excess interest expense cannot be deducted for income tax purposes.

FOREIGN TAX CREDITS

Foreign income tax paid by directly or indirectly owned foreign subsidiaries of a resident enterprise may be credited against the resident enterprise’s income tax payable in China, subject to certain limitations.

Any unused foreign tax credit may be carried forward for 5 years.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Income from direct or indirect transfers of real property located in China is considered income sourced in China.

TRANSFER PRICING

Related party transactions must be conducted on an arm's-length basis. Otherwise, the Chinese tax authorities may make an adjustment within 10 years.

Enterprises reaching certain thresholds must prepare contemporaneous transfer pricing documentation, including a country-by-country report as applicable.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

Chinese payers have the legal obligation to withhold tax when remitting dividends, royalties, interest, rents and other payments to foreign recipients.

Service fees

Service fees are subject to income tax in China if the foreign recipient has created an establishment or place (or a Permanent Establishment in a tax treaty context) in China. Where applicable, a Chinese payer of service fees may also be designated as the withholding agent by the PRC tax authority.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

There is no capital duty in the PRC upon capital contribution. China has also abolished registration fee based on the amount of registered capital of an enterprise. Stamp duty and transfer taxes (value-added tax) may be imposed on asset and equity transfers as applicable.
EMPLOYMENT TAXES

Employers must withhold Individual Income Tax when paying salaries and wages to employees. Mandatory social insurance and housing fund contributions are deductible for Individual Income Tax purposes.

OTHER TAX CONSIDERATIONS

R&D expenses may have a bonus deduction, including R&D service fees paid to a foreign R&D service provider.

KEY CONTACTS

Peng Tao  
Partner  
DLA Piper  
peng.tao@dlapiper.com  
T: +1 650 833 2405  
View bio
COLOMBIA

RESIDENCE AND BASIS FOR TAXATION

A resident company is a corporation that:

- Is incorporated in Colombia,
- Has its principle domicile in Colombia, or
- Has its place of effective management in Colombia.

Domestic

Resident companies are subject to income tax on their worldwide income. A credit method for taxes paid on foreign source income is provided to avoid double taxation if certain criteria are met.

Foreign

Foreign companies are subject to income tax on their Colombian source-income, including capital gains obtained within Colombian territory. Foreign companies having a permanent establishment in Colombia are subject to income tax on their worldwide income attributable to the permanent establishment.

TAXABLE INCOME

Domestic

The taxable income for resident companies is equal to the gross income (ordinary and extraordinary) less costs and expenses authorized for tax purposes incurred in the income-producing activity. Taxable income may be adjusted for exempt or non-taxable income.

Foreign

Non-resident companies may be subject to 3 different tax regimes in Colombia:

- Tax on the gross payments through the withholding mechanism which results in its final income tax liability,
if the tax is withheld in accordance to articles 407 to 411 of the Colombian Tax Code (eg, interest, royalties, services, and taxable dividends)

- If non-resident entities obtain a different type of income, if the withholding tax is not applied, or if the payor is not a qualified withholding agent, they could be required to file an income tax return and, therefore, their Colombian-source income may be subject to income tax at a rate of 31 percent in 2021 and 30 percent as of 2022.

- If the non-resident entity has a permanent establishment (PE) in Colombia, they are subject to income tax on the worldwide income attributable to the PE at a rate of 31 percent in 2021 and 30 percent as of 2022. The relevant rule indicates that the determination of the income and capital gains attributable to the PE shall be determined taking into consideration the functions, assets, risks, and people involved in obtaining said income or capital gain.

**TAX RATES**

Corporate Income Tax Rate is 31 percent for 2021 and 30 percent as of 2022. Financial institutions that report a taxable income exceeding 120,000 UVT (in 2021, COP4,356,960,000) are subject to a special rate of 34 percent for 2021, 33 percent for 2022, and 30 percent as of 2023.

**TAX COMPLIANCE**

A tax year in Colombia starts on January 1 and ends on December 31. Corporate tax returns have to be filed after the tax year ends, on due dates determined by the Colombian government every year. In general, due dates of Corporate Income Tax are between April and June.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

3 days a year, certain goods are exempted from VAT, such as clothing, household appliances, toys and games, sport elements, school supplies, and certain supplies for the agricultural sector.

**Tax rulings**

Taxpayers can request rulings from the tax authority in Colombia. Tax rulings are not binding for taxpayers; however, they are mandatory for the tax authority.

**Tax incentives**

Some of the tax incentives set forth in the Colombian tax code are:
Income exempted from corporate income tax, under certain requirements

The income obtained from the following activities is exempted from Income Tax, provided that certain requirements are met:

- Income received by companies carrying certain activities classified as activities of "Orange Economy" will be exempt from Income Tax for 7 years. These activities include software development, film production, architecture, among others.

- Companies carrying out investments in the Colombian agricultural sector will be exempt from Income Tax for 10 years.

- Income obtained in the sale of energy generated based on renewable sources specially indicated in the tax code.

- Income related to the development and sale of interest or priority housing projects is exempt from Income Tax.

We highlight that, under Colombian Law, Income Tax exemptions are not transferable to shareholders.

Special corporate income tax rates

- 27 percent for taxpayers that perform new investments in fixed assets equal or exceeding 30.000.000 UVT (in 2021, COP1.089.240.000.000– USD311 million) and create more than 400 direct employments. The requirements vary for investments in activities with a high technological component, e-commerce, or the aeronautical sector. Profits obtained from such investments are not subject to the dividends tax.

- 20 percent for certain users of Free Trade Zones.

- 9 percent for taxpayers undertaking specific activities (eg, hotel services and ecological tourism).

- 0 percent for companies that create a specific number of employments, and perform commercial, industrial, agricultural, touristic, or health activities in certain Colombian territories (Arauca, Guajira, Norte de Santander, Quibdó and Armenia). This tax rate applies for the first 5 years, and for the following 5 years these companies would be subject to the 50 percent of the general corporate tax rate (usually, it would be 15 percent).

Tax incentives for using, developing, and generating of renewable energy

Subject to certain requirements, the following tax incentives apply for developing and generating renewable energy:

- A special income tax deduction equivalent to 50 percent of the investments completed in renewable energy projects. This tax deduction cannot exceed 50 percent of the net taxable income and can only be deducted in the 15 years following the taxable year in which the investment took place.

- Accelerated depreciation rate of 20 percent for machinery, equipment and other assets used in the project.
This is a tax incentive because, generally, there are maximum annual tax depreciation rates provided by law in respect of different types of tangible assets (between 2.2 percent and 20 percent). The accelerated depreciation only applies to the generation of renewable energy.

- Purchase and import of machinery and equipment, and related services, acquired for renewable projects will be VAT-exempt
- Imports of equipment and machinery will be exempt from customs duties.

**CONSOLIDATION**

Not applicable for this jurisdiction.

**PARTICIPATION EXEMPTION**

Colombia has a Colombian Holding Companies (CHC) regime for resident corporations. This regime establishes that:

- Foreign dividends and capital gains obtained by the CHC Holding are exempted from corporate income tax. The same treatment applies for the distribution of dividends by the CHC Holding to non-Colombian residents is not taxable in Colombia.
- Sale of shares in the CHC Holding by non-Colombian residents could be a non-taxable income. This benefit is limited if the CHC Holding performs activities in Colombia.

**CAPITAL GAIN**

Capital gains tax rate is 10 percent. This tax rate will apply in general to:

- Gains obtained on the sale of fixed assets held for, at least, 2 years.
- Gains obtained on the liquidation of a company that has been in existence for at least 2 years, in excess to paid-in capital or investment. This rate would not apply to the extraordinary distribution of profits triggered by the liquidation.
- Inheritances, gifts, legacies and donations.

Capital gains obtained from lotteries, gaming, or similar activities are taxed at a 20 percent tax rate.

**DISTRIBUTIONS**

Dividends taxation in Colombia depends on whether the dividends are paid from profits obtained before 2017.

**Profits obtained before 2017**
• Dividends distributed out of profits taxed at the level of the distributing company do not trigger additional income taxes for the shareholder. Conversely, dividends paid out of profits untaxed at the company’s level are taxed at the corporate income tax rates (31 percent for 2021 and 30 percent 2022).

**Profits obtained as of 2017**

**Individuals Tax Residents, Non-Residents (individuals and entities), and Permanent Establishments of Foreign entities**

If the beneficiary of the dividend is an individual tax resident, a non-resident, or a permanent establishment of a foreign entity, the dividends tax rate is 10 percent. If the profits were not taxed at a corporate level, the profits will be taxed at the ordinary Corporate Income Tax (31 percent for 2021) plus the 10 percent dividends tax (the 10 percent applies on the distributed amount after subtracting the 31 percent).

These tax rates can be reduced under Tax Treaties.

For individual tax residents, the dividends tax does not apply if the amount of the dividends is less than 300 UVT (in 2021, COP10.892.000 or approximately US 3.100).

**Colombian companies**

If the beneficiary of the dividends is a Colombian Company, the dividends are subject to a withholding dividends tax of 7.5 percent. If the profits were not taxed at a corporate level, the profits will be taxed at the ordinary Corporate Income Tax (31 percent for 2021) plus the 7.5 percent withholding dividends tax rate. The withheld amount (7.5 percent) is creditable towards the dividends tax of the ultimate beneficial owner (individual tax resident or foreign investor).

The withholding dividends tax does not apply in the following cases:

(i) Colombian companies that have registered a control situation or a corporate group with respect to the distributing Colombian company before the Chamber of Commerce; or

(ii) Companies registered in the CHC regime (described in the Participation Exemption section of this Guide).

**LOSS UTILIZATION**

Utilization of tax losses depends whether such losses were obtained before 2017:

• Tax losses generated before 2017 can be offset with ordinary taxable income obtained in any of the subsequent fiscal years.

• Tax losses generated as of 2017 can only be offset with ordinary taxable income obtained in the twelve subsequent fiscal years.

Carry-back of losses is not permitted. Capital losses cannot be offset against ordinary income.

**TAX-FREE REORGANIZATIONS**
There are tax-free reorganizations (in-kind contributions, mergers, and spin offs) if they comply with certain requirements.

It is worth noting that Colombia taxes the indirect sales of Colombian assets through the sale of foreign entities, whenever Colombian assets represent more than 20 percent of the total assets of the foreign entity being sold considering their book value and/or commercial value.

Income tax or capital gain tax should be determined as if the Colombian asset is sold directly. If the seller fails to comply with its tax duties under this tax regime, the subsidiary in Colombia and the purchaser will be jointly liable.

Once the indirect sale is made subject to income tax, the tax cost that shall be considered for a subsequent purchase, will be the value proportionally paid for the shares, participations or rights in the foreign entity that owns the underlying assets located in Colombia.

This tax regime is not applicable when the shares or rights in the foreign entity are listed in a Stock Exchange Market, and there is not a beneficial owner holding more than 20 percent of the outstanding shares or rights of the foreign entity.

Mergers and spin-offs between foreign entities where Colombian assets are being transferred are not subject to tax in Colombia when Colombian assets do not represent 20 percent or more of the worldwide assets of the multinational group to which the foreign entity belongs to.

**ANTI-DEFERRAL RULES**

Under Colombian controlled foreign company (CFC) rules, domestic corporations or tax residents in Colombia that hold, directly or indirectly, a share percentage equal or greater to 10 percent of the total equity of the CFC or in its results, shall include in their income tax return the passive income obtained by such CFC.

A CFC is an entity that:

- Is controlled by a Colombian tax resident, and

- Does not have tax residency in Colombia.

CFC includes corporations, trusts, interest private foundations, investments funds or any other corporation or entity constituted or domiciled abroad, regardless of whether such entity is a legal entity or a disregarded entity for tax purposes.

The Colombian Tax Code sets forth a list of items of income that are considered as passive income. This list includes:

- Dividends, with some exceptions.

- Interests.

- Royalties.
• Sale of assets that generate passive income (such as certain shares or bonds).

• Lease or sale of immovable property.

• Sale of corporate goods provided that certain conditions are met.

• Some services that meet certain requirements.

If a Colombian tax resident includes in its income tax return the passive income obtained by the CFC, the dividends distributed from the CFC will be untaxed in Colombia.

FOREIGN TAX CREDITS

Colombian tax residents that receive foreign-source income subject to income tax in the source country are entitled to a tax credit in Colombia for income tax purposes. However, foreign tax credits cannot exceed the Colombian income tax attributable to the net foreign taxable income. The Colombian taxpayer must obtain a certification of the foreign tax paid.

Foreign tax credits are not allowed if the tax was applied on income qualified for tax purposes as a Colombian source income. Different rules apply under double taxation treaties.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Real property is subject to municipal taxation, which depends on the value of the property, the economic use of each property, and the municipal regulations. In general, this tax is levied annually on the ownership, usufruct or possession of real estate property. It is collected by the municipality where the property is located, and the tax rate varies between 0.3 percent and 3.3 percent.

TRANSFER PRICING

Colombia’s transfer pricing regime is based on the OECD guidelines and is applied to transactions between related companies. Taxpayers subject to the transfer pricing regime must consider and follow commercial standards, under which a transaction between related parties must satisfy the conditions that would have been used in comparable transactions with unrelated parties.

WITHHOLDING TAX

Payments to non-tax residents are subject to withholding tax at the following rates, among others:

• 20 percent for personal services, fees, royalties, lease and any other payment for the use of intellectual property.

• 20 percent for technical services, technical assistance and consultancy, either rendered in Colombia or abroad.
• 20 percent on interest payment for loans with a term less or equal to 1 year.

• 15 percent on interest payment for loans with a term exceeding 1 year or financial lease payments.

• 5 percent on interest payments on cross-border loan agreements that have a term equal to or greater than 8 years and are destined to public-private infrastructure projects under the conditions set in Law 1508 of 2012.

• 10 percent on capital gains.

• There is a general 15 percent withholding rate when the type of income has not an specific withholding tax rate.

Withholding tax rate on payments made to non-tax residents may be reduced under double taxation treaties.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

- **Capital and Stamp Duties**

The Registry Tax levies the registration of documents before the Chamber of Commerce and before the Registry of Public Deeds, including the increase of capital in a corporation and any transfer of immovable property. Tax rates vary from 0.1 percent to 1 percent. For documents that do not embed any value it applies a fixed value.

- **Financial Transactional Tax**

The 0.4 percent financial transactional tax is accrued on every transaction aimed, in general, at withdrawing resources from checking, deposit or savings accounts, and cashier checks.

50 percent of Financial Transaction Tax is a deductible expense regardless if it is related or not to the income-producing activity.

**EMPLOYMENT TAXES**

**Social security**

Employees in Colombia must be enrolled in the social security system (for pension, health, and labor risks) and employers have the obligation to make the relevant monthly contributions.

If foreign employees are enrolled to a pension system abroad, they are not obligated to be enrolled or pay contributions to the Colombian pension system.

**Payroll taxes**

Employers in Colombia must make contributions to SENA, ICBF, and Family Compensation Fund, known as payroll taxes, that should be determined on the ordinary monthly salary earned by the employee, including any vacation. In the case of employees earning integral salary, the contribution will be determined on the 70 percent of the salary. Non-salary payments are excluded from payroll taxes. Payroll taxes do not have any cap.
For employees earning an ordinary salary lower than 10 MMLW (in 2021, COP9.085.000 or approximately USD2.596), employers are exempted for making contributions to SENA, ICBF and to the healthcare system.

Payroll taxes and social security charges correspond to the following percentage over the employee’s salary:

<table>
<thead>
<tr>
<th>Contributions¹</th>
<th>Rate</th>
<th>Employer</th>
<th>Employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pension</td>
<td>16 percent</td>
<td>12 percent</td>
<td>4 percent</td>
</tr>
<tr>
<td>Health</td>
<td>12.5 percent</td>
<td>8.5 percent</td>
<td>4 percent</td>
</tr>
<tr>
<td>Solidarity Pension Fund²</td>
<td>1 percent - 2 percent</td>
<td>N/A</td>
<td>1 percent - 2 percent</td>
</tr>
<tr>
<td>Labour Risks</td>
<td>0.348 percent - 8.7 percent</td>
<td>0.348 percent - 8.7 percent</td>
<td>N/A</td>
</tr>
<tr>
<td>Payroll Taxes³</td>
<td>4 percent - 9 percent</td>
<td>4 percent - 9 percent</td>
<td>N/A</td>
</tr>
</tbody>
</table>

¹ The basis to calculate contributions to the social security system (pensions, solidarity pension fund, health and labor risks) is the ordinary monthly salary earned by the employee. However, if the monthly salary exceeds 25 times the minimum wage, contributions to the social security system will be calculated on the maximum basis of 25 times the minimum wage. Non-salary payments agreed between the employer and the employee are not included in the basis to calculate social security contributions, if such payments do not exceed 40 percent of the employees’ compensation. If these non-salary payments exceed 40 percent, the difference will be subject to social security contributions. In case of employees earning integral salary, 70 percent of salary will be the basis to calculate contributions to the social security system.

² The contribution to the Solidarity Pension Fund only applies for employees who earn more than 4 times the legal minimum wage. This payment is equivalent to 1 percent of the monthly salary, but in the case of employees earning more than 16 times the minimum wage the rate will be increased as follows: between 16 and 17 times the minimum wage, an extra 0.2 percent; between 17 and 18 times the minimum wage an extra 0.4 percent; between 18 and 19 times the minimum wage an extra 0.6 percent; between 19 to 20 times the minimum wage an extra 0.8 percent and between 20 and 25 times the minimum wage an extra 1 percent. Contributions to the solidarity fund also have the cap of 25 times the minimum wage.

³ Contributions to SENA, ICBF, Family Compensation Fund (payroll taxes) shall be calculated based on the ordinary monthly salary earned by the employee, including any paid rest, such as vacation. In case of employees earning integral salary, 70 percent of salary will be the basis for this contribution. Non-salary payments are excluded from payroll taxes. Payroll taxes do not have any cap.
Equity tax

Law 2010, 2019, created a new 1 percent equity tax for Colombian tax resident individuals and non-tax residents that hold a net equity equal to or exceeding COP5.000.000.000 (approximately USD1.428.000) as of January 1, 2020.

Non-tax residents’ individuals are subject to equity tax only with respect to its assets held in Colombia unless they have a permanent establishment in the country. In that case, the non-tax resident could be subject to equity tax with respect to the net equity attributable to it.

Foreign entities are levied with this tax in respect to its assets located in Colombia different to shares, receivable accounts, and portfolio investments.

Value added tax – VAT

VAT is an indirect national tax applicable on:

- Sales and imports of tangible goods.
- Provision of services in Colombia or from abroad (if the beneficiary is located in Colombia).
- Sale or transfer of rights over certain intangibles associated with industrial property.
- Gambling activities (except of those operated online).

Generally, VAT’s taxable base is the price of the goods or services, and the tax rate is 19 percent. However, there is a special taxable base and/or a special tax rate (5 percent or 0 percent) for certain goods or services.

Consumption tax

National consumption tax is levied on the following services

- Mobile phone, internet and mobile navigation services, with a 4 percent rate.
- Sale of certain vehicles, aircraft, and other goods, with a rate of 8 percent or 16 percent.
- Restaurant and cafeteria services with an 8 percent rate, provided that these services are not rendered under a franchise agreement (restaurant franchise services are levied with VAT). Due to Covid-19, Consumption Tax would not apply to bars and restaurants in 2021.

Turnover Tax – ICA

Local Tax on Industrial, Commercial and Service Activities Tax (“ICA”) levies the gross income generated from industrial, commercial, or service activities carried out in the corresponding municipality. The tax rates are between 0.2 percent and 1.4 percent.

50 percent of the ICA paid in a certain period can be used as a tax credit to offset the Corporate Income Tax or, alternatively, 100 percent can be used as a deductible expense. As of 2022, 100 percent of the ICA paid in a
certain period can be used as a tax credit.

KEY CONTACTS

**Andres Gonzales**  
Partner  
DLA Piper Martinez Beltran  
agonzalez@dlapipermb.com  
T: +57 1 3174720  
View bio
FINLAND

RESIDENCE AND BASIS FOR TAXATION

Domestic
Companies incorporated in accordance with Finnish legislation are subject to tax in Finland (unlimited tax liability).

Foreign
Foreign companies are subject to tax in Finland only to the extent specified in Finnish tax legislation (limited tax liability).

TAXABLE INCOME

Domestic
Unlimited tax liability refers to tax on worldwide income. Taxable profit is, roughly speaking, calculated as total income reduced by the costs generated by the business.

Foreign
Limited tax liability triggers taxation in Finland for a foreign company on income attributable to a Finnish permanent establishment, income accrued from Finland and income related to Finnish real estate.

TAX RATES

The corporate income tax rate is 20 percent.

TAX COMPLIANCE

Both unlimited and limited tax liable companies are liable to submit an income tax return. No tax return is required for income subject to withholding tax only. The income tax return shall be submitted to Finnish tax authorities within 4 months after the end of the company’s financial year.
ALTERTATIVE MINIMUM TAX

Not applicable.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable.

Tax rulings

Companies may apply for a binding advance ruling concerning a specific tax question with the Finnish tax authorities or alternatively with the Finnish National Board of Taxes.

Tax incentives

Key foreign expert employees working in Finland may, under certain conditions, apply to be taxed at flat rate of 32 percent on their employment-related income. Such tax treatment is applicable for a maximum of 48 months.

CONSOLIDATION

Companies cannot file corporate income tax returns on a consolidated basis in Finland. However, Finnish companies that belong to the same group (which applies to share ownership of more than 90 percent of the shares) may exchange group contributions to facilitate tax consolidation on a company level. A group contribution is deductible for the paying company and is taxable for the recipient company.

PARTICIPATION EXEMPTION

Participation exemption regarding dividends covers dividends from unlisted companies in Finland, from foreign companies covered by the EU parent subsidiary directive and from foreign companies pursuant to the applicable tax treaty. Dividends received from a listed company by a non-listed company are tax exempt only if holding is at least 10 percent.

Participation exemption additionally covers capital gains from a sale of shares in a company, but under strict criteria as follows:

- Shareholding at least 10 percent in the target company
- A holding period of at least 1 year
- Sold shares are part of fixed assets
- The target company is located in EU or a tax treaty country and
The main purpose of the target company is not to hold real estate.

The participation exemption is not applicable to capital gain received by private equity companies.

**CAPITAL GAIN**

Capital gain is the difference between the sales price and acquisition price and is taxed with a 20-percent corporate tax rate.

**DISTRIBUTIONS**

Distributions paid by a company to a shareholder are primarily regarded as dividends for tax purposes, but treatment under capital gain rules is possible under specified criteria. A transfer of funds from a shareholder to a company is generally tax exempt.

**LOSS UTILIZATION**

Tax losses can be carried forward up to 10 years. Changes in the ownership of a company with tax losses carried forward results in forfeiture of tax losses, but Finnish tax authorities may, upon application, grant an exception to utilize the losses.

**TAX-FREE REORGANIZATIONS**

Finnish implementation of the EU merger directive covers tax-exempt mergers, full and partial divisions, transfers of business and share exchanges. A wide-ranging case law exists.

**ANTI-DEFERRAL RULES**

Under general anti-avoidance rules, arrangements can be taxed based on their substance over the chosen form under strict criteria. The applicability of the rules is defined in case law.

Finnish CFC rules stipulate that a Finnish company can be taxed for its share in profit of a foreign legal entity as follows. As of Jan 1, 2019, due to implementation of the EU Anti-Avoidance Directive, CFC legislation is applied on a direct or indirect interest equal to at least 25 percent of the equity or voting rights in a foreign legal entity, which has a tax rate below 3/5 of the Finnish rate of tax. CFC legislation does not apply to entities within the European Economic Area (EEA) to the extent the entity has actual substance in that area and practices financial activity there. In addition, CFC legislation does not apply to entities outside the EEA i) which practice financial activity, ii) if the relevant jurisdiction is not included in the blacklist drafted by European Council, iii) if the relevant jurisdiction has an applicable international information exchange treaty with Finland and iv) if the income of the entity in that jurisdiction is derived from industrial or corresponding production, related service rendering, shipping, related sales and marketing activity or intra-group trade with a group company within the same jurisdiction.
FOREIGN TAX CREDITS

Foreign taxes paid on income subject to Finnish taxation can be credited under the Finnish tax credit system.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Transfer tax on the acquisition of Finnish real estate is 4 percent on the purchase price payable by the buyer. In case a real estate transaction is carried out by acquiring shares in a real estate company, transfer tax is 2 percent on equity value added with value of debt transferred to the buyer.

TRANSFER PRICING

The Finnish transfer pricing rules are based on the arm’s-length principle and OECD guidelines. Documentation requirements apply to cross-border transactions with affiliated companies.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

Under the general rule, dividend and royalty payments to a foreign company is subject to 20-percent withholding tax.

Withholding tax is not levied on a dividend payment to a company within the EU if such company holds more than 10 percent of the shares in the paying company and fulfills the requirements in the EU parent subsidiary directive.

Withholding tax is also not levied on royalty payments paid to a company within the EU in accordance with the EU directive on the condition that the 25-percent direct or indirect holding threshold is met.

Finland does not levy withholding tax on interest except on a few rare occasions.

Special withholding rates apply to foreign persons working in Finland – for example, sportsmen and artists.

Finland has a treaty network with over 70 countries. The tax treaties typically lower the applicable statutory rates depending upon the type of income. Withholding tax for foreign companies on Finnish dividends under the respective tax treaty is typically – but not always – 5 percent when the recipient holds at least 25 percent of the shares of the company making the payment.

Service fees

Typically exempted from Finnish withholding tax.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Sale of Finnish shares (of a non-real estate company) is subject to a 1.6-percent transfer tax on equity value of the transaction payable by the buyer. Transfer tax is not applicable on transfers of Finnish shares between non-Finnish
For transfer tax on the sale of real estate, please see “Special rules applicable to real property” above.

EMPLOYMENT TAXES

Finnish employers are liable to pay withholding obligations on salary paid to the Finnish employees. The tax base covers cash salary, benefits as valued by the tax administration and share-based employee benefits. The tax rate on salaries is progressive, up to approximately 57 percent.

In addition, Finnish employers are required to withhold the employee’s share of social security contributions from their salary. In addition, Finnish employers are liable to pay their share of social security payments based on their paid total salaries.

OTHER TAX CONSIDERATIONS

Not applicable.

KEY CONTACTS

Antti Paloniemi
Counsel
DLA Piper
antti.paloniemi@dlapiper.com
T: +358 40 586 1051
FRANCE

RESIDENCE AND BASIS FOR TAXATION

A company is a resident of France if its legal seat or place of effective management is in France. As a general rule, the corporate income tax base is territorial.

Domestic

Profits of a resident corporation generally are subject to French corporate tax only if derived from a business operated in France (including any capital gains, dividends and interest derived from French or non-French investments), real estate assets located in France or activities taxable in France pursuant to a double tax treaty. Resident corporations can be subject to tax in France on foreign source income under anti-avoidance rules (e.g., CFC rules).

Foreign

Foreign corporations are not subject to French corporate tax unless they have in France:

- An autonomous establishment
- A dependent agent empowered to act on behalf of the corporation or
- A complete cycle of activity.

For residents of tax treaty countries, these concepts generally are superseded by the permanent establishment rules set out in the applicable double tax treaty.

TAXABLE INCOME

Domestic

Taxable income is the net income as determined by the company’s profit and loss statement, reduced by certain non-taxable items and increased by certain non-deductible expenses, such as the interest deduction limitation rules.
The Finance Act for 2019 has introduced from January 1, 2019 new rules regarding interest deductibility. In particular, net financial charges may be deductible up to the higher of the following 2 amounts:

- EUR3 million and
- 30 percent of the adjusted taxable income, before offsetting of tax losses.

Specific rules apply to members of a tax consolidated group as well as to thin-capitalized companies.

Moreover, other limitations on interest deductibility may be triggered, under certain conditions.

The Finance Act for 2020 has transposed into French law the provisions regarding hybrid mismatches of Directive (EU) 2016/1164 of 12 July 2016 (ATAD I) as amended by Directive (EU) 2017/952 of 29 May 2017 (ATAD II). These provisions aim at neutralizing the tax effects of hybrid mismatch arrangements, which exploit differences in the tax treatment of an entity or instrument under the laws of 2 or more EU member states. ATAD II extends the scope of these provisions to arrangements involving non-EU countries.

Foreign

Foreign corporations are subject to French corporate tax on French-source income from profits derived from a business operated in France, real estate assets located in France, a share of profits in a French partnership (except for partnerships that are regulated investment funds – SLP or société de libre partenariat), dividends from a French source or services rendered in France. Tax treaties can reduce or eliminate these taxes. Specific tax rules apply to:

- Investors or payments related to a "non-cooperative jurisdiction" and
- Capital gains on "substantial participations" (more than 25 percent of financial rights).

TAX RATES

The Finance Act for 2018 provided for a progressive reduction of corporation tax rates to 28 percent on January 1, 2020, applicable from the first euro, 26.5 percent on January 1, 2021 and 25 percent on January 1, 2022. Graduated income tax rates start at 15 percent with a top rate of 28.92 percent in 2020 (including a 3.3-percent additional contribution).

However, in regard to companies whose turnover is equal to or exceeds EU250 million, the standard corporate income tax rate is 28 percent to the extent of EUR500,000 of taxable income and 31 percent will apply to the portion of taxable income exceeding this threshold, on top of which miscellaneous contributions may be added. For 2021, this rate will decrease to 27.5 percent and will apply to those same companies on all their taxable income.

TAX COMPLIANCE

Corporate income tax returns must be filed no later than the second working day after May 1 for calendar year taxpayers, or within 3 months after the end of the relevant financial year otherwise, with no extensions.
ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

No broad-based rulings are available. On certain issues, taxpayers can request a private letter ruling that applies only to the specific issue.

Tax incentives

There are tax incentives for specific activities, including R&D credits. The payroll tax credit for competitiveness and employment has been replaced as from January 1, 2019 by social charges exemption.

CONSOLIDATION

The French tax consolidation regime allows a French parent company and its 95-percent-owned domestic subsidiaries to combine their profits and losses and to pay corporate income tax on the consolidated result. A French parent company indirectly owning at least 95 percent of French affiliates through 1 or more foreign companies based in the EU, Iceland, Norway or Liechtenstein (intermediary companies) can also form a tax group. Similarly, it is possible to set up a tax group between sister companies with the parent company established in the EU, Iceland, Norway or Liechtenstein.

PARTICIPATION EXEMPTION

A participation exemption regime is applicable to long-term capital gain (88-percent exempt) and dividends (as a rule, 95-percent exempt), subject to a minimum shareholding of 5 percent of the share capital and a minimum holding period of 2 years. A specific participation-exemption regime applies to dividends distributed within a tax consolidated group (99-percent exempt) as well as, under conditions, to distributions made by foreign companies based in the EU, Iceland, Norway or Liechtenstein. Capital gain on the disposal of shares of real estate companies is excluded from the participation exemption regime.

CAPITAL GAIN

Capital gains realized by corporations that are subject to corporate income tax are treated as regular income, subject to exceptions. One exception is the one that applies to long-term capital gains on shares benefiting from the participation exemption regime, as described above.
DISTRIBUTIONS

A participation exemption regime is available for eligible dividends. Non-eligible distributions are subject to corporate income tax at ordinary rates.

LOSS UTILIZATION

Operating losses can be carried forward without time limitation but with a utilization cap per financial year of EUR1 million plus 50 percent of the taxable profit of the current financial year. Losses can be carried back only for the previous financial year, with a EUR1 million cap.

TAX-FREE REORGANIZATIONS

For all types of restructurings (e.g., mergers, spinoffs or partial spinoffs), a favorable tax regime may apply if the assets are transferred under special valuation rules.

ANTI-DEFERRAL RULES

CFC rules

If a French company subject to corporate income tax in France has a foreign branch or if it holds, directly or indirectly, an interest (e.g., shareholding, voting rights or a share in the profits) of at least 50 percent in any type of structure benefiting from a privileged tax regime in its home country (i.e., effective tax paid that is 50-percent lower than the tax that would be paid in France in similar situations), the profits of such a foreign branch, entity or enterprise are subject to corporate income tax in France. Under certain conditions, the shareholding threshold is reduced to 5 percent if more than 50 percent of the foreign entity is held by French companies acting in concert or by entities controlled by the French company.

FOREIGN TAX CREDITS

No credit is given for the underlying corporate income taxes levied abroad, and, unless a relevant double tax treaty provides, foreign withholding taxes levied on the income received in France are not creditable against French tax on that income. Foreign tax paid in a tax treaty country may not be deducted from taxable income.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

A 3-percent tax applies in principle to all entities having immovable properties in France, irrespective of their form and whether they have the legal capacity to act as a legal entity. The 3-percent tax applies to corporations, funds, trusts and other institutions. In practice, this 3-percent tax is not due if the chain of ownership of the real property is duly disclosed to the French tax authorities.

The transfer of ownership of a real estate asset is usually subject to registration duty of 5 percent to 6 percent, which may be reduced under certain conditions to 0.815 percent, including the real estate security contribution of 0.1 percent (e.g., asset dealer transactions), or to EUR125 (e.g., acquisition of a plot of land with commitment to
build on the land).

Specific rules apply to:

- Office sales in the Paris region and
- The sale of building plots or new buildings subject to VAT.

**TRANSFER PRICING**

The French legislation does not make any specific references to what are acceptable transfer pricing methodologies. In practice, however, the methodologies stated in the OECD guidelines are employed in most cases.

**WITHHOLDING TAX**

Withholding tax may be reduced or eliminated by applicable tax treaties or EU directives. An increased withholding tax rate of 75 percent is levied on dividends, interest or royalties paid to a beneficiary or on an account located in a non-cooperative state or territory.

**Dividends, interest, etc.**

As a general rule, dividends paid to non-residents are subject to a 12.8-percent withholding tax for individuals or 30-percent withholding tax for companies. The Finance Act for 2018 provides that the withholding tax applicable to companies on dividend payments will be aligned to the French corporate tax rate as of January 1, 2020 (see Tax Rates). Therefore, except for companies having a turnover equal or exceeding EUR250 million, the withholding tax rate on dividends paid as from January 1, 2020 is 28 percent.

Generally, no withholding tax is levied on French-source interest, provided it is arm’s length.

**Royalties and service fees**

As a general rule, a withholding tax may be levied, at the same rate as the standard corporate income tax rate, on royalties and service fees paid to non-residents. See Tax Rates above.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

No stamp duties. The Finance Act for 2019 repealed registration duties levied on share capital increases of French companies and most reorganizations. However, registration duties at a proportional rate may be levied, in particular in the cases of acquisition of shares in a capital company, transfers of real estate assets, real estate companies or going concerns.

**EMPLOYMENT TAXES**

Employees and employers must pay contributions for health insurance, unemployment insurance and the national
pension scheme. These contributions are deducted at source from salary payments. Since 2019, income tax has had to be withheld at source by employing companies.

DAC 6 : Mandatory disclosure rules


DAC 6 requires intermediaries (or taxpayers, if there is no intermediary) to report to the competent tax authorities all cross-border arrangements that contain 1 or more hallmarks (indicating a potential risk of tax evasion), as referred to in new Article 1649 AH of the General Tax Code. Reported information will automatically be exchanged with all EU tax authorities through a central European register.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.

KEY CONTACTS

Fanny Combourieu  
Partner  
DLA Piper  
fanny.combourieu@dlapiper.com  
T: +33 1 40 15 25 23  
View bio
GERMANY

RESIDENCE AND BASIS FOR TAXATION

A corporation that has either its registered seat or its effective place of management in Germany will be treated as a resident corporation.

Domestic

A resident corporation is subject to German tax on its worldwide income. A resident corporation generally is not subject to German tax on the income of its foreign subsidiaries unless an anti-deferral provision applies (i.e., the CFC rules).

Foreign

A non-resident corporation is taxed only on its German source income, as defined in German tax law and applicable double taxation treaties.

TAXABLE INCOME

Domestic

Taxable income of corporations is based on the annual financial statements prepared under German accounting principles pursuant to the German Commercial Code, subject to adjustments for tax purposes.

Foreign

A non-resident corporation is subject to corporate income tax only on income derived from German sources. Income from German sources includes, among other items, business income from operations in the country through a branch, office or other permanent establishment, including a permanent representative, and income derived from the leasing and disposal of real estate located in Germany.

TAX RATES

The corporate income tax rate is 15 percent plus a 5.50-percent solidarity surcharge levied on the corporate
income tax (ie, 15.825 percent including the solidary surcharge).

The trade tax rate, which is levied by municipalities, varies, but in practice averages 14 percent to 17 percent of taxable income.

Trade tax is based on taxable income as calculated for corporate income tax purposes. However, several income adjustments apply.

**TAX COMPLIANCE**

Corporate income tax returns and trade tax returns have to be filed (for years 2020 and later) within 7 months after the end of the fiscal year. Tax returns prepared by a consultant have to be filed 14 months after the end of the fiscal year. Certain Covid-19-related reliefs may apply.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

Taxpayers can request a binding ruling from the tax authorities before executing a transaction. If the relevant tax authority issues a ruling, it is bound by it if the taxpayer has executed the transaction as described in its request.

**Tax incentives**

Various incentive programs exist for the promotion of modern energy generation and efficiency (eg, solar and wind energy), as well as programs for the promotion of domestic buildings, environmental protection, R&D, health care, infrastructure and agriculture. Promotion can either be granted as a tax benefit, allowance, guarantee, loan or participation.

**CONSOLIDATION**

Profits and losses of a controlled company are attributed to the controlling company if certain requirements are fulfilled and a profit and loss pooling agreement is entered into for a minimum period of 5 years. However, tax consolidation is only possible for subsidiaries with effective place of management in Germany.

**PARTICIPATION EXEMPTION**
Dividends received by a corporate shareholder are generally tax-free for corporate income tax purposes for shareholdings of at least 10 percent and for trade tax purposes for shareholdings of at least 15 percent. Capital gains received by a corporate shareholder are generally tax-free for corporate income tax purposes and for trade tax purposes regardless of the amount of participation. An amount equal to 5 percent of the dividends or capital gain is treated as a non-deductible business expense and added to taxable income. In turn, the actual business expenses are fully deductible.

**CAPITAL GAIN**

Capital gains of corporations, except those derived from sales of shares (ie, participation exemption) are treated as ordinary income.

In general, a capital loss of a corporation is deductible. However, a capital loss is not deductible if a gain resulting from the underlying transaction would have been exempt from tax. Consequently, a capital loss from sales of shares or write-downs on shares are not deductible.

**DISTRIBUTIONS**

Qualifying dividends may be eligible for preferential treatment for the recipient.

**LOSS UTILIZATION**

**Carryforward:** Losses may be carried forward indefinitely.

**Carryback:** Losses up to an amount of EUR1 million can be offset against the profits of the preceding year. Losses for trade tax purposes cannot be carried back.

The maximum amount limits for loss carrybacks have been increased from EUR 1 million to EUR 5 million for losses from the years 2020 and 2021. After the fiscal year 2021, the old limits will apply again.

**Minimum taxation:** 40 percent of the income exceeding EUR1 million cannot be sheltered by tax loss carryforwards, but instead is subject to taxation at regular rates.

**TAX-FREE REORGANIZATIONS**

Qualifying corporate formations, combinations and divisions may be tax-free to a participating corporation and its shareholders.

**ANTI-DEFERRAL RULES**

Low-taxed passive income (ie, tax rate of less than 25 percent) earned by a foreign corporation in which at least 1 German shareholder holds qualifying ownership interests (ie, an intermediary company) is imputed pro-rata to the
German shareholders and is fully subject to German taxation unless the foreign corporation is based in the EU or EEA and carries out an economic activity therein, in which case a limitation may apply. Please note that the anti-deferral rules are subject to revision; the legislative process has not yet been concluded.

**FOREIGN TAX CREDITS**

Under German domestic tax law, income from foreign sources is usually taxable, with a credit for the paid foreign income taxes, up to the amount of German tax payable on the foreign-source income, subject to per-country limitations. Excess foreign tax credits cannot be carried back or carried forward. In general, German tax treaties provide for an exemption from German taxation of income from foreign sources except for dividends from direct shareholdings of less than 10 percent and interest. In some cases, the exemption under German tax treaties are subject to substance or activity requirements.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

After long political discussions, the new regulations for real property tax have been agreed on. Real property tax is levied by the municipality of real estate where it is located. The new rate applied is the property value multiplied by 0.34 percent multiplied by the municipality coefficient. However, it is optional for each state to adopt its own real property tax calculation model. This reform should apply as of January 1, 2025; the old law will apply until then.

Real property tax needs to be paid by the owner of the property. It can also be allocated to the tenants as part of the operating costs.

**TRANSFER PRICING**

Transactions between affiliated parties will give rise to income adjustments to the extent that such transactions are not conducted at arm’s-length. Additionally, transactions with a foreign affiliated party are subject to extensive documentation requirements.

**WITHHOLDING TAX**

Dividends, royalties, interest, rents, etc.

Dividends paid to non-resident companies: Generally, a rate of 26.375 percent applies (ie, 25 percent withholding tax, or WHT, plus 5.50 percent solidarity surcharge on WHT, although exemptions may be available under the EU Parent-Subsidiary Directive, if applicable). There is a reduction of WHT under most German tax treaties for qualified dividends. In addition, on the basis of domestic law, foreign corporations may claim a refund of 40 percent of the WHT, subject to certain substance requirements.

Interest paid to non-resident companies: Generally, there is no WHT, although certain exceptions apply.

Patent royalties and certain copyright royalties paid to non-resident companies: Generally, 15.825 percent WHT applies. Exemptions may be available under the EU Interest-Royalties Directive, if applicable. There is a reduction of WHT under most German tax treaties.
**Service fees**

Not applicable for this jurisdiction.

---

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

At the end of July 2019, a government draft on new regulations for real estate transfer tax on share deals was adopted.

This Real Estate Transfer Tax Act Amendment follows the Federal Ministry of Finances draft of May 8, 2019 and essentially keeps in line with it. According to the new law, RETT should be levied on the transfer of German real estate, the direct or indirect transfer of 90 percent or more of the interest in a partnership owning German real estate to new partners within 10 years and the direct or indirect aggregation at the level of 1 shareholder or interest holder of 90 percent or more of the shares in a corporation or interest in a partnership owning German real estate. Furthermore, a transaction which has the effect that a taxpayer (directly or indirectly, or partly directly and partly indirectly) holds an economic participation of at least 90 percent in a company or partnership owning real property also triggers RETT. The tax rate ranges between 3.50 percent and 6.50 percent among the German federal states. Before the RETT reform, RETT was triggered upon the transfer of at least 95 percent of shares or interests in a partnership within 5 years.

Since October 2019, the draft law has been pending. It is currently not possible to reliably estimate when the law will come into force. The legislative reform may be delayed due to the COVID-19 crisis.

There are no other transfer taxes, capital duties or stamp duties.

---

**EMPLOYMENT TAXES**

Employers must withhold wage taxes (ie, withholding tax on income from employment) and 50 percent of the wage-related social security contributions for pension, health, nursing care and unemployment insurance.

---

**OTHER TAX CONSIDERATIONS**

Not applicable for this jurisdiction.
KEY CONTACTS

Dr. Konrad Rohde
Partner
DLA Piper UK LLP
konrad.rohde@dlapiper.com
T: +49 69 271 33 340
View bio

Dr. Marie-Theres Rämer
Partner
DLA Piper UK LLP
marie-theres.raemer@dlapiper.com
T: +49 69 271 33 470
View bio
HONG KONG, SAR

RESIDENCE AND BASIS FOR TAXATION

Residence is generally not relevant for Hong Kong tax purposes. Rather, the basis for taxation is whether or not a person carries on a trade, profession or business in Hong Kong. Nevertheless, the concept of residence can be relevant for the purposes of Hong Kong tax treaties as well as certain exemptions (such as the offshore fund profits tax exemption). In such case, Hong Kong would follow the common law tests of residential ties for individuals and management or control for other entities.

Domestic

Hong Kong has a territorial system of taxation without a general definition of income. Generally, only:

- Profits arising in or derived from Hong Kong from a trade, profession or business carried on in Hong Kong
- Employment remuneration for services rendered in Hong Kong and
- Income from real properties situated in Hong Kong can be subject to tax.

Any other item of income is exempt from tax.

Foreign

There is no special regime for non-residents. A Hong Kong branch of a foreign corporation is treated the same way as a locally incorporated company and is subject to similar corporate and tax obligations as a resident company.

TAXABLE INCOME

Domestic

For profits tax purposes, a person is taxed on its assessable profits calculated as its income minus applicable deductions. Usually the starting point of the calculation will be the financial statements of the taxpayer adjusted in accordance with the tax legislation. Adjustments can be made for items of income – for example, excluding
offshore profits – or items of deductions – for example, adjusting amortization claims.

Income

Generally, assessable profits include only profits arising in or derived from Hong Kong (i.e., profits sourced in Hong Kong) from a trade, profession or business carried on in Hong Kong. Source is a practical, hard matter of fact.

Specific rules may apply to certain types of receipts. For instance, a person in receipt of an amount for the use or right to use certain intellectual properties or movable property is deemed to carry on business in Hong Kong and in receipt of income arising in or derived from Hong Kong. There are also specific rules for income from an intra-group financing business.

Deductions

Expenses are generally deductible to the extent that they are incurred for the production of assessable profits and are not capital in nature, unless specifically prohibited. There are also specific rules for deductions of an intra-group financing business.

Foreign

There is no special regime for nonresidents. A Hong Kong branch of a foreign corporation is treated the same way as a locally incorporated company and is subject to similar corporate and tax obligations as a resident company.

TAX RATES

Under the 2-tiered profits tax rate regime (effective from April 1, 2018), the profits tax rate for the first HKD2 million of profits of corporations will be lowered to 8.25 percent; profits above that amount will continue to be subject to the normal tax rate of 16.5 percent. The said rates apply on all assessable income with only a few exceptions. The most significant one is the offshore fund profits tax exemption, which exempts most profit of offshore funds carrying on business in Hong Kong. Partial rate exemption (i.e., 8.25 percent) applies to items of income such as income from qualifying debt instruments issued in Hong Kong or the onshore business income of professional reinsurance companies. In addition, qualifying corporate treasury centers may enjoy a 50 percent concession (i.e., 8.25 percent) on the prevailing rate of normal Hong Kong profits tax (i.e., 16.5 percent) on the qualifying profits.

TAX COMPLIANCE

The year of assessment runs from April 1 to March 31. For profits tax purposes, the basis period is the accounting year of the taxpayer ended in the year of assessment.

Hong Kong taxpayers are prompted to file tax returns. The Inland Revenue Department (IRD) usually issues profits tax returns to taxpayers from the first working day of April each year. In general, a corporate taxpayer is required to complete and file its profits tax return with the IRD within 1 month from the date of issuance, but a taxpayer with a tax representative usually has an automatic extension, with reference to the accounting date. If a taxpayer has assessable profits for a tax year, it is required to inform the IRD accordingly if it has not received a tax return.
A newly incorporated business in Hong Kong usually receives its first profits tax return around 18 months from the date of commencement of business or the date of incorporation.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

Advance rulings are available to taxpayers as a paid service and are subject to certain formalities.

A taxpayer can voluntarily request for a ruling in specified areas, such as the application of the locality of profits rules or the general anti-avoidance provision, royalty payments, stock borrowing or lending and interest income exemption.

The normal processing time is 6 weeks, but a complex application can take significantly more time. A ruling is final, but it does not affect the taxpayer’s right of objection against a subsequent tax assessment issued in accordance with an unfavorable ruling.

**Tax incentives**

See Tax rates. There is a one-off reduction of the final tax in respect of profits tax, salaries tax and tax under personal assessment for the year of assessment 2020-21 by 100 percent, subject to a ceiling of HKD20,000 per case. Tax incentives are also available to certain specified areas subject to qualifying conditions, such as interest on and any profit made in respect of Renminbi sovereign bonds, capital expenditure on specified environmental protection facilities, capital expenditure on plant and machinery specifically related to manufacturing, expenditure on computer hardware and software, and expenditure incurred on certain research and development activities.

**CONSOLIDATION**

Although group companies in Hong Kong are, subject to certain exceptions, required to prepare consolidated financials for accounting purposes, Hong Kong does not allow groups of companies to file consolidated profits tax returns. There is no group loss relief (e.g., loss consolidation, loss transfer) for taxpayers in group companies.

**PARTICIPATION EXEMPTION**

Dividends received by a Hong Kong company are not subject to tax, nor are dividends paid by a Hong Kong company to its shareholders, whether or not in Hong Kong.
CAPITAL GAIN

Hong Kong does not tax capital gains. However, the net gains on transactions deemed speculative may be taxable as a taxpayer’s trading income.

DISTRIBUTIONS

Dividends distributed by a Hong Kong company to its shareholders are tax exempt. No withholding tax is levied on the distributing Hong Kong company.

LOSS UTILIZATION

Losses attributable to the operation of the trade, profession or business carried on in Hong Kong can be carried forward indefinitely to offset against future assessable profits until fully utilized. Where a taxpayer carries on multiple trades, profession or businesses in Hong Kong, the losses in one can be utilized against the profits of the other.

However, losses cannot be carried back to offset against assessable profits in prior basis periods.

TAX-FREE REORGANIZATIONS

Ad valorem stamp duty is payable for the transfers or sales of shares or immovable property in a reorganization (see Stamp duty). Stamp duty relief for intra-group reorganization is available subject to certain conditions.

ANTI-DEFERRAL RULES

There is no controlled foreign corporation (CFC) regime in Hong Kong.

FOREIGN TAX CREDITS

A deduction is available for foreign tax paid, on a turnover basis, in respect of profits that are also taxable in Hong Kong. Where Hong Kong has a double taxation arrangement with the other jurisdiction, a full credit for tax paid may be available in Hong Kong.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Income derived from renting out real properties by owners in Hong Kong is subject to property tax, which is charged at a standard rate of 15 percent of the property’s net assessable value for the relevant year of assessment. Depending on individuals’ actual income positions, it may be more beneficial for individuals subject to both profits tax and property tax to elect personal assessment, which allows certain deductions and computation of tax liabilities at progressive rates applicable. A corporation may also seek exemption if the relevant rental income has already been included for profit tax assessment. Save for specific exemptions, ad valorem stamp duty is levied on
sale or transfer of real properties in Hong Kong at applicable rates depending on the type of immovable property being transferred.

In addition, residential property transactions in Hong Kong can attract ad valorem stamp duty, Buyer’s Stamp Duty and Special Stamp Duty.

**TRANSFER PRICING**

The Hong Kong government amended the Inland Revenue Ordinance in July 2018 in order to meet the international standards of transfer pricing developed under the OECD. The main objectives of the amendments are to codify the transfer pricing principles (such as the arm’s length principle), implement certain measures under the Base Erosion and Profit Shifting (BEPS) package and align the existing provisions with international tax requirements. The amendments also cover requirements and exemptions for transfer pricing documentation, including master file, local file and country-by-country report.

**WITHHOLDING TAX**

Dividends, royalties, interest, rents, etc.

Hong Kong does not impose withholding tax on dividends, interests or rents. The only withholding tax is on any payment made to a non-resident for the use of, or the right to use, certain intellectual property in Hong Kong, or outside Hong Kong where the payments are deductible for the taxpayer. The general tax rate is 16.5 percent on the assessable profits. When the payment is derived from an associate and the relevant intellectual property has once been owned by any Hong Kong taxpayer, the assessable profits are deemed to be 100 percent of the payment; in other circumstances, the assessable profits are generally deemed to be 30 percent of the payment. A double taxation arrangement may provide for a lower rate.

Service fees

Not applicable for this jurisdiction.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

Hong Kong does not have capital duty.

For shares transfer or sales of shares, ad valorem stamp duty is payable in respect of contract notes at the rate of 0.2 percent of the consideration or the fair market value of the shares, whichever is higher, and a fixed duty of HKD5 each is payable in respect of the instrument of transfer.

For sale or transfer of immovable property in Hong Kong, ad valorem stamp duty at applicable rates is payable depending on the type of immovable property being transferred. In addition, residential property transactions in Hong Kong may also attract Buyer’s Stamp Duty and Special Stamp Duty.

For rental of immovable property in Hong Kong, stamp duty is payable at up to 1 percent of the average yearly rent.
In case of an intra-group transfer, a stamp duty exemption may apply.

**EMPLOYMENT TAXES**

**Employment taxes**

Regardless of whether the employees are residents in Hong Kong, employers are not required to withhold tax for employees. The only exception is in the case of a termination and if the employee intends to leave Hong Kong for over 1 month following the cessation of employment; in this case, the employer is required to give the IRD a notification in writing of such impending departure at least 1 month prior to the departure and must temporarily withhold all payment due to the employee until the IRD issues a "letter of release."

**Pension contributions**

Employers are required to:

- Withhold 5 percent of their employees' relevant income (capped) as the employees' contributions and
- Pay an additional 5 percent as their own contributions (capped) to the Mandatory Provident Fund (MPF) scheme or a MPF-exempted Occupational Retirement Scheme.

Currently, the maximum mandatory contributions of each of the employers' shares and employees' shares for such MPF scheme is HKD1,500 (approximately USD200) for employees with a monthly relevant income exceeding HKD30,000 (approximately USD3,870). If the employee's monthly relevant income falls under HKD7,100 (approximately USD915), their monthly contributions to MPF are not required, but the employer's contributions remain the same.

**OTHER TAX CONSIDERATIONS**

Imports into Hong Kong are generally tax-free with few exceptions. No customs or excise duty is levied on exports from Hong Kong.
HUNGARY

RESIDENCE AND BASIS FOR TAXATION

A corporate entity is treated as a domestic entity for corporate income tax purposes if it is incorporated under Hungarian law or the place of effective management is in Hungary.

**Domestic**

A resident company is subject to Hungarian corporate income tax on all its worldwide income and capital gain unless specifically exempted by the corporate income tax legislation.

**Foreign**

A nonresident company with a permanent establishment in Hungary is subject to corporate income tax on (i) the income derived through the permanent establishment, defined in Hungarian tax law and the applicable double taxation treaties, and (ii) on the income realized through alienation of participations in a Hungarian entity qualifying as a real estate holding company.

The applicable double tax treaties may reduce or eliminate these taxes. Hungary has an extensive network of treaties.

TAXABLE INCOME

**Domestic**

A resident company is subject to corporate income tax on all its income from sources anywhere in the world, including patent royalties, dividends, interest and capital gains. Taxable base is equal to the pre-tax profit as shown in the financial statements by effecting certain adjustments. Taxable profits comprise operational business profits, profits from financial transactions and other profits.

In general, all expenses related to the operation of a business are deductible with certain exemptions (eg, fines and penalties).

Certain tax incentives are granted in the form of taxable base reductions in addition to the already-recognized cost deduction for accounting purposes.
A minimum alternative tax applies if a company cannot present a cost structure attached to the tax return.

**Foreign**

Nonresident taxpayers are taxed on the income attributed to their Hungarian permanent establishments or on the income realized through alienation of participation in a Hungarian entity that qualifies as a real estate holding company.

**TAX RATES**

The corporate income tax is levied at a flat rate of 9 percent.

Local business tax is payable at a maximum of 2 percent on adjusted total trading turnover; it is deductible for corporate income tax purposes.

**TAX COMPLIANCE**

Corporate income tax returns must be filed within 5 months from the last day of the tax year. Corporate income tax must be self-assessed by taxpayers and declared annually.

Under the self-assessment system, taxpayers are expected to voluntarily comply with the rules of the tax legislation. In order to encourage voluntary compliance, a self-correction procedure is available to taxpayers.

**ALTERNATIVE MINIMUM TAX**

Companies are required to pay corporate income tax (based on a so-called minimum taxable base) even if they do not make a profit, unless they present their cost structure on an additional form attached to their tax returns.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

Advance rulings may be requested by both resident and nonresident companies on any type of tax, provided that the request concerns the tax consequences of a future contract or transaction. In addition, binding rulings may be requested in relation to past transactions regarding corporate income tax, personal income tax, small business tax and local business tax consequences.

The application for a ruling is subject to a fee. The fee of the ruling request is between HUF5 million and HUF8 million (approximately between USD16,500 and USD26,000), depending on whether the taxpayer applies for an urgent ruling.
Tax incentives

There are tax incentives for specific activities. The tax credit for the promotion of development, being the general incentive regime, may not exceed 80 percent of the tax due. Any other tax credits (e.g., the small business investment credit, the film production credit and the credit for sport subsidies) may not exceed 70 percent of the tax due that remains after the deduction of the tax credit for the promotion of development.

Hungary has an attractive IP regime that provides several benefits for IP-related activities. Pursuant to Hungarian legislation, companies may deduct 50 percent of the profit derived from royalty payments received. There are further advantages, including the CIT and local business tax exemption for income arising from the royalty payments received and the sale of a qualifying IP; preliminary requirements are registration of the IP with the tax authority and a 1-year holding period.

CONSOLIDATION

Since 2019, taxpayers may opt for group taxation for corporate income tax purposes subject to certain conditions. Members of the tax group may offset losses against the profits of other members of the tax group concerned. The general corporate income tax rate is applicable to corporate income tax groups.

PARTICIPATION EXEMPTION

Capital gains realized through the disposal of stock in qualifying subsidiaries are exempted from corporate income tax. Participation exemption additionally applies to dividends received.

CAPITAL GAIN

Capital gains are generally included in the company’s total ordinary income and are subject to tax at the general rates.

However, capital gains on the disposal of a “reported participation” are exempt, provided that the taxpayer has held the participation for at least 1 year before the disposal. In this context, “disposal,” aside from sale and purchase, refers to contribution in kind as well. A reported participation is a participation in the capital of a company (domestic or foreign, except CFCs), the acquisition of which was appropriately reported to the tax authority, within 75 days from the acquisition date.

Capital gains on the disposal of “reported intangible assets” (i.e., acquired or self-developed assets that entitle the taxpayer to royalty income) are exempt, provided that the seller has held the asset for at least 1 year and the acquisition is reported to the tax authority within 60 days from the acquisition date.

DISTRIBUTIONS

There are no withholding taxes on patent royalties, dividends and interest paid to resident or nonresident companies.
LOSS UTILIZATION

Tax losses may be carried forward for 5 years from the year in which they incurred. Losses carried forward from previous tax years may only be used to offset 50 percent of the current year’s profit. Losses must be deducted in the order they were sustained. Losses generated by the last day of the 2014 tax year which have not yet been used can be utilized in line with the provisions effective on December 31, 2014 and are available to be utilized by December 31, 2025.

TAX-FREE REORGANIZATIONS

The provisions that implemented the EU Merger Directive apply to domestic situations and provide for a tax deferral (i.e., a temporary tax exemption) on capital gains realized on qualifying transactions. Qualifying transactions are identified in the Hungarian legislation by the terms “preferential transformation,” “preferential transfer of assets” and “preferential exchange of shares.” The tax deferral is not automatically available, but only at the election of the taxpayer.

ANTI-DEFERRAL RULES

CFC

As of 2019, the definition of CFCs changed in accordance with the EU Council Directive. According to that change, a CFC is defined as a nonresident company that meets 1 of the following conditions:

A foreign entity is regarded as a CFC if a Hungarian taxpayer, either on its own or together with related entities/persons:

- Holds a direct or indirect participation of more than 50 percent of the voting rights of that entity
- Owns, directly or indirectly, more than 50 percent of the registered capital of that entity or
- Is entitled to receive more than 50 percent of the profits of the foreign entity and
- If the participation or entitlement specified above persists during the majority of the underlying tax year.

The above definition is also applicable in relation to a Hungarian resident taxpayer and its foreign permanent establishment.

The CFC rules apply if the actual corporate tax paid by the foreign entity or permanent establishment (PE) on its profits is less than the difference between the equivalent corporate tax that would have been due in Hungary if the foreign entity or PE had been subject to Hungarian corporate income tax and the corporate income tax actually paid by the foreign entity, if all other tests are also met.

A foreign entity or PE does not qualify as CFC if the income of the foreign entity or PE is derived solely from a transaction - or series of transactions - regarded as genuine.

If the entity attains CFC status, the profit generated by that entity from a transaction, or series of transactions, that is regarded as non-genuine and reduced by the dividends declared will be included in the taxable base of the
Hungarian taxpayer to the extent of amounts generated through assets and risks, which are linked to significant people functions carried out by the controlling Hungarian tax resident entity.

Dividends received from a CFC are included in the taxable base of a resident corporate taxpayer.

**General anti-avoidance rules**

There are several anti-avoidance rules that allow tax authorities to ignore the legal form of an arrangement between entities and examine the actual substance or genuine purpose of a contract or transaction.

The following general anti-avoidance rules are set out in the LRT:

- A genuine economic activity clause, which is a requirement to carry out transactions of a real economic substance, and

- The prohibition of abuse of law, which is a requirement of proper exercise of the law.

Under the substance-over-clause rule, the tax consequences of transactions or the chain of transactions may be assessed according to their real substance. The general abuse-of-law doctrine examines the goal of a transaction or a chain of transactions. Should the primary goal be the avoidance of taxation or gaining tax advantages, the deductions may be denied.

General anti-avoidance rules under the LCITDT include the following:

- Prohibition of the multiple reduction of the taxable base under the same legal title

- Transactions should make business sense; otherwise, deduction may be denied, and

- Taxpayers should act with due diligence.

Based on the general anti-avoidance rules as set out in the corporate income tax legislation costs, expenditures and losses related to a contract or a transaction are deductible for corporate income tax purposes to the extent that the underlying transaction, or series of transactions, is in line with the purpose of the applicable tax rule and is substantiated by real economic, commercial reasons. If the main purpose or one of the main purposes of the transaction, or series of transactions, is largely to achieve tax advantages contrary to the objective of the applicable tax rules, the costs and losses related to the transaction are not deductible.

**FOREIGN TAX CREDITS**

**Double tax treaties**

Hungary has signed more than 70 double taxation treaties with other countries to avoid double taxation of income or gains. According to these, foreign taxes paid on foreign-source income may be credited against Hungarian tax, or the foreign source income may be exempted.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**
The acquisition of real estate in Hungary as part of a purchase, exchange or similar transaction is normally subject to real estate transfer tax, payable at 4 percent of the market value. A reduced rate of 2 percent applies to the value above HUF1 billion. Besides real estate transfer tax, there may be other different tax liabilities, including building tax and land tax, which are imposed at the level of municipalities.

**TRANSFER PRICING**

The arm’s-length principle is applied under Hungarian law to transactions between related entities. Hungarian rules are in accordance with the OECD guidelines.

**WITHHOLDING TAX**

Dividends, royalties, interest, rents, etc.

There is no withholding tax on dividends, interests and royalties paid to resident and nonresident companies.

Dividends, including advance dividends, paid to individuals are taxed at the rate of 15 percent. Double taxation treaties operate to modify these rules, including reducing the rate of withholding taxes.

Service fees

Not applicable for this jurisdiction.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

There is no capital duty in Hungary. There is no standard rate for stamp duties – they are imposed in administrative and court procedures.

Generally, transfer tax is payable by the purchaser at a rate of 4 percent of the value of the property up to HUF1 billion, and 2 percent on the value exceeding HUF1 billion (capped at HUF200 million per property).

**EMPLOYMENT TAXES**

Social security tax is paid by paying agents (eg, employers) based on a legal relationship with an individual (eg, employment). The rate of social security tax is 15.5 percent.

Generally, social security contribution is payable by the employees at the rate of 18.5 percent. However, employers (ie, paying agents) are obliged to withhold and pay the social security contributions for their employees.

**OTHER TAX CONSIDERATIONS**

Not applicable for this jurisdiction.
KEY CONTACTS

Levente Torma
Counsel
DLA Piper Hungary
levente.torma@dlapiper.com
T: +36 1 510 1100
View bio
INDIA

RESIDENCE AND BASIS FOR TAXATION

A corporation formed in an Indian jurisdiction is treated as a domestic corporation.

**Domestic**

A domestic corporation is subject to Indian tax on its worldwide income. A domestic corporation generally is not subject to Indian tax on the income of its foreign subsidiaries unless it is deemed to have a permanent establishment in such country.

**Foreign**

Foreign corporations are not subject to Indian tax except on:

- Income arising from an Indian trade or business
- A permanent establishment or
- Corporations wholly managed and controlled from India.

Tax treaties can reduce or eliminate these taxes.

TAXABLE INCOME

**Domestic**

Residents are taxed on their global income less any deductions. Income derived from a foreign source by a resident company is subject to the applicable domestic tax rates.

**Foreign**

Foreign companies that have branches or similar establishments in India are taxed as foreign corporations. A permanent establishment of a foreign company in India may be taxed on the income attributable to such permanent establishment in India.
A foreign company will be liable to pay tax on international transactions that may indirectly affect ownership and control of Indian subsidiary subject to tax treaty.

**TAX RATES**

Income tax rates applicable to an individual taxpayer range from a rate of 0 percent to 30 percent. No income tax is payable if the income of the individual taxpayer is below INR250,000. A tax of 5 percent is payable if the income of the individual taxpayer is between INR250,000 and INR500,000, a tax of 20 percent is payable if the income of the individual taxpayer is between INR500,000 and INR1 million and a tax of 30 percent is payable if the income of the individual taxpayer exceeds INR1 million. The income tax rate for domestic companies is 25 percent if turnover or gross receipt of the company does not exceed INR4 billion in the financial year 2020-21. A surcharge of 7 percent is payable if the income of the domestic company exceeds INR10 million but does not exceed INR100 million. A surcharge of 12 percent is payable if the income of the domestic company exceeds INR100 million. Over and above the income tax and surcharge, health and education cess is payable at the rate of 4 percent of the income tax and surcharge by all taxpayers.

Domestic companies also have an option to pay income tax at a base rate of 22 percent for the financial year 2020-21 (assessment year 2021-22) on satisfying certain specific conditions such as not claiming certain deductions. A surcharge of 10 percent and cess of 4 percent will be applicable on companies claiming this option.

**TAX COMPLIANCE**

Due date for filing income tax return for financial year 2019-20 (assessment year 2020-21) for individuals is July 31, 2020, which was extended to January 10, 2021, and for businesses the income tax returns are due on February 15, 2021. In certain instances a taxpayer may be required to make advance payments of tax on a quarterly basis on June 15, September 15, December 15 and March 15.

**ALTERNATIVE MINIMUM TAX**

Every domestic corporation is subject to Minimum Alternate Tax (MAT) of 15 percent with effect from assessment year 2020-21 (financial year 2019-20). A corporation pays the greater of its regular tax liability and its MAT tax liability. Foreign corporations may also be subject to MAT. Every non-corporate taxpayer also is required to pay similarly Alternate Minimum Tax (AMT) of 18.5 percent.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Tax holidays are available to certain corporations either engaged in specific sectors such as exports or infrastructure, or to corporations that are newly formed or that are of a smaller size.

**Tax rulings**

An advanced ruling can be obtained by an applicant (either a non-resident or a resident transacting with a
non-resident) in respect of any question of law or fact in relation to the income tax liability of the non-resident, arising out of a transaction undertaken or proposed to be undertaken.

Tax incentives

There are tax incentives for certain industries either based on their location in special economic zones or in backward areas or by the nature of the industry itself.

CONSOLIDATION

Consolidated tax returns are not permitted to be filed in India.

PARTICIPATION EXEMPTION

There is no participation exemption for dividends received from, or capital gain recognized on the stock of, foreign subsidiaries.

CAPITAL GAIN

Capital gain is taxed in India according to its classification as long term capital gain (capital assets held for over 3 years) or short term capital gain. Short term capital gain is taxed at the normal tax rates, whereas adjustments for inflation are permissible in relation to long term capital gain. Capital gains on disposal of shares of companies qualify for shorter holding period as well as different rates depending on whether they are publicly listed on recognized stock exchange in India or not.

DISTRIBUTIONS

Distributions of dividends, on or after April 01, 2020, by a corporation are subject to income tax in the hands of the shareholders and corporations are required to withhold taxes thereon from resident recipients at 10 percent and for non-resident recipients at 20 percent.

LOSS UTILIZATION

Business or Profession losses may be carried forward 8 years. However, unabsorbed depreciation may be carried forward indefinitely. Short-term loss may be set off against both short term and long term capital gain. However, long-term loss may be set off only against long term gain.

TAX-FREE REORGANIZATIONS

Qualifying corporate formations, combinations and divisions may be tax-free to a participating corporation and its shareholders, except to the extent of any non-qualifying property received.
ANTI-DEFERRAL RULES

India presently has in place certain General Anti-Avoidance Rules (GAAR) or Specific Anti-Avoidance Rules (SAAR) pertaining to anti-deferral of taxes. GAAR will not apply in an arrangement where the tax benefit in the relevant assessment year does not exceed a sum of INR30,000,000 (Rupees 30 million).

FOREIGN TAX CREDITS

Subject to limitations, foreign tax credits are available for foreign taxes paid. The foreign tax credit is governed by the clauses of the relevant Tax Treaty (relief from double taxation). Further, the Central Board of Direct Taxes has also promulgated Foreign Tax Credit Rules.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Foreign investment in real estate in India is highly regulated. A foreign company may acquire immovable property for business purposes, but amounts received for sale of such immovable property may only be repatriated to the extent paid for such immovable property.

TRANSFER PRICING

Transfer Pricing must be conducted on an arm’s-length basis and computed using any of the following methods:

- Comparable uncontrolled price method
- Resale price method
- Cost plus method Profit split method
- Transactional net margin method or
- Any other method that takes into account the price which has been charged or paid, or would have been charged or paid, for the same or similar uncontrolled transaction, with or between non-associated enterprises, under similar circumstances, considering all the relevant facts.

It is possible to enter into unilateral/bilateral advance pricing agreements with the tax authorities.

WITHHOLDING TAX

Withholding tax at differing rates applies to royalties, interest, fees for technical services and other income paid by a domestic corporation to a foreign person, subject to reduction by an applicable income tax treaty.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX
ROC charges are payable when the authorized share capital of a company is increased, at progressive rates depending on the value of capital. Stamp duties and transfer taxes may be imposed at the state or local level.

**EMPLOYMENT TAXES**

Employers must withhold income tax at the applicable rates. Employers must also withhold and pay social security tax in respect of compensation paid to employees. These taxes are deductible by an employer for Indian income tax purposes. Professional taxes may be payable in some states of India.

**OTHER TAX CONSIDERATIONS**

**Service fees**

Withholding tax on fees for technical or consultancy services applies to payments made to non-residents. Corresponding provisions of the relevant tax treaty may be examined to ascertain any relief or exemption.

**Goods and Services Tax**

Goods and Services Tax (GST) is an indirect tax that came into effect on July 1, 2017. GST is levied at every stage of production-distribution chain with applicable set off credits in respect of tax paid at previous stages. Goods and services are divided into 5 tax slabs for collection of tax - 0 percent, 5 percent, 12 percent, 18 percent and 28 percent with lower rates for essential items and the highest for luxury and de-merits goods. Petroleum products and alcoholic drinks are taxed separately by the individual state governments.

Any services offered by Indian resident to a person resident outside India are usually treated as "export of service" and are thus exempt from levy of GST which is otherwise payable at 18 percent rate. This is subject to certain exceptions.

Following are the different types of levies in GST:

- Central GST (CGST)
- State GST (SGST)/Union Territory GST (UTGST)
- Integrated GST (IGST)

IGST can be levied on Import or Inter-State supply of goods or services or both. IGST is equivalent to sum total of CGST and SGST/UTGST.

**Equalisation Levy**

The Indian Government has introduced an equalization levy (EL) on consideration received by non-resident e-commerce operators for e-commerce supply or services at a rate of 2 percent with effect from April 1, 2020. “E-commerce supply or service” has been defined include online sale of goods or online provision of services or
facilitation of online sale of goods or provision of service. The levy is triggered on consideration received by a non-resident e-commerce operator on an e-commerce transaction conducted by a person resident in India. Further, EL is also applicable on consideration received by the e-commerce operator from a non-resident for (i) sale of advertisement targeting an Indian resident or customer who has access to such advertisement through an internet protocol (IP) address located in India and (ii) where a non-resident avails the supply of goods or services using an IP address located in India. Further EL is not applicable where the consideration is related to a permanent establishment in India. Additionally, EL is applicable only to digitized products and services, it does not apply to goods and services which are available physically offline i.e. to e-commerce transactions that merely facilitate communication, placement, conclusion and delivery of orders.

**KEY CONTACTS**

**Roderik Bouwman**  
Partner  
DLA Piper Netherlands  
roderik.bouwman@dlapiper.com  
T: +31 (0)20 5419 894  
View bio
IRELAND

RESIDENCE AND BASIS FOR TAXATION

A company incorporated in Ireland on or after January 1, 2015 is regarded as tax resident in Ireland, unless a tax treaty provides otherwise.

Domestic

An Irish resident company is subject to Irish tax on its worldwide income and gains.

Foreign

A non-Irish resident company is not subject to Irish tax on income unless it carries on a trade in Ireland through a branch or agency or it receives income from Irish sources (eg, income from the rent of Irish properties). A non-Irish resident company is not subject to Irish tax on capital gains unless it makes a disposal of:

- Irish land
- Irish minerals or mining rights
- Unquoted shares deriving their value from (1) or (2) above or
- Irish situate assets which, at or before the time when the gains accrued, were used in or for the purposes of a trade carried on by the company in Ireland through a branch or agency.

TAXABLE INCOME

Domestic

Taxable income of an Irish tax resident company is calculated by deducting allowable deductions (expenses, allowances and reliefs) from the profits and other income.

TAX RATES
Corporate tax is applied at 2 rates: 12.5 percent for trading income and 25 percent for non-trading (passive) income.

**TAX COMPLIANCE**

Corporate tax returns are generally due by the 21st day of the 9th month following the end of the relevant company's accounting period. This may be extended to the 23rd day of such month for companies that file their corporate tax returns online, which most companies are now obliged to do. At this time, companies must pay the balance of any associated tax due via Revenue's Online Service.

Companies are also obliged to pay preliminary tax. In the case of "large companies" (ie, companies which, in their preceding accounting period, had a tax liability exceeding EUR200,000), there is an obligation to pay preliminary tax in 2 installments. The first installment will be payable by the 21st/23rd day of the 6th month of the accounting period in the amount of 50 percent of the corporate tax liability for the preceding accounting period or 45 percent of the corporate tax liability for the current period. The second installment is payable by the 21st/23rd day of 11th month of the accounting period and the amount payable must bring the total preliminary tax paid to 90 percent of the company's corporate tax liability for the current accounting period. The balance of tax due is payable when the corporate tax return is due to be filed (ie, the 21st/23rd day of the 9th month after the end of the accounting period).

In the case of "small companies" (ie, companies which in their preceding account period had a tax liability of less than EUR200,000), there is an obligation to pay preliminary tax in 1 installment only. This installment is payable by the 21st/23rd day of the 11th month of the accounting period in the amount of 100 percent of the corporate tax liability for the preceding accounting period or 90 percent of the corporate tax liability for the current period.

New or startup companies with a corporation tax liability of EUR200,000 or less in their first accounting period are not required to pay preliminary tax for that period. Rather, the final tax liability for that period for such companies is due and payable when the corporation tax return is filed.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction. There is a relief from corporation tax of up to EUR40,000 per year which is available to startup companies for the first 3 years from the commencement of trade. The relief is subject to certain conditions and its amount depends on the amount of employer social insurance paid by the company per year in respect of its employees. This is currently available up to December 31, 2021.

**Tax rulings**

Rulings are not generally available from the tax authority but they may give a non-binding opinion.
Tax incentives

There are tax incentives available for specific activities, including, for example, a knowledge development box regime for certain IP exploitation trades, R&D tax credits and tax depreciation on the purchase of certain intellectual property.

CONSOLIDATION

Certain loss reliefs can be grouped (see below). However, there is no concept of fiscal unity.

Companies with close organizational, financial and economic links may form a VAT group. All companies in the group are jointly and separately liable for the VAT of the group.

PARTICIPATION EXEMPTION

An exemption from corporate tax on chargeable gains applies to Irish resident companies on disposals of shareholdings in subsidiary companies, subject to the following conditions:

- The subsidiary must be resident in the EU or in a country which has signed a double-taxation treaty with Ireland
- The disposing company must hold 5 percent of the ordinary share capital of the subsidiary for a minimum of 12 continuous months. The disposing company must also be entitled to 5 percent of the subsidiary’s distributable profits and 5 percent of the subsidiary’s assets on a winding-up for this 12 month period and
- The subsidiary must be a trading company or the disposing company, the subsidiary and all of the disposing company’s 5-percent subsidiaries must form a trading.

Ireland does not have a participation exemption for dividends. The tax treatment of dividends is discussed below.

CAPITAL GAIN

Capital gains of a company are taxed at 33 percent. Capital losses may be set off against chargeable gains arising in the same tax year. Unused capital losses can be carried forward and set off against chargeable gains in future years. Excess capital losses can generally only be carried forward.

DISTRIBUTIONS

Dividends received by an Irish resident company from another Irish resident company are usually exempt from Irish tax, including dividend withholding tax. The 12.5-percent corporation tax rate applies (on election) in respect of foreign dividends paid out of EU/treaty country trading profits where either the dividend paying company:

- Is resident in the EU/treaty country/signatory country of the OECD Convention on Mutual Administrative Assistance in Tax Matters or
• Is a publicly quoted company or a 75-percent subsidiary of a publicly quoted company.

Corporation tax at the rate of 25 percent applies to foreign dividends sourced from other companies or from non-trading profits.

Ireland provides for unilateral credit relief for foreign withholding tax and underlying taxes on dividends paid to an Irish resident company. A minimum shareholding of 5 percent applies. The foreign tax is available as a credit against Irish tax and, where the foreign tax exceeds the Irish tax on the dividend, the excess can be pooled and offset against Irish tax on other foreign dividends received in the same accounting period. Any balance unused can be carried forward and used in subsequent accounting periods. This credit system often operates to eliminate any additional Irish taxes on the receipt of foreign dividends.

LOSS UTILIZATION

Relief for trading losses is available by way of set-off against all other relevant trading income of the company in the same period and of the immediately preceding accounting period of equal length. Relevant trading losses can also be used to shelter foreign dividends which the company elects to tax at 12.5 percent. Any remaining trading losses can be set-off against all other income and profits of the company in the accounting period and in the immediately preceding accounting period of equal length on a value basis. Unused trading losses may be carried forward indefinitely for offset against future income of the same trade.

A member of a group of companies may surrender current year trading losses to another group member. A number of conditions must be met for group relief to be available (e.g., corresponding accounting period, 75-percent subsidiaries and tax resident in a member state of the EU).

TAX-FREE REORGANIZATIONS

Relief from stamp duty and capital gains tax is available on certain intragroup reorganization transactions.

ANTI-DEFERRAL RULES

Not applicable for this jurisdiction.

FOREIGN TAX CREDITS

Ireland operates a credit system in respect of tax (including withholding tax and underlying tax) paid on dividends, interest and royalties. Onshore dividend pooling of foreign dividends is also available.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Stamp duty applies to documents which effect certain transactions, including transfers and lease transactions involving real property. The rate of stamp duty varies depending on the transaction (i.e., whether the creation of a lease or the transfer of a property interest) and whether the land is residential or non-residential. Stamp duty
arises on the transfer of non-residential land at a rate of 7.5 percent. Stamp duty arises on the transfer of residential land at a rate of 1 percent up to the first EUR1 million and 2 percent thereafter.

Irish capital gains tax is chargeable on the disposal of Irish land or buildings irrespective of whether the disposer is an Irish tax resident company or a non-Irish tax resident company.

If the consideration for the sale of Irish land or buildings exceeds EUR500,000\(^1\), the purchaser is required to withhold tax of 15 percent of the consideration and remit it to Revenue within 30 working days of closing. This requirement may be avoided where a form CG50A is produced. A form CG50A can be obtained where:

- The vendor is resident in Ireland
- No CGT is payable pursuant to the transfer or CGT has already been paid

An annual self-assessed Local Property Tax is charged on the market value of all residential properties.

VAT can arise on the supply of real property.

\(1\) EUR1 million in the case of residential property.

**TRANSFER PRICING**

Transfer pricing rules are applied on an arm's-length basis to transactions involving Irish trading companies. Irish transfer pricing rules follow OECD principles, particularly the 2017 OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations). In addition to trading transactions, the transfer pricing rules also apply to certain non-trading transactions as well as capital transactions (where the transaction value/capital expenditure exceeds EUR25 million). Previously, arrangements concluded before July 1, 2010 could have fallen outside the scope of the transfer pricing rules under grandfathering provisions. However, such grandfathering provisions no longer apply. From January 1, 2020, certain legislative amendments were enacted to bring small and medium enterprises (SMEs), as defined, within the scope of the Irish transfer pricing rules but subject to modified requirements (eg reduced documentation requirements) not subject to the transfer pricing rules. Due to the challenges faced by SMEs as a result of the United Kingdom’s withdrawal from the European Union and the COVID-19 pandemic, the rules’ extension to SMEs have not yet been commenced.

**WITHHOLDING TAX**

Dividends, royalties, interest, rents, etc.

Withholding tax applies in Ireland at a rate of 20 percent, or 25 percent in the case of distributions. However, a number of domestic exemptions exist to remove the withholding obligation.

In the case of dividends, exemptions include where dividends are paid to:
• A company or person resident in an EU/treaty country and not under the control of Irish residents

• A company that is not resident in an EU/treaty country but is controlled by a person(s) who is/are resident in an EU/treaty country and which person(s) is/are not under the control of a person(s) not resident outside an EU/treaty country, or

• A listed company or a 75-percent subsidiary of a listed company.

Withholding taxes apply to the payment of patent royalties. An exemption from withholding tax exists for certain patent royalties paid to persons resident in the EU or a double tax treaty country. It is also possible to pay patent royalties to non-Irish, non-treaty persons free from withholding tax in certain circumstances.

A number of exemptions apply in relation to the payment of interest, such as:

• Interest paid by a company (in the ordinary course of a trade or business) to a company resident in an EU/treaty country (other than Ireland) where that jurisdiction imposes a tax which generally applies to interest receivable from foreign territories (except where such interest is paid to that company in connection with a trade or business which is carried on in Ireland by that company through a branch or agency)

• Cross-border interest payments between associated companies in the EU (25-percent ownership is required or at least 25 percent of each company is owned by a third company)

• Interest paid to another Irish resident company where both Irish resident companies are members of the same group (51-percent relationship required)

• Interest paid by a company to an approved pension scheme and

• Interest paid on a quoted Eurobond.

Withholding tax must be deducted from rental payments made to non-residents unless the landlord uses an Irish resident agent to whom the rents are paid.

Service fees

Not applicable for this jurisdiction.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

No capital duty applies in Ireland. Stamp duty generally applies to certain documents which effect certain transactions which are executed in Ireland (eg, documents effecting share transfers or transfers of ownership of other assets). The rate of stamp duty varies depending on the nature of the transaction and the assets. The transfer of Irish shares is subject to 1 percent stamp duty and the transfer of non-residential property is subject to stamp duty at 7.5 percent.

Intellectual property transfers should be exempt from stamp duty where the type of intellectual property being transferred falls within the scope of a "specified intangible asset" which is broadly defined.
EMPLOYMENT TAXES

Under the Pay As You Earn (PAYE) system, employers must deduct any income tax, PRSI (pay-related social insurance) and USC (universal social charge) each time a payment of wages, salary and other benefits in kind is made to an employee. Employers also make a contribution to PRSI.

Income tax is levied at 20 percent and a higher threshold of 40 percent applies to income over a certain threshold (which depends on the marital status of the employee). The Universal Social Charge applies to employees taxed under the PAYE system at a rate of 0.5 percent, 2 percent, 4.5 percent or 8 percent of gross income depending on the level of income earned. Self-employed persons earning over EUR100,000 may be subject to the Universal Social Charge at a rate of up to 11 percent.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.

KEY CONTACTS

Maura Dineen
Partner
DLA Piper Ireland
maura.dineen@dlapiper.com
T: +353 1 436 5459
View bio

Sean Murray
Head of Financial Services Tax, Ireland
DLA Piper Ireland
sean.murray@dlapiper.com
T: +353 1 436 5450
View bio
RESIDENCE AND BASIS FOR TAXATION

A corporation is considered an Israeli resident for tax purposes if it is incorporated in Israel, or if its business is managed and controlled in Israel.

Domestic

An Israeli resident corporation is subject to Israeli tax on its worldwide income, including capital gains. A foreign tax credit may be granted for tax paid in other jurisdictions.

Foreign

A non-resident corporation is subject to tax in Israel on its Israeli-source income, including capital gains from dispositions of Israeli assets. Israeli-source income also includes income attributed to business activity carried out in Israel. If a non-resident corporation is entitled to the benefits of a treaty for the avoidance of double taxation, the threshold regarding the level of business activity in Israel is raised and requires the existence of a permanent establishment in Israel.

TAXABLE INCOME

Domestic

The taxable income of an Israeli resident corporation is the income from the sources stipulated under law, including capital gains, as reduced by applicable:

- Deductions
- Offsets and credits and
- Exemptions.

Foreign

The taxable income of a non-resident corporation that has business activity in Israel (or a permanent
establishment in Israel in the case of a corporation entitled to treaty benefits) is generally similar to that of an Israeli resident corporation.

**TAX RATES**

Both ordinary income and real capital gains of a corporation are subject to a flat tax rate of 23 percent.

These rates might be significantly reduced if the corporation is entitled to one of the incentive regimes discussed under Tax incentives.

**TAX COMPLIANCE**

The tax year begins on January 1 and ends on December 31 of each calendar year. In special circumstances and subject to a pre-approval, a substituted period of 12 consecutive months may be adopted as the tax year.

Corporations' annual tax returns are due by the end of the 5th month after the end of the fiscal year. An extension to file is routinely obtained.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

No broad-based rulings are available. Under certain circumstances, taxpayers can request a private letter ruling that would apply only to a specific issue. Ruling summaries are published on a no-names basis.

Tax incentives

Subject to certain conditions, Israeli corporations may qualify for and benefit from certain tax incentives regimes, some of which are discussed under Participation exemption.

Under the Law for Encouragement of Capital Investments provisions, a corporation that qualifies as a Preferred Enterprise would be entitled to a reduced tax rate on its Preferred Income of 16 percent, or 7.5 percent if the enterprise is located in a peripheral zone. Dividend distributed from Preferred Income is subject to tax at the rate of 20 percent (which may be further reduced according to the applicable treaty).

A Special Preferred Enterprise is generally a Preferred Enterprise that:

- Has been pre-approved by the Israel Tax Authority and
• Has Preferred Income of at least NIS1 billion and revenues, on a consolidated basis, of at least NIS10 billion.

A Special Preferred Enterprise may be entitled to a further reduced tax rate of 8 percent, or 5 percent if located in a peripheral zone.

New legislation, which became effective January 1, 2017, provides a new incentive regime for a Preferred Technological Enterprise. An enterprise that meets the requirements would be entitled to a reduced corporate tax on income related to its intellectual property of 12 percent, or 7.5 percent if located in a preferential zone. Dividend distributed from the preferred income would be subject to 20 percent tax, or 4 percent if distributed to a foreign corporation that owns at least 90 percent of the shares of the Israeli corporation. The Israeli tax on dividends may be further reduced according to an applicable treaty.

The new legislation also provides that a Special Technological Preferred Enterprise is a Technological Preferred Enterprise that is part of an affiliated group with revenues, on a consolidated basis, of at least NIS10 billion and that such corporation would be entitled to a reduced tax rate on the IP-related income of 6 percent.

CONSOLIDATION

Filing consolidated tax returns is generally not permitted with a narrow exception in the case of "industrial companies."

PARTICIPATION EXEMPTION

Israeli corporations, which are entitled to the participation exemption regime, are entitled to a tax exemption on:

• Dividends received from a "qualified foreign subsidiary"

• Capital gains derived from the sale of shares of such subsidiary Financial income derived from investments on TASE and

• Interest and linkage difference derived from a financial institution.

Dividends paid from a holding company to non-residents will be entitled to a reduced withholding tax rate of 5 percent. In practice, this regime is rarely in use.

CAPITAL GAIN

Capital gains derived by corporations are generally taxed at the same rate as ordinary income. The inflationary component of the capital gain accrued from 1994 and onwards is exempt from tax. With few exceptions, capital gains are not eligible for the reduced tax rates under the tax incentive regimes mentioned above.

Israeli resident corporations are subject to tax on capital gains regardless of the of the asset location. Non-resident corporations are subject to tax in Israel on capital gains from disposition of:
• Assets located in Israel

• Assets located outside of Israel if the assets are essentially a direct or indirect right to assets or inventory located in Israel, real estate in Israel or an Israeli real estate company (with respect to the part attributable to Israeli assets)

• Shares in an Israeli company or

• Shares of a foreign company that is essentially a holder of Israeli assets (with respect to the part attributable to Israeli assets).

Capital gains of a foreign resident from the disposition of securities purchased on the TASE, except for interests in REITs (including a company that ceased from being a REIT) and short-term governmental bonds, are exempt from tax.

Capital gains of a foreign resident from the disposition of private company shares, which were bought during or after 2009, are generally exempt from tax, unless the Israeli company value is mainly derived, directly or indirectly, from Israeli real estate, the right to use Israeli real estate or the right to exploit natural resources in Israel.

These exemptions will not apply if the capital gains are attributed to a permanent establishment in Israel. Capital gains may also be exempt under an applicable tax treaty.

**DISTRIBUTIONS**

Dividends paid by an Israeli corporation to another Israeli corporation are not subject to tax if paid out of income that was subject to corporate tax at the regular rate.

Dividends paid by an Israeli corporation to an individual or to a foreign corporation are subject to tax at the rate of 25 percent, or 30 percent if the shareholder is (or was during the 12 months prior to the distribution) a "significant shareholder." A shareholder is generally considered a significant shareholder if they hold 10 percent or more of the economic or voting rights in the company. These rates may be reduced under an applicable treaty.

**LOSS UTILIZATION**

There are different utilization rules for current and carried-forward net operating losses and capital losses. Both capital losses and net operating losses which were not utilized in the current tax year may be carried forward indefinitely. Carry back of losses is not available.

**TAX-FREE REORGANIZATIONS**

Tax-free mergers and spinoffs are achievable provided that certain conditions are satisfied. Some of the tax-free reorganizations are subject to a pre-ruling from the Israel Tax Authority.

**ANTI-DEFERRAL RULES**
Under the Israeli controlled foreign company (CFC) rules, the undistributed passive income of certain non-resident corporations which was taxed at a rate less than 15 percent, will be subject to Israeli tax as if such passive income were distributed.

Israel also applies the anti-deferral regime of "professional foreign company" and to certain local, closely held "service companies."

**FOREIGN TAX CREDITS**

Israel grants a tax credit for taxes paid to a foreign jurisdiction on foreign source income. The credit is subject to certain restrictions including the application of the "baskets method."

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

Disposition of real estate assets (or shares in real estate companies) is subject to land betterment tax, which is similar to capital gain tax.

Purchase of real estate assets (or shares in real estate companies) is generally subject to a purchase tax at a rate of 6 percent. A purchase of a residential apartment is subject to a purchase tax in a progressive rate of up to 10 percent.

**TRANSFER PRICING**

Israel applies arm's-length principles to transactions between related entities. The Israeli rules correspond to the OECD guidelines.

**WITHHOLDING TAX**

**Dividends, royalties, interest, rents etc.**

Israel imposes extensive tax withholding requirements according to which almost any payment is subject to tax withholding unless a valid certificate is obtained from the tax authorities. For example, dividends are subject to tax withholding at the rate of 25 percent to 30 percent and interest paid to a foreign corporation is subject to tax withholding at the corporate tax rate (currently 23 percent). These rates may be reduced under an applicable treaty.

**Service fees**

Withholding tax may apply to certain payments for services rendered by a non-resident, particularly where the services are rendered in Israel.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

There is no Israeli capital duty or stamp duty.
VAT at a flat rate of 17 percent is imposed on most goods sold and services rendered. Export of goods and intangible assets are generally subject to 0-rate VAT. Provision of services to non-residents may also enjoy the 0-rate VAT under certain conditions.

Purchase tax is imposed on the purchase of real property or interest in real estate company, as described under Special rules applicable to real property.

EMPLOYMENT TAXES

Employers must withhold income tax from employees’ salary, according to their individual tax rate, up to 50 percent.

Employers must also withhold national insurance and health care tax at the aggregate rate of up to 19.6 percent. The burden of such taxes is divided between the employer and the employee and is subject to a cap.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.

KEY CONTACTS

Roderik Bouwman
Partner
DLA Piper Netherlands
roderik.bouwman@dlapiper.com
T: +31 (0)20 5419 894
View bio

Eldar Ben-Ruby
Partner
Meitar Liquornik Geva Leshem
Tal, Law Offices
eldarb@meitar.com
T: 972 3 6103615
View bio
ITALY

RESIDENCE AND BASIS FOR TAXATION

A corporation is considered to be resident in Italy if it has its legal seat, its place of management or its main business activity therein for the major part of the fiscal year. A foreign corporation can be deemed resident in Italy when it owns a controlling participation in an Italian company and:

- Is controlled, even indirectly, by resident entities or
- The board of directors (or similar body of management) is mainly formed by Italian resident directors.

Domestic

Resident corporations are taxable in Italy on their worldwide income. Italian permanent establishments of foreign entities are subject to taxation in the same manner as domestic corporations.

Foreign

Foreign corporations may be subject to Italian taxation on corporate income that is considered Italian source. Tax treaties can reduce or eliminate these taxes. Specific anti-deferral provisions apply to foreign-controlled companies.

TAXABLE INCOME

Domestic

Taxable income of domestic corporations for corporate income tax purposes (IRES) is equal to their business income less applicable deductions.

Foreign

Foreign corporations are taxed on the amount of income generated in Italy, generally without any deduction.

TAX RATES
The IRES standard rate equals 24 percent. Specific surcharges are applied to specific sectors.

**TAX COMPLIANCE**

The IRES tax return is ordinarily due within 11 months after the fiscal period end (i.e., November 30 for companies that adopt the calendar year).

**ALTERNATIVE MINIMUM TAX**

Non-operating companies are subject to a minimum level tax, depending on the assets they own.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

On certain issues, taxpayers can file a ruling request to ask for the interpretation of a specific ruling issue by the tax authority. Companies with international activities are entitled to apply for a specific mutual agreement procedure (MAP) concerning international aspects (transfer pricing, permanent establishments and dividends/interests/royalties flows, also with respect to double tax treaties). Another special procedure is provided for companies that plan to invest not less than EUR30 million in Italy, in order to ascertain the tax consequences of an investment plan and/or the tax consequences of related extraordinary operations (e.g., mergers, acquisitions). Furthermore, major companies (e.g., with revenues exceeding EUR10 billion) may enter into a cooperative compliance regime with the Italian tax authorities.

**Tax incentives**

A number of tax incentives has been introduced and enhanced over years, with a special attention to the so-called Industry 4.0 Plan. Among others, it is worth mentioning the patent box regime, the tax credit for R&D expenses, the notional deduction for capital injection (so-called ACE) and the tax credit on investments in certain business assets. Other special provisions are set out for small enterprises and investments in Southern Italy.

**CONSOLIDATION**

Eligible corporations that are affiliated (generally based on at least 50 percent stock ownership) may elect to compute corporate income tax on a consolidated basis.

**PARTICIPATION EXEMPTION**

Dividends received from domestic and foreign corporations are 95-percent excluded from the taxable basis, unless
they are distributed by affiliates with a privileged tax treatment. The participation exemption on capital gain from the sale of participations applies when certain requirements are met, allowing an exemption of 95 percent of the capital gain.

**CAPITAL GAIN**

Capital gain is generally included in taxable income. If the asset has been held for at least 3 years, the capital gain can be included over up to 5 years. 95 percent of the capital gain on sales of participation can be exempted if certain requirements are satisfied, as described above.

**DISTRIBUTIONS**

As noted above, dividends from qualifying domestic and foreign shareholdings may be eligible for an exclusion from taxable income.

**LOSS UTILIZATION**

Tax loss can be carried forward without any time limitation, but can be used to offset only up to 80 percent of taxable income. Tax losses incurred in the first 3 years of activities can be used to entirely offset subsequent years’ taxable income. Tax losses cannot be carried back.

**TAX-FREE REORGANIZATIONS**

Group reorganizations are ordinarily tax neutral for the corporations involved. Special rules apply to cross-border reorganizations.

**ANTI-DEFERRAL RULES**

**CFC**

Income derived from certain controlled foreign companies (CFC) resident in a country with a privileged tax system is subject to taxation at the level of the Italian resident person under a tax transparency regime, if:

- The actual foreign income taxes paid abroad are lower than 50 percent of the Italian corporate income taxes that would have been applied to the company if this were resident in Italy, and

- More than 1/3 of the controlled company’s revenues are from passive income (e.g., dividends, interest, royalties and intercompany revenues as defined by the law).

The controlling person may avoid the application of the CFC rules by demonstrating, also by filing an advance ruling request, that the controlled company carries on a substantive economic activity supported by staff, equipment, assets and premises. Before issuing a notice of tax deficiency based on the CFC rules, the tax authorities must send a notice to the taxpayer whereby it is given the opportunity to provide evidence of the application of it within 90 days.
The taxpayer must disclose in its corporate income tax return the ownership of shares in non-resident companies that are potentially subject to the CFC rules.

General Anti-Avoidance Rule

Italian tax authorities may disregard any act put in place without a valid economic reason and for the sole purpose of gathering tax advantages otherwise not due.

FOREIGN TAX CREDITS

Subject to limitations, foreign tax credits are available for foreign taxes paid.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Not applicable for this jurisdiction.

TRANSFER PRICING

Arm's-length principles generally apply to international transactions between related entities. Italian tax rules make reference to the OECD guidelines.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

Dividends paid to foreign entities are subject to ordinary withholding tax at the rate of 26 percent. Dividends paid to EU countries and EEA "white-listed" countries subject to corporate tax in their country of residence are subject to 1.20-percent withholding tax. A tax treaty can reduce the above mentioned rate.

Exemption from withholding tax is provided under the EU Parent-Subsidiary Directive on dividends paid to qualifying shareholders. Among the other requirements, the participation must be at least equal to 10 percent and must be held for at least 12 months.

Interest paid to non-resident entities is subject to 26-percent withholding tax. A tax treaty can reduce the abovementioned rate. The Interest and Royalties directive provides for an exemption on interest and royalties paid to qualifying EU shareholders or affiliate entities.

Royalties are subject to 30-percent withholding tax, generally applied on 75 percent of the amount of the royalties. Tax treaties and the EU Interest and Royalties directive can reduce or eliminate the withholding tax.

Service fees

In principle, no withholding tax is applied on service fees.
CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

No capital duty. Stamp duties and transfer taxes may be imposed on specific corporate transactions.

EMPLOYMENT TAXES

Employers must withhold an advance payment of individual income tax on salaries paid to employees. Employers also must pay social security contributions in respect of compensation paid to employees. These taxes are deductible by an employer for IRES and for IRAP but only if related to an open-ended working relationship.

OTHER TAX CONSIDERATIONS

IRAP

In addition to corporate income tax (IRES), local income tax is levied at the level of Italian corporations (ie, IRAP). IRAP is levied on the net value of the production generated in each Italian region, computed as the difference between revenues and production costs. Employment expenses (if not related to open-ended relationships), write-down of assets and other specific costs are not deductible. The IRAP tax rate is equal to 3.90 percent, but any region can decide to increase the tax rate up to 4.82 percent. Further increases in the rate are provided for specific business activities. IRAP is deductible from corporate income tax up to an amount of 10 percent of IRAP paid.

Specific IRAP provisions apply to banks and financial institutions.

KEY CONTACTS

Christian Montinari
Partner
DLA Piper Studio Legale
Tributario Associato
christian.montinari@dlapiper.com
T: +39 02 80 618 1
View bio

Antonio Tomassini
Partner
DLA Piper Studio Legale
Tributario Associato
antonio.tomassini@dlapiper.com
T: +39 02 80 618 1
View bio
RESIDENCE AND BASIS FOR TAXATION

A corporation having its head office or main office in Japan will be treated as a domestic corporation.

Domestic

A domestic corporation is subject to Japanese corporate tax on its worldwide income.

Foreign

A foreign corporation is subject to Japanese corporate tax only on income derived from sources in Japan. However, tax treaties can reduce or eliminate these taxes. If a foreign corporation has a permanent establishment in Japan, such foreign corporation is subject to Japanese corporate tax on income attributable to its permanent establishment in Japan.

TAXABLE INCOME

Domestic

Taxable income of a domestic corporation is equal to all gross income less applicable deductions.

Foreign

The scope of taxable income for a foreign corporation depends on the existence of its permanent establishment in Japan. If a foreign corporation does not have a permanent establishment in Japan, the tax liability of the foreign corporation is usually settled solely through a withholding tax. Under Japanese tax laws, if a foreign corporation has a permanent establishment in Japan, corporate tax is imposed on its income derived from sources in Japan, such as the taxable income of a domestic corporation. However, tax treaties may exempt a foreign corporation from taxation on industrial or commercial profits earned in Japan to the extent that the income is not attributable to its permanent establishment in Japan.

TAX RATES
For corporate tax, the basic national corporate tax rate is 23.2 percent for taxable years commencing from April 1, 2018 or later. Corporations are also subject to local taxes, which increase the standard effective tax rate to 30.62 percent (if the office is located in Tokyo). Since April 2016, the amended Corporation Tax Act has come into force, and corporate tax on a foreign corporation with a permanent establishment in Japan is imposed on its income attributable to the permanent establishment in Japan. For small and medium-sized enterprises, the lowered 19 percent national corporate tax rate is applicable for the income equal to or less than 8 million yen per annum. Until the taxable years commencing before April 1, 2021, such rate is further lowered for a corporation which average taxable income for the last 3 fiscal years is not exceeding JPY 1.5 billion.

TAX COMPLIANCE

Corporate tax is paid through a self-assessment system, by which taxpayers determine and pay their own tax obligations. If a taxpayer makes an incorrect or intentionally false tax return, the tax authority may order resubmission of a corrected tax return and payment of a penalty.

Tax return documentation must be submitted within 2 months from the day after the ending date of each fiscal year. However, the due date of a tax return filing can be extended for up to 3 months. For certain corporations, an interim tax return filing is also required.

ALTERNATIVE MINIMUM TAX

Under Japanese tax law, there are no taxes that are equivalent to the Alternative Minimum Tax.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

The National Tax Agency provides a procedure for obtaining an advance ruling on the tax treatment of a completed or future transaction if the law at issue has not previously been clarified, but this process must occur before the tax return filing deadline for the tax period in which such transaction is carried out.

Tax incentives

There are various tax incentives for specific activities, including R&D credits and special depreciation rules.

CONSOLIDATION

The consolidated taxation system is applicable to a group of Japanese corporations in which a Japanese corporation directly or indirectly owns 100 percent ownership of other Japanese corporations, and it is optional for applicable corporations. Under the current consolidation system, the consolidated companies are treated as if they are a single taxpayer for Corporation Tax purposes; however, in March 2020, it has been amended and
integrated into the group taxation system, where each group company is treated as a separate taxpayer, but profits and losses are adjusted and offset among the group companies. The new group taxation system will come into force from the taxable year commencing after April 1, 2022.

PARTICIPATION EXEMPTION

Under Japanese tax law, there is no participation exemption for dividends received from, or capital gain recognized on the stock of, foreign subsidiaries. However, there is an exemption for dividends received from foreign subsidiaries (the so-called 95 percent foreign dividend exemption rule). Under this rule, if a Japanese shareholder has held 25 percent or more of the interest of a foreign company (the percentage could be lowered if a relevant tax treaty is applicable) for at least 6 months prior to the dividend determination date, 95 percent of dividends received from such foreign company, excluding the portion deductible in the foreign company’s residing country, may be exempt from taxable income.

CAPITAL GAIN

Generally, capital gain recognized by a corporation is taxed at the same rate as ordinary income. Capital loss may reduce capital gain but not ordinary income. However, with respect to share transfers in certain types of reorganizations, no capital gain is recognized.

DISTRIBUTIONS

Distributions paid by a corporation are treated as dividends to shareholders, which are not deductible, unless a corporation fulfills requirements set forth under the Asset Liquidation Law or similar special laws.

LOSS UTILIZATION

Net operating losses may be carried forward 10 years. Only small and medium-sized enterprises with capital of JPY100 million or less and whose parent’s capital is less than JPY500 million can carry back its losses to the preceding year. Also, except for small and medium-sized enterprises, the utilization of the net operating loss carried forward is subject to the following caps: 80 percent of the taxable income for the fiscal years beginning on or after April 1, 2012; 65 percent for the fiscal year beginning on or after April 1, 2015; 60 percent for the fiscal year beginning on or after April 1, 2016; 55 percent for the fiscal year beginning on or after April 1, 2017; and 50 percent for the fiscal years beginning on or after April 1, 2018.

TAX-FREE REORGANIZATIONS

If a corporation transfers its assets to another corporation pursuant to a corporate division, a merger, an investment in kind, a dividend in kind or a share transfer (reorganization), and the reorganization is a “qualified reorganization” for corporate tax purposes, the recognition of the gains and losses on the transfer of the assets will be deferred.
ANTI-DEFERRAL RULES

The CFC Rules are subdivided according to the income tax rates levied on a foreign subsidiary as follows:

- When the tax burden on a foreign subsidiary is 30 percent or higher, the CFC Rules are not applicable.
  When the tax burden on a foreign subsidiary is between 20 percent and 30 percent, the CFC Rules are applicable to the domestic corporation if the foreign subsidiary falls into any of certain designated categories, such as a shell company, a cash-box company or a company located in blacklisted country or territory.

- When the tax burden on a foreign subsidiary is under 20 percent, the CFC Rules are applicable to the domestic corporation if the foreign subsidiary does not satisfy certain requirements or if it earns passive income, such as income derived from interest, dividends, securities lending, leases of tangible property or excessive profits compared to capital.

FOREIGN TAX CREDITS

The foreign taxes levied on a Japanese domestic corporation in the ordinary course of its business may be credited against Japanese corporate tax.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Capital gain on sales of real estate in Japan accruing to a foreign corporation is subject to Japanese corporate tax at regular corporate tax rates. In addition, if a foreign corporation sells shares of a Japanese corporation of which 50 percent or more of its assets are real estate assets, the capital gain on the sale of shares will be included in taxable income subject to regular corporate tax, unless otherwise stated under the applicable tax treaty.

TRANSFER PRICING

When a corporation sells to, purchases from, provides services for or carries on other transactions with a foreign related person with which it has a special relationship, and its taxable income is less than the amount calculated under arm’s-length principles, these transactions will be deemed to have been conducted at arm’s-length prices, and the differential amount either will be included in, or will not be deductible from, the taxable income of the corporation.

WITHHOLDING TAX

Dividends, royalties, interest, rents, service fees, etc.

Items of income (including dividends, royalties, interest, rent and service fees) paid to a foreign corporation are generally subject to Japanese withholding income tax at a rate of 20.42 percent (15.315 percent for bond interest). However, double tax treaties may grant a special concession to a resident individual or a resident corporation in a foreign jurisdiction. Some double tax treaties provide that a person with dual residence may be determined to be
a person with single residence by mutual agreement between competent authorities. In order to enjoy benefits under double tax treaties, an application form must be filed with the relevant tax office before the first payment between parties is made.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

Upon incorporation of a company or an increase in registered capital, a certain amount of the registration tax is required that is based on the capital amount. Stamp duty may be imposed depending on the types of the documents or agreements. With respect to transfer taxes, an acquirer (a new owner) of real estate must pay the real estate acquisition tax, and the fixed asset tax must be paid by the publicly registered owner of fixed assets by January 1 of each year. Also, the registration tax is required for a real estate registration in order to perfect the transfer.

**EMPLOYMENT TAXES**

An employer must withhold certain amounts on salary payments to employees. Under the withholding tax system, an employee does not pay the income tax directly to the tax authority. Instead, the employer is required to withhold a certain amount of money and pay that amount to the tax authority on behalf of the employee. Most Japanese employees do not file a tax return because their income tax has already been paid by withholding from their salary income. It is possible to get a tax refund by filing a tax return if the amount of income withheld exceeds the income tax that should have been imposed. The tax return made by employees is relatively rare because employers frequently adjust withholding tax in the later months of the year to account for their employees’ deductible expenses.

**OTHER TAX CONSIDERATIONS**

The Consumption Tax rate has increased from 8 percent to 10 percent since October 1, 2019.
RESIDENCE AND BASIS FOR TAXATION

A company is considered a resident if its legal seat or central administration is in Luxembourg.

Domestic

A resident company is taxed on its worldwide income, unless a double tax treaty provides for an exemption.

Foreign

A non-resident company is only taxed on Luxembourg-source income.

TAXABLE INCOME

Domestic

Taxable income is calculated based on the profit as stated in the commercial balance sheet, plus certain adjustments provided under the tax law (e.g., non-deductibility of taxes, exemption for dividends, etc.).

Foreign

A corporate non-resident entity is subject to corporate income tax only on income generated in Luxembourg.

Income from Luxembourg sources include commercial income realized by, for example, a permanent establishment/representative in Luxembourg, income from the lease of property and securities income.

TAX RATES

For the fiscal year 2021, the corporate income tax (CIT) is 17 percent, leading to an overall tax rate for companies of 24.94 percent in Luxembourg City (taking into account the solidarity surtax of 7 percent and including 6.75 percent municipal business tax (MBT) rate applicable and which may vary depending on the seat of the company).
TAX COMPLIANCE

The tax year for a company is either the calendar year or the company’s accounting year ending in a particular calendar year.

Corporate income tax, net worth tax and municipal business tax returns must be submitted before May 31 of the following tax year.

Failure to submit a tax return or a late filing is subject to a penalty of 10 percent of the tax due and a fine up to EUR25,000.

Under the Country-by-Country (CbC) law, a Luxembourg tax resident entity that is the ultimate parent entity of a multinational group with consolidated group revenue of EUR750 million or more in the previous fiscal year and prepares consolidated financial statements must file a CbC report with the Luxembourg tax authorities within 12 months after every fiscal year-end of the group. A Luxembourg tax resident entity can be appointed as a surrogate parent entity to file a CbC report in Luxembourg on behalf of the group.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction. However, please see the developments on minimum wealth tax discussed below.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Luxembourg operates a system known as advance tax agreement (ATA), enabling taxpayers to request an advance tax decision from the Luxembourg tax authorities. An administrative fee will apply.

Advance tax agreements granted before January 1, 2015 were, according to the former practice of the Luxembourg tax administration, not limited in time. Such advance tax agreements became automatically null and void as from the end of the 2019 tax year.

Taxpayers relying on advance tax agreements granted before January 1, 2015 will benefit from the provisions of such agreements for the last time when filing their tax return for 2019. Henceforth, new advance tax agreement requests will have to be introduced in accordance with the new procedure which has been applicable since January 1, 2015. This new procedure already contains a 5-year validity period for advance tax agreements.

Tax incentives

Various incentive programs exist in Luxembourg in the areas of risk capital, audiovisual activities, environmental protection, R&D (experimental development, experimental development and cooperation, industrial research,
industrial research and cooperation or fundamental research), intellectual property, professional training and recruitment of unemployed persons. Most of the incentives are granted as tax credit.

Intellectual property may benefit from the new Intellectual Property (IP) regime introduced in March 2018. The Luxembourg tax law provides for a partial exemption of 80 percent on the net income derived from eligible IP assets, as well as a 100 percent exemption from net wealth tax. Under this law, patents and copyrights on computer software, among others, are eligible assets for the preferential tax treatment. Eligible income that will qualify for preferential tax treatment includes net income from direct use, royalties from the granting of licenses or income from the sale of eligible IP assets. The IP activity of the company should be properly documented to demonstrate the link between the eligible IP assets and the related expenses. The taxpayer must also be ready to share this information with the Luxembourg tax authorities, if requested.

Furthermore, several incentive programs exist for certain entities: investment funds (which are subject to several exemptions), private wealth management company (Société de gestion de Patrimoine Familial or SPF) (which is exempt from Luxembourg taxation on income and NWT in Luxembourg), securitization companies (which are exempt of NWT), venture capital companies (Société d’Investissement en Capital à Risque or SICAR) (incorporated under a corporate form, the SICAR is subject to income tax at the normal rate with the benefit of an exemption on income and gains (e.g., dividends, capital gains, liquidation proceeds, interest) under certain conditions) and shipping companies (which are not subject to municipal business tax and can benefit from investment tax credits and accelerated depreciation).

**CONSOLIDATION**

A group of companies, under certain conditions, may apply the tax consolidation regime in Luxembourg. In practice, the tax consolidation regime enables the group to pool or offset the respective taxable profit of each company in the group and to be taxed on the aggregate amount (i.e. a group of companies is treated as a single taxpayer). Losses incurred by one company of a group may accordingly be offset by the profits realized by another group company.

The main requirements are the following:

- A minimum shareholding (95 percent) must be held without interruption from the beginning of the financial year to which the tax consolidation regime is applied

- Group companies must begin and end their financial years on the same date and

- The companies concerned must be grouped for at least 5 financial years.

Tax consolidation is requested jointly to the tax authorities.

**PARTICIPATION EXEMPTION**

Dividends and gains derived by a Luxembourg entity from a qualifying participation (broadly any entity subject to a corporate income tax rate of at least 8.5 percent applied on a tax base determined by the application of rules similar to those existing in Luxembourg) may be tax exempt if certain conditions in terms of shareholdings are met.
CAPITAL GAIN

Capital gains generally are taxed as ordinary income at the standard corporate tax rates. Nonetheless, capital gains derived from the sale of shares may be exempt from corporate tax if the conditions for the participation exemption are met.

DISTRIBUTIONS

Not applicable.

LOSS UTILIZATION

Carryforward: Losses generated from January 1, 2017 can be carried forward for a maximum period of 17 years.

Point of interest: Losses generated before this date are not subject to these limitations and may be carried forward indefinitely.

Carryback: Not applicable for this jurisdiction.

TAX-FREE REORGANIZATIONS

Luxembourg tax law allows for tax neutrality company reorganization in the following cases:

- Transformation of the corporate form of an entity into another corporate form
- Merger or demerger of Luxembourg or EU resident companies or
- Exchange of shares when the acquiring company gets the majority of voting rights in the acquired company or increases the majority of voting rights already held.

ANTI-DEFERRAL RULES

Luxembourg has introduced controlled foreign company (CFC) rules in the context of the transposition of the EU Anti-Tax Avoidance Directive 2016/1164 of July 12, 2016 (ATAD). The CFC rules are applicable from January 1, 2019. The CFC rules attribute net income to a Luxembourg taxpayer when its subsidiary or permanent establishment is located in a low-tax or no-tax jurisdiction, even if this income is not distributed. Such income will be subject to CIT at a rate of 17 percent.

A CFC can be either:

- A collective entity in which the Luxembourg taxpayer holds a direct or indirect participation of more than 50 percent or
- A permanent establishment.
CFC rules will be triggered if the tax paid by the CFC is lower than the difference between the CIT that would have been paid on the same profits in Luxembourg and the actual CIT paid in the CFC state.

The CFC rules do not apply to a CFC whose profits do not exceed:

- EUR750,000 or
- 10 percent of its operating costs within the tax period.

If the CFC rules are triggered, the CFC’s undistributed income will be taxed in Luxembourg provided that such income arises from non-genuine arrangements that are put in place essentially for the purpose of obtaining a tax advantage.

FOREIGN TAX CREDITS

A Luxembourg tax resident company is taxed on its worldwide income. Foreign-source income is taxable in Luxembourg, unless a double tax treaty (DTT) provides for an exemption. Dividends from foreign subsidiaries are also taxed, unless a DTT provides for an exemption.

Profits of a foreign branch that are not exempt under a DTT may benefit from a foreign tax credit. Taxes paid in excess of the tax credit are deductible as expenses.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Municipalities impose a land tax of 0.7 percent to 1 percent on the unitary value of real property.

A transfer tax is applied to a transfer of immovable property. A 6 percent basic rate and a 1 percent transcription tax are applicable. For real estate located in Luxembourg City, an additional charge amounting to 50 percent of the transfer tax (i.e. 3 percent) is imposed (exemptions are available).

TRANSFER PRICING

According to the Luxembourg transfer pricing legislation, transactions between related parties (both located in Luxembourg as well as where 1 party is taxed in a foreign jurisdiction) must be governed by the arm’s-length principle. This obliges the taxpayer to report in its tax return either an upward or downward adjustment of profits whenever transfer prices do not reflect the arm’s-length principle. The Luxembourg tax authorities may request from the taxpayer all facts relevant for verifying a tax liability. Therefore, the taxpayer should provide all necessary supporting documentation to facilitate the task of tax authorities.

The circular L.I.R. n° 56/1 – 56bis/1, published by the Luxembourg tax authorities on December 27, 2016, focuses on the transfer pricing requirements for intermediary, intragroup financing activities in Luxembourg. A strong emphasis is put on the analysis of the risks assumed by the companies performing intragroup financing transactions. Companies should perform an analysis to determine the necessary capital at risk using the accepted
methodologies in this area. These companies must have the financial capacity to assume such risks. Furthermore, the circular provides that, in order to be able to control the risks, the company performing intragroup financing transactions should comply with specific substance requirements.

Moreover, a company may request an advance pricing agreement (APA) from the Luxembourg tax authorities. Fees apply, varying from EUR3,000 to EUR10,000 (depending on the complexity of the matter).

**WITHHOLDING TAX**

**Dividends, royalties, interest, rents, etc.**

Dividends paid to a non-resident company generally are subject to withholding tax at 15 percent, unless the rate is reduced under a tax treaty.

No tax is withheld on dividends paid to a qualifying company under the EU parent-subsidiary directive (2003/123/CE), except if the transaction qualifies as an abuse of law under the general anti-abuse rule. The benefits of the directive have been extended to parent companies resident in non-EU tax treaty countries (under certain conditions).

Luxembourg does not levy withholding tax on **royalties**.

Luxembourg does not levy withholding tax on **interest**, except for interest payments to Luxembourg resident individuals, in certain cases. Nonetheless, profit-sharing bonds and debt instruments with remuneration linked to the issuer’s profits are taxed as dividends (15 percent), and interest payments can be requalified into dividends (and are then subject to a 15-percent withholding tax) where a Luxembourg company is over-indebted in light of thin capitalization rules or where a Luxembourg company does not comply with transfer pricing regulations.

Interest payments made by Luxembourg resident paying agents to Luxembourg resident individuals are subject to a 20-percent WHT. There is an exemption from WHT if the amount due does not exceed EUR250. Where interest payments are made or credited by foreign paying agents located in a member state of the EU or in a state of the European Economic Area, the Luxembourg resident taxpayer may opt for a 20-percent WHT.

**Service fees**

Luxembourg does not levy withholding tax on **service fees**.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

No capital duty is levied in Luxembourg (except in particular cases). A registration fee of EUR75 is imposed on incorporation or amendments to bylaws.

There is no stamp duty in Luxembourg.

A transfer tax is applied to a transfer of immovable property. A 6 percent basic rate and a 1 percent transcription tax are applicable. For real estate located in Luxembourg City, an additional charge amounting to 50 percent of the transfer tax is imposed (exemptions are available).
EMPLOYMENT TAXES

Social security contributions apply to wages and salaries and are due from both the employer (rates approximately 12 to 15 percent) and the employee (around 12 percent). Contributions for both employers and employees are computed on a capped basis and must be withheld by the employer. Self-employed individuals must register for social security purposes and pay approximately the same rates as the combined rates for an employer and an employee.

OTHER TAX CONSIDERATIONS

Net Wealth Tax (NWT)

Both Luxembourg resident companies and Luxembourg branches of non-resident companies are subject to NWT. As of January 1, 2016, a new scale of rates has been introduced as follows:

- 0.5 percent up to EUR500 million and
- 0.05 percent over EUR500 million.

Interest deduction limitation

In practice, the tax administration uses a debt-to-equity ratio of 85:15 for the financing of participations. Luxembourg has introduced an interest limitation rule in the context of the transposition of ATAD. As from January 1, 2019, excess borrowing costs (i.e. tax-deductible borrowing costs which exceed underlying interest income and economically equivalent income) are only deductible up to the higher of 30 percent of earnings before interest, taxes, depreciation and amortization (EBITDA) of the taxpayer and EUR 3 Mio.

Excess borrowing costs which are not deductible in a tax period may be carried forward without time limitation. Unused interest capacity in a given tax period may be carried forward for 5 years.

The interest limitation rule is not applicable to excess borrowing costs:

- On loans concluded before June 17, 2016, so long as the loans are not subsequently modified;
- On loans to finance EU long-term public infrastructure projects; or
- On loans incurred by standalone entities and "financial undertakings".

Intra-EU hybrid mismatches

As from January 1, 2019, hybrid mismatch provisions apply in an intra-EU context as a result of ATAD.

The rule aims at preventing hybrid mismatches which result in a double deduction (i.e. a deduction of the same expenses both in Luxembourg and in the other EU member state) or a deduction without inclusion (i.e. a deduction of expenses in Luxembourg and no corresponding inclusion of the income in the taxable basis of the other EU member state).

The anti-tax avoidance directive provisions provide that when a structure includes a hybrid mismatch with double
deduction, the deduction shall only be granted in the EU member state where the payment has its source. When a structure includes a hybrid mismatch with deduction without inclusion, the EU member state of residence of the payer shall deny the deduction of such payment.

Hybrid mismatches with third countries (ATAD 2) and covering a wider range of intra-EU mismatches have been implemented and came into force on January 1, 2020. The reverse hybrid mismatch rule will not come into force before January 1, 2022.

DAC 6


A reportable cross-border arrangement means any cross-border arrangement that contains at least one of the hallmarks foreseen by DAC 6, which refer to characteristics, features and examples of cross-border arrangements that present an indication of potential risk of tax avoidance. In principle, a cross-border arrangement becomes reportable, if it meets one or more hallmarks, while certain hallmarks can only be triggered if a main benefit test (MBT) is also satisfied, i.e. when the main benefit or one of the main benefits that a person can reasonably expect to obtain from the arrangement, taking into account all relevant facts and circumstances, is the benefit of a tax advantage.

The first reportable transactions are those whose first implementation step occurred between June 25, 2018 and June 30, 2020 and should be reported by February 28, 2021. In addition, starting from January 1, 2021, any other reportable arrangements implemented as from July 1, 2020 that would fall under DAC 6 should be reported within 30 days of their implementation (i.e. any reportable arrangements implemented between July 1, 2020 and December 31, 2020 should be reportable by January 31, 2021). These are the new deadlines that have been extended by the government within the context of the COVID-19 pandemic.
RESIDENCE AND BASIS FOR TAXATION

Legal entities that are residents of Mexico are subject to Mexican taxation. For this purpose, legal entities that have their effective seat of management in Mexico are considered to be residents of Mexico. Resident taxpayers are subject to Mexican income tax with respect to income from whatever source derived.

Domestic

An entity resident in Mexico for tax purposes is subject to Mexican taxation on its worldwide income, regardless of the source of income.

Foreign

Foreign entities are subject to Mexican taxation when:

- They have a permanent establishment (PE) in Mexico
- They do not have a PE in Mexico, but income is generated from a Mexican source, or
- They have a PE in Mexico, but income is not attributable to the PE.

Whether Mexican source income exists or not depends on the nature of the income received, and income tax treaties entered into by Mexico may be able to reduce or eliminate Mexican taxes.

TAXABLE INCOME

Domestic

In general terms, taxable income is determined on an accrual basis, and taxpayers are allowed to deduct most business expenses. There are certain exceptions on expenses that can be deductible, among them:

- Penalties and unauthorized donations
- Increases to reserves for bad debts, obsolescence, contingencies, indemnities and so forth 53 percent of
exempt salaries (percentage may be decreased to 47 percent if the exempt salaries are not reduced from previous year) and

- Certain payments to tax havens or hybrid entities.

Foreign

A foreign company with a PE in Mexico is taxable in Mexico on all income attributable to the PE. Basically, income is considered attributable to a PE if it derives from the activities of the PE. Foreign-source income is subject to Mexican taxation if it is derived by a Mexican PE, because domestic rules do not limit the “attributable” concept to income from Mexican sources. A foreign tax credit is also allowed for PEs with foreign-source income.

TAX RATES

The corporate income tax rate is 30 percent and, for individuals, it is progressive up to a 35 percent rate.

There is also a value-added tax (VAT) of 16 percent on transfers of goods, rendering of independent services, leasing of goods and importation of goods or services into Mexico.

Further, there is an excise that intends to reduce consumption of harmful products (e.g., tobacco, alcohol, pesticides) and limit the use of resources (e.g., gasoline, energy).

TAX COMPLIANCE

Mexican entities shall file annual income tax returns on a calendar-year basis. Taxes must be calculated and paid in pesos. The return for a given tax year must be filed no later than March 31 of the following year, and the balance of any income tax liability (less estimated tax payments made during the tax year) must also be paid at that time. There is no ability to request an extension on the filing date for annual tax returns.

In addition to filing annual income tax returns, legal entities also are required to file estimated monthly tax returns and make the applicable estimated tax payments for income and VAT purposes. Legal entities must make estimated income tax payments on a monthly basis on the 17th day of each subsequent month.

ALTERNATIVE MINIMUM TAX

Not applicable.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

In the past, there have been tax amnesty programs, generally when a new administration takes office. The last available program was in 2013.

Tax rulings
It is possible to obtain a private letter ruling from the Mexican tax authorities (Hacienda) on specific technical tax issues. Generally, private rulings are effective only during the tax year for which they are granted and only apply to the specific taxpayers that requested them.

**Tax incentives**

As of 2017, there is a tax incentive on R&D activities, which consists of a credit of 30 percent for qualifying R&D expenses, aimed at encouraging investment in this area. There are also incentives for real estate investment trusts (i.e., FIBRAS), movies, theater productions and high-performance sports.

**CONSOLIDATION**

A Mexican holding company may obtain an authorization to effectively compute income tax on a consolidated basis (called the integration regime as of 2014), but each company of the group is responsible for filing and paying the tax individually. This option is subject to several rules and limitations, including a recapture of benefits.

**PARTICIPATION EXEMPTION**

There is no participation exemption for dividends received from, or capital gain recognized on, the stock of foreign subsidiaries.

Mexican companies that own shares of another Mexican entity may receive dividend distributions that should not be subject to further taxes, to the extent the dividends come from the net tax profit account (CUFIN).

**CAPITAL GAIN**

Under domestic rules, capital gains obtained by Mexican companies are treated as ordinary income and taxed at the regular 30-percent tax rate. Non-residents are subject to a 25-percent tax rate on the gross proceeds, or a 35 percent rate on net gain realized to the extent that certain requirements are met. Capital gains derived from sales of publicly traded shares by individuals or non-Mexican residents are taxed at a rate of 10 percent. To determine the deductible basis for sales of real estate, fixed assets and shares, the law allows for indexation of the original cost for inflation.

**DISTRIBUTIONS**

Dividends that come from the CUFIN account should not be subject to additional tax at the level of the Mexican entity distributing the dividend. Otherwise, they should be subject to a grossed up tax rate of 42.8 percent.

The Mexican Income Tax Law (MITL) does not provide ordering rules with respect to how CUFIN balances are considered with respect to dividend distributions. However, it is assumed that older balances should be distributed first.

Under the MITL in force until 2013, dividends received by an individual or a foreign shareholder from a Mexican entity were not subject to withholding tax. The 2014 tax reform introduced a new withholding tax of 10 percent.
on dividends when distributed to a foreign shareholder or an individual. The new rules also broaden the definition of what should be considered a dividend, covering other transactions between the distributing company and its shareholders and/or related parties.

As part of the 2014 tax reform, CUFIN balances must be segregated between pre-2014 and post-2014 Mexican balances in order to determine the potential impact from the 10-percent withholding tax introduced that year.

With respect to post-2014 CUFIN which could be distributed in the future, the domestic 10-percent dividend withholding tax may be reduced to under available income tax treaties entered into by Mexico to the extent that the requirements provided in the treaty and the MITL are met.

For Mexican tax purposes, capital reductions are generally treated as a distribution in exchange for shares. The general purpose of these rules is to treat distributions made in a capital redemption as either a tax-free return of capital or a deemed dividend or distribution of earnings.

**LOSS UTILIZATION**

Net operating losses can be carried forward 10 years, but no carryback is allowed.

**TAX-FREE REORGANIZATIONS**

As mentioned before, the transfer of shares in a Mexican company generally constitutes a taxable event. However, in the case of a domestic corporate reorganization, it may be possible to obtain a ruling from Hacienda authorizing the transfer of the shares at tax basis, and thus avoiding a gain on the transfer. This type of ruling is allowed only where the seller is a Mexican resident and the transaction can be carried out with prior approval if the transfer is made in exchange for shares of another Mexican entity. A 2-year holding period requirement and various reporting requirements must be met.

In the case of a group restructuring where the transferor is a foreign resident, it is possible to transfer the shares of a Mexican subsidiary and defer the income tax due until those shares leave the group. However, a ruling (ie, GRA) must be issued by Hacienda before the transfer is made, and a notice has to be filed each year informing that the shares remain within the group.

Certain income tax treaties entered into by Mexico provide an exemption for capital gains tax derived from corporate reorganizations. However, there are requirements that should be met in order to qualify for a tax-free reorganization, and procedural fillings must be made with Hacienda before the transaction is carried out.

**ANTI-DEFERRAL RULES**

Mexican residents (and Mexican PEs of foreign residents) are required to pay income tax on income generated from investments in a jurisdiction with a preferential tax regime. For this purpose, an investment in a preferential tax regime is deemed to exist if the foreign entity is subject to an effective tax rate of less than 75 percent of the Mexican corporate tax rate or if the entity or vehicle is deemed to be fiscally transparent.

As a general rule, a Mexican taxpayer is not subject to income tax on earnings of a foreign subsidiary until the income is distributed. However, when the subsidiary or other investment vehicle is located in a preferential tax
jurisdiction, such income must be reported as earned on a current basis, subject to certain exceptions.

Taxpayers are subject to tax on earnings from foreign investments that are generated, directly or indirectly, by foreign entities or legal organizations from foreign sources subject to preferential tax regimes in proportion to their participation in the capital of the entities or legal organizations.

For this purpose, income subject to a preferential tax regime is considered to be income not subject to tax outside Mexico or subject to income tax of less than 75 percent of the applicable income tax that would have been calculated and paid in Mexico. The income subject to this anti-deferral regime includes income in the form of cash, goods and services or credit, as well as any presumed income determined by the tax authorities, even in those instances where the income has not been distributed to the Mexican taxpayer.

In addition, these anti-deferral rules are applicable to income generated directly or indirectly through fiscally transparent entities. For this purpose, foreign entities or organizations are deemed to be fiscally transparent when they are not considered income taxpayers in their country of incorporation or they are treated as residents for tax purposes but the income they generate is taxed not in their hands, but at the level of their members.

There are exceptions to these anti-deferral rules when income from business activities is generated and no more than 20 percent of the income is passive income. The following are deemed to constitute passive income for these purposes: interest income, dividends, royalties and gains from the sale of shares, securities or immovable property; income from the leasing of assets; and gratuitous income when such income is not generated through the carrying on of business activities.

**FOREIGN TAX CREDITS**

A tax credit is allowed for foreign income tax paid or deemed paid by Mexican corporations, but the credit is generally limited to the amount of Mexican tax incurred on the foreign-source portion of the company’s worldwide taxable income.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

There is a state-level property transfer tax (ie, Impuesto sobre Adquisicion de Inmuebles) that could range from 2 percent to 4.5 percent depending where the property is located, and is generally based on the market value of the property. This tax should be paid by the purchaser and cannot be creditable or offset against other taxes.

**TRANSFER PRICING**

Mexico has transfer pricing rules. Acceptable transfer pricing methods include the comparable uncontrolled price method, the resale price method, the cost-plus method, the profit-split method, the residual profit-split method and the transactional net-margin method. In certain cases, specific appraisals are used. Transactions between related parties are subject to greater scrutiny, and there are several informative tax returns on related parties transaction that must be filed. It may be possible to reach transfer pricing agreements in advance with Hacienda. These agreements may apply for a period of up to 5 years.

Beginning in 2016, certain Mexican taxpayers must file additional transfer pricing documentation, including a
Master File and Country-by-Country reports, as recommended by Action 13 of the Base Erosion and Profit Shifting report.

Debt-to-equity rules

Interest deductions may be disallowed if the debt to equity ratio exceeds 3 to 1 on loans with foreign related parties. There are some exceptions to these rules, based on the type of activities that would be funded in Mexico.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

<table>
<thead>
<tr>
<th>Payments to</th>
<th>Rates (percent) under Domestic Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid on Negotiable Instruments</td>
<td>10 (a)(b)</td>
</tr>
<tr>
<td>Paid to Banks</td>
<td>10 (a)(c)</td>
</tr>
<tr>
<td>Paid to Reinsurance Companies</td>
<td>15 (a)</td>
</tr>
<tr>
<td>Paid to Machinery Suppliers</td>
<td>21 (b)</td>
</tr>
<tr>
<td>Paid to Others</td>
<td>35 (a)</td>
</tr>
<tr>
<td>Royalties</td>
<td></td>
</tr>
<tr>
<td>From Patents and Trademarks</td>
<td>35 (a)</td>
</tr>
<tr>
<td>From Know-how and Technical Assistance</td>
<td>25 (a)</td>
</tr>
<tr>
<td>From Railroad Cars</td>
<td>5 (a)</td>
</tr>
<tr>
<td>Dividends after 2013</td>
<td>10 (d)</td>
</tr>
<tr>
<td>Branch Remittance Tax after 2013</td>
<td>10 (d)</td>
</tr>
</tbody>
</table>

(a) This is a final tax applicable to non-residents. Payments to tax havens are generally subject to a 40-percent withholding tax. (b) This rate can be reduced to 4.9 percent if certain requirements are met. (c) A reduced rate of 4.9 percent is granted each year to banks resident in treaty countries. (d) This tax applies to dividends paid out of profits generated after 2013.

Income Tax Treaties

These withholding rates may be reduced to under available Income Tax Treaties entered into by Mexico, and to the extent that the requirements provided in the relevant Income Tax Treaty and the MITL are met.

Service fees

Income received by a foreign resident from rendering services in Mexico may be subject to a 25-percent
withholding tax rate under domestic rules. However, income tax treaties may reduce or eliminate this rate under specific circumstances. It is important to consider potential VAT implications.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

There is no capital duty and stamp duty in Mexico. As noted above, there are real estate transfer taxes.

**EMPLOYMENT TAXES**

Employees must be registered with the Mexican Institute of Social Security (ie, *Instituto Mexicano de Seguro Social*, IMSS), as well as the National Housing Fund (ie, *Fondo Nacional para la Vivienda de los Trabajadores*, INFONAVIT).

This is relevant because Mexican employers are required to make contributions to the IMSS and INFONAVIT based on the salaries of their employees. These contributions are subject to daily salary caps that are determined based on a multiple of the minimum daily salary in the area in which the work is performed.

In this regard, an employee must pay approximately 2.755 percent of their salary to the IMSS (payment to the IMSS includes all social security dues), while an employer must pay a total of 36.69 percent of the employee’s salary. Contributions to INFONAVIT are approximately 5 percent, and contributions to a Mandatory Pension Plan are approximately 2 percent of employees compensation.

These contributions are subject to daily salary caps that are determined based on a multiple of the minimum daily salary in the area in which the work is performed.

The contribution percentages are generally applied to an employee’s total integrated salary. However, in some cases, the percentage is broken down and applied to only a portion of the salary. There are maximum contributions that are capped for high salaries.

In addition, most states impose a payroll tax of approximately 2 percent of a company’s total payroll. There are no caps for the state payroll tax.

**Profit sharing**

Mexican companies are required, under the Federal Constitution and labor laws, to make mandatory profit-sharing payments to employees equal to 10 percent of the adjusted taxable income of the company. In general terms, the same overall rules are applied in determining the adjusted taxable income for profit sharing as for income tax purposes. Most significantly, profit-sharing rules do not provide for inflationary adjustments or net operating loss carryforwards. Furthermore, exchange gains and losses are recognized as realized rather than an accrual basis. Mexican companies are not required to make profit-sharing payments for the 1st year of existence.

The profit sharing is allowed as a deduction for income tax purposes. The deduction is allowed as a reduction of taxable income once certain calculations are made, not as one of the deductible expenses. However, since profit sharing is not a tax per se, it is not creditable for foreign tax credit purposes, representing a cost to most foreign investors.

**OTHER TAX CONSIDERATIONS**
Not applicable for this jurisdiction.

KEY CONTACTS

Eduardo Gallástegui Armella  
Partner  
DLA Piper Mexico  
eduardo.gallastegui@dlapiper.com  
T: +52 55.5261.1807  
View bio

Abelardo Acosta  
Law Clerk  
DLA Piper LLP (US)  
abelardo.acosta@dlapiper.com  
T: +1 858 677 1440
MOZAMBIQUE

RESIDENCE AND BASIS FOR TAXATION

The Mozambican tax system features both national and municipal taxes.

National taxes are classified into direct and indirect taxes and are dependent on the level of income and wealth and expenditure respectively. There are also other taxes which will be discussed.

Corporate Income Tax

Corporate income tax (IRPC) is a direct tax on income obtained during the taxation period, even if such income is obtained by illicit means.

Income obtained in Mozambican territory means income derived from activities carried out in the national territory by residents and non-residents with or without a permanent establishment located therein.

Domestic

Legal persons and other entities whose headquarters or effective management is located in Mozambican territory are classified as residents for IRPC purposes.

Foreign

Non-resident entities (ie, those without headquarters of effective management in Mozambique) with or without permanent establishment are liable to pay corporate tax in Mozambique on their local income. Non-resident entities with permanent establishment are taxed on profits attributed to their permanent establishment in Mozambique.

TAXABLE INCOME

Domestic

Persons classified as residents for IRPC purposes (ie, legal persons and other entities whose headquarters or effective management is located in Mozambican territory) are taxed on a worldwide income basis.
Foreign

By contrast, non-residents are subject to IRPC only on their income obtained in Mozambique. When the non-resident entity does not have a permanent establishment, it will be generally taxed through withholding tax or through appointment of a legal representative to comply with the respective filling and payment obligations (in case the income earned is not subject to withholding at source – eg, capital gains income).

TAX RATES

The general rate of IRPC is 32 percent.

TAX COMPLIANCE

IRPC is due for each financial year, coinciding with the calendar year. However, companies and other entities subject to IRPC may adopt an annual tax period other than that established in the law, when reasons determined by the type of activity justify it, and when they are subsidiaries held in more than a 50-percent of their equity capital by entities which adopt a different taxation period, which must be kept for at least the next 5 years, provided that it is duly authorized by the Minister who oversees the finance area.

ALTERNATIVE MINIMUM TAX

Simplified tax for small taxpayers (ISPC)

The ISPC is a direct tax applicable to natural or legal persons engaged in small-scale agricultural, industrial or commercial activities, including the provision of services, in the national territory. For the purposes of this tax, a small-scale business is one the annual turnover of which is less than or equal to MZN2.5 million (approximately USD33,783.00 at the exchange rate of 1USD = MZN 74.00).

Taxpayers who opt for ISPC on their activities of supply of goods and services are no longer subject to VAT, and any income derived from those activities will not be subject to either personal income tax (IRPS) or corporate income tax (IRPC).

ISPC is due for each tax year, which coincides with the calendar year. Applicable rates are as follows: Annual rate of ISPC MZN75,000 (approx. USD1.013 at the exchange rate of 1USD = MZN74.00). Alternatively, 3-percent rate on the turnover may be applied.

For taxpayers who commence business and opt for the first time for the ISPC a reduction of 50 percent of the applicable tax rate in the 1st year of activity is available.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable in Mozambique.
Tax rulings

In Mozambique, whenever a taxpayer is in a doubt in relation to the interpretation of the tax law and/or on the most secure way to apply it, they are entitled to approach the tax authorities and request a tax binding opinion. If the tax authority issues a ruling, it is bound by it, provided that the taxpayer has furnished the tax authority with complete and accurate information regarding the transaction to which the opinion relates for. General non-binding tax opinions are also available, though in practice taxpayers tend to use the binding opinions.

Tax incentives

Tax and customs incentives as well as other benefits — such as the right to import capital, export profits and re-export invested capital — are given to domestic and foreign private investments, whether by individuals or by legal entities, made in Mozambique under the Investments Law and Code of Fiscal Benefits. For certain areas like the extractive industry, there is a specific sector industry tax law with specific incentives.

CONSOLIDATION

Companies may not elect to file corporate income tax returns on a consolidated basis and must file independently.

PARTICIPATION EXEMPTION

Profits received from companies with head offices or effective management in Mozambique subject to and not exempt from IRPC or subject to the Special Tax on Gambling may be deducted in full from the results of the companies that are the beneficiary of the profits, provided that the following conditions are all met:

- They are commercial companies or civil companies incorporated under the commercial form, cooperatives and public companies;

- Have their head office or effective management in Mozambique; and

- Hold a percentage of the share capital of the company distributing the profits of at least 20 percent and during the 2 previous years prior to the date on which the profits are placed at the disposal or, if held for a shorter period, if the shareholding is maintained during the time necessary to complete that period.

This deduction mechanism is also applied, irrespective of the percentage of shareholding and period during which the shares are held, to the following companies:

- Insurance and mutual insurance companies, with respect to income from shareholding in which technical reserves had been applied;

- Risk capital companies;

- Holding companies; and

- Companies associated in participation, incorporated as commercial or civil companies under the commercial form, cooperatives or public companies, with head office or effective management in
Mozambique, irrespective of the value of their contribution, with respect to the income that has effectively been taxed, distributed by an associated resident in the same period.

**CAPITAL GAIN**

In Mozambique, the capital gains are a type of income that is subject to corporate income tax, and not a separate and independent tax. Capital gains are taxed at the rate of 32 percent.

In the country, realized capital gains are gains related to fixed assets obtained through the onerous transfer, under whatever title, and those deriving from accident claims or those resulting from the permanent allocation of said elements to purposes not related to the activity performed.

Capital gains resulting from the transfer for valuable consideration of shareholdings in entities whose head office or effective management is located in Mozambican territory, are considered income obtained in Mozambican territory, thus payment of tax in Mozambique is mandatory. Furthermore, any gains resulting from the transfer, direct or indirect, on an onerous or gratuitous basis, between non-residents of shares or participating interests or rights involving assets located in Mozambique, regardless of where such transactions take place, are also considered obtained in Mozambique.

**DISTRIBUTIONS**

Distributions paid by a corporation to its shareholders are treated as dividends. The legal entity paying such dividends shall withhold tax (IRPC) at a rate of 20 percent on the dividends distributed (unless the beneficiary of such dividends is domiciled in a country with which Mozambique has a tax treaty which provides for a more attractive tax treatment). The obligation to pay tax is of the shareholders (as the beneficiaries of the income), but the entity paying such dividends is obliged act as a tax substitute and withhold tax owed and then pay it over to the Mozambican tax authorities on behalf of the beneficiary.

**LOSS UTILIZATION**

Tax losses assessed in a certain financial year are, in general, deductible from the taxable profits, if any, of 1 or more of the 5 subsequent financial years.

**TAX-FREE REORGANIZATIONS**

In Mozambique, under the corporate income tax code in force, it is possible to transfer assets or a business at book value without triggering taxation based on tax neutrality principle. Mergers and demergers may also be carried out without triggering any adverse tax consequences.

**ANTI-DEFERRAL RULES**

Payments to entities resident in countries with privileged tax regime

For the purposes of determining the taxable profit, any amounts paid or due to individuals or corporate entities
resident in countries with a clearly more favorable regime is not tax deductible. However, this rule does not apply when the taxable person proves that such amounts relate to transactions that were effectively realized and are not abnormal or exaggerated. This proof must be provided within 30 days after notification to the taxable person.

The IRPC Code establishes that an individual or corporate entity is subject to a clearly more favorable tax regime when, in the respective territory of residence, it is not subject to income tax or, if subject, the effective tax rate applicable is equal to or lower than 60 percent of the IRPC rate (19.2 percent).

FOREIGN TAX CREDITS

Subject to certain limitations, foreign tax credits and deductions are available to resident companies on foreign taxes paid, either in terms of domestic legislation or applicable tax treaties.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Income from the sale of real property located in Mozambique is taxed in the country as capital gains.

TRANSFER PRICING

Arm's-length principles are generally applied under Mozambican law to transactions between related entities. The transfer pricing rules (TPR) were largely inspired in OECD guidelines, though there are a few deviations from the OECD model.

The TPR applies to taxpayers subject to IRPC and IRPS with residence or domicile in Mozambique who carry out transactions with related parties regardless of whether such related parties are resident or non-resident in Mozambique. It also applies to different types of transactions accomplished between permanent establishments (eg, branch offices, work sites, mines, quarries, any fixed place of business) of non-resident entities in Mozambique and other related entities regardless of whether they are residents or non-residents in Mozambique.

Per the IRPC Code, the tax authorities may proceed with the necessary corrections for assessing the profits for tax purposes whenever (i) by virtue of special relations between the taxpayer and other entity, different conditions from those which would normally be agreed between independent entities have been established, and (ii) as a result of those conditions, the profits for accounting purposes are different from those that would have resulted had such special relations not existed.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

Under the terms of the generally applicable legislation, namely the IRPC Code, income of non-resident entities without permanent establishment in the national territory is taxed through definitive withholding tax at a single flat rate of 20 percent, with few exceptions such as income from rendering of telecommunications and international transport services, as well as assembly and installation of equipment made by such entities, which are subject to a single flat rate of 10 percent.
The domestic withholding tax rate may be reduced if a tax treaty applies. The application of tax treaty is not automatic. The beneficiary of the income shall request its application.

**Service fees**

Withholding tax may apply to certain payments in respect of services rendered by a non-resident, particularly where the services are rendered in Mozambique, subject to reduction under a double taxation treaty, where applicable.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

Stamp duty and real estate transfer tax are applicable in Mozambique.

Stamp duty is due on all documents, contracts, books, papers and acts established by law that occurred in Mozambique. Stamp duty is also due in case of documents or acts entered into outside the national territory when they are presented in Mozambique for any legal purpose. Apart from specific rates that apply to transactions and documents specifically provided in the Stamp Duty Rates Table, there is a residual rate (200,00 MT) applicable in case of contracts, addenda, agreements or conventions, which are not specifically provided for therein.

Real estate transfer tax is due in respect of the transfer, on an onerous basis, of the right of ownership or other incidental rights on real property; real property is understood to be “urban buildings” located within the national territory.

**EMPLOYMENT TAXES**

Employer must withhold the personal income tax (IRPS) of its employees and deliver it to the tax authority by the 20th day of the following month. The annual tax rates are established on a steeply graduated basis depending on the amount of the income with the maximum rate being 32 percent.

Employer also must pay the mandatory social security contribution of 7 percent of the employee’s salary, 4 percent borne by the employer and 3 percent deducted from the employee’s salary, to the National Institute of Social Security (INSS).

**OTHER TAX CONSIDERATIONS**

**Value-added tax**

VAT is a general consumption tax levied on goods and services. It is applicable at each stage of the economic chain, which means that the tax base for taxation is the value added at each stage of that cycle.

VAT is due in respect of the following operations: (i) transfer of goods and services undertaken within the national territory, on a paid basis, and (ii) import of goods. Mozambique VAT rate is 17 percent.

**Import duties and taxes**

On import of goods into Mozambique, custom duties, excise duty (if applicable) and VAT are levied, unless the
goods are exempt from these taxes or subject to a special customs regime. Exports are 0 rated.

**Double taxation treaties**

Mozambique has signed tax treaties with the UAE, Mauritius, Italy, Portugal, Botswana, India, South Africa, Vietnam and Macau.

**Tax incentives**

In Mozambique, investors may apply for investment projects. The incentives available are of four types, namely (i) tax incentives, (ii) customs incentives, (iii) incentives related to the repatriation of capital invested and profits and (iv) the protection/guarantees provided by the Mozambican State for private property and investments.

---

**KEY CONTACTS**

**Eduardo da Costa Calú**  
Managing Partner  
DLA Piper Mozambique  
ecalu@salcaldeira.com  
T: +258 21 241400
NETHERLANDS

RESIDENCE AND BASIS FOR TAXATION

A company that is effectively managed in the Netherlands is treated as a resident company. Companies incorporated under Dutch law are deemed to be residents of the Netherlands.

Domestic

A resident company is subject to income tax on all its income and capital gain from sources anywhere in the world. Exemptions or exclusions may apply for certain income from shareholdings and permanent establishments.

Foreign

A nonresident company is generally taxed only on its Dutch-source income. A network of double taxation treaties operates to modify these rules including reducing the rate of withholding taxes.

TAXABLE INCOME

Domestic

Taxable income of a domestic corporation is equal to all net income less applicable deductions.

Foreign

A nonresident corporation is subject to corporate income tax only on income derived from Dutch sources. Income from Dutch sources include, among other items, business income from operations in the country through a branch, office or other permanent establishment, including a permanent representative, and income derived from the leasing and disposal of real estate located in the Netherlands.

TAX RATES

The standard corporate income tax rate is 25 percent. A lower rate of 15 percent applies for taxable income up to EUR245,000. In 2022, the lower corporate income tax rate will apply for taxable income up to EUR395,000.
The Netherlands only levies withholding tax up to 15 percent on outgoing dividends, often reduced under the application of tax treaties or a domestic withholding exemption. As of January 1, 2021, the Netherlands will levy a conditional withholding tax of 25 percent on payments of interest and royalties to low tax jurisdictions and in abusive situations.

**TAX COMPLIANCE**

Corporate income tax returns must be filed within 5 months after the end of the fiscal year, but extensions may be applicable.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

No broad-based general rulings are available as they are considered incompatible with international and EU standards. However, on an individual basis, taxpayers may request an advance tax ruling or advance pricing agreement from the Dutch tax authorities. The Dutch tax authorities’ advance ruling practice has been an integral part of the tax system for many years and contributes to the attractive business climate in the Netherlands.

**Tax incentives**

There are tax incentives for specific activities, including an IP box regime (Innovation Box) with a reduced effective corporate income tax rate on qualifying IP income of 9 percent, and a payroll tax credit for innovation, competitiveness and employment.

A special tonnage tax regime applies to shipping companies.

A 0 percent tax liability or full exemption is provided for qualifying investment funds.

**CONSOLIDATION**

The Dutch tax consolidation regime allows a Dutch parent company and its 95-percent-owned domestic subsidiaries to apply for the consolidation regime. In addition, a tax consolidation is allowed between 2 Dutch sister companies that have the same EU parent company which owns an interest of at least 95 percent in both Dutch companies. Profits and losses of the subsidiaries are attributed to the Dutch controlling parent company. A Dutch parent company that indirectly owns at least 95 percent of Dutch affiliates through 1 or more foreign companies based in the EU, Iceland, Norway or Liechtenstein (intermediary companies) may also form a tax
group. Similarly, it is possible to set up a tax group between sister companies with their parent company established in the EU, Iceland, Norway or Liechtenstein.

**PARTICIPATION EXEMPTION**

Dividends from qualifying subsidiaries and capital gains from the sale of shares in a domestic or foreign subsidiary received by a Dutch corporate shareholder are exempted from tax, unless such payments are directly or indirectly deductible for corporate income tax purposes in the country of the subsidiary, irrespective of whether the deduction is actually claimed.

The participation exemption applies when at least 5 percent of the shares in the subsidiary are being held by the Dutch parent company and the subsidiary is not considered a low-taxed passive portfolio investment company.

**CAPITAL GAIN**

Capital gains are taxed as ordinary income, unless exempted by the participation exemption. Capital losses are deductible, unless attributable to the disposal of a shareholding qualifying for the participation exemption. Certain liquidation losses are deductible. As of January 1, 2021, the liquidation loss scheme is limited to shareholdings that are tax resident in the EU and the EEA (geographical limitation) and shareholdings over which the taxpayers has significant authority (ie generally shareholdings of 50 percent or more) (material limitation). However, liquidation losses up to EUR5 million may still be taken into account without the geographical and material limitation. In addition, the liquidation must have been completed within 3 years after the moment of ceasing the shareholding or the decision to cease it (temporal limitation). The temporal limitation applies to all liquidation losses.

**DISTRIBUTIONS**

Dividends distributed by a Dutch company or holding cooperative to its shareholders or members are, in principle, subject to Dutch dividend withholding tax. Dividend withholding tax may be reduced under the domestic dividend withholding exemption or under the application of a tax treaty. A return of paid-up capital is, in principle, not subject to Dutch dividend withholding tax.

**LOSS UTILIZATION**

Tax losses can be carried 6 years forward and 1 year back. Grandfathering treatment permits a 9-year carry-forward for tax losses realized prior to 2019. Significant changes of ownership of a company may result in the tax losses being restricted.

The Dutch government has announced a proposal to limit the utilization of tax losses as of January 1, 2022. Under this proposal, the utilization of tax losses will be limited to 50 percent of the taxable profits. However, tax losses up to EUR 1 million may still be utilized in full. In conjunction with the limitation on the utilization of tax losses, the carry-forward period will be made indefinite (as opposed to 6 years). The carry back period will remain 1 year.

**TAX-FREE REORGANIZATIONS**
Tax-exempt mergers, demergers and tax-exempt contributions of assets are available, provided the specific requirements in each case are met. In addition, the consolidation regime may be used to transfer assets or liabilities between group companies without giving rise to tax consequences. Special rules apply to cross-border reorganizations.

**ANTI-DEFERRAL RULES**

**CFC**

As of January 1, 2019, CFC rules apply to Dutch corporate taxpayers holding a direct or indirect subsidiary or a permanent establishment that is established in a jurisdiction that is included on:

- A yearly published Dutch blacklist (ie, jurisdictions with a statutory corporate tax rate less than 9 percent)
- The European list of non-cooperative jurisdictions.

The CFC rules only apply to direct or indirect subsidiaries if the Dutch shareholder, alone or together with an associated enterprise or person, holds an equity interest of more than 50 percent in the subsidiary. Certain exceptions may apply, including where the subsidiary or permanent establishment has “real economic activities.”

Under the CFC rules, certain categories of undistributed (passive) income of such CFCs are included in the corporate tax base of the Dutch corporate taxpayer.

In addition to these CFC rules, a shareholding of 25 percent or more in a low-taxed portfolio investment with greater or equal to 90-percent “bad assets” should be revalued annually at the fair market value.

**General ANTI-avoidance rule**

Wholly artificial constructions which are not in line with the purpose and scope of the law, resulting in a lower taxation, may be restricted under the general anti-avoidance rule.

**FOREIGN TAX CREDITS**

Subject to limitations, foreign tax credits are available for foreign taxes paid.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

Corporate taxpayers owning real estate located in the Netherlands that is used for the purpose of their own business can annually depreciate the cost price of the real estate to its residual value, but not more than when the tax book value has reached 100 percent of its estimated market value (WOZ value). The estimated market value is assessed annually by the municipality where the real estate is located. The 100 percent threshold also applies to Dutch real estate that is rented out to 3rd parties. The depreciation rules for real estate owned before January 1, 2019 and actively used within the company of the corporate taxpayer are grandfathered for 3 years, meaning the 50 percent of the estimated WOZ value is still applicable.
TRANSFER PRICING

Arm’s-length principles are applied under Dutch law to transactions between related entities. Dutch transfer pricing rules are in accordance with OECD guidelines.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc

A 15-percent withholding tax applies to dividends paid by a domestic corporation to a person or entity. A domestic dividend withholding tax exemption applies on dividends paid to EU/EEA parent companies and parent companies in a 3rd country that has concluded a tax treaty with the Netherlands that contains a dividends clause, unless anti-abuse provisions apply.

Double taxation treaties operate to modify these rules, including reducing the rate of withholding taxes.

Withholding tax is generally reduced to 0 percent if the corporate shareholder has an interest of 5 percent or more in the subsidiary (domestic and EU/EEA), in line with the Parent-Subsidiary Directive.

As of January 1, 2021, the Netherlands will levy a conditional withholding tax of 25 percent on outbound payments of interest and royalties to low-tax jurisdictions and in abusive situations.

Service fees

Not applicable for this jurisdiction.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Real estate transfer tax is levied on the transfer of shares of Dutch real estate companies. Transfer of the shares is subjected to 8-percent transfer tax if the assets consist of mainly (ie, 50 percent or more) real estate.

Direct transfer of Dutch real estate is also subject to 8-percent transfer tax, or 2-percent in the case of owner-occupied dwellings. Certain exemptions may apply.

Private individuals may, under certain conditions, benefit from a transfer tax exemption on houses that are used for personal dwelling.

The Netherlands does not levy any other stamp duty, capital duty or registration tax of any kind.

EMPLOYMENT TAXES

Employers must withhold wage taxes and contributions for pension, health and unemployment insurance.

Under certain conditions, employers may provide incoming employees 30 percent of their wage tax-free. Incoming employees must be recruited or seconded from another country to work in the Netherlands and have specific expertise with no or little availability in the Dutch employment market. As of January 1, 2019, the 30 percent
Tax-free wage is only applicable for 5 years.

**OTHER TAX CONSIDERATIONS**

Not applicable for this jurisdiction.

---

### KEY CONTACTS

**Roderik Bouwman**  
Partner  
DLA Piper Netherlands  
roderik.bouwman@dlapiper.com  
T: +31 (0)20 5419 894  
View bio

**Daan Arends**  
Partner  
DLA Piper Netherlands  
daan.arends@dlapiper.com  
T: +31 (0)20 5419 315  
View bio
NORWAY

RESIDENCE AND BASIS FOR TAXATION

Domestic

Companies are considered tax resident in Norway if they are:

- Established and registered in Norway or
- Have its place of effective management in Norway.

Foreign

Foreign companies that are not tax resident in Norway may have limited tax liability in Norway if they:

- Conduct or participate in business activities in Norway
- Operate or manage business activities from Norway
- Make employees available to others in Norway or
- Own real estate or other property in Norway.

TAXABLE INCOME

Domestic

Companies that are tax resident in Norway are taxed on their worldwide income (unlimited tax liability). The taxable income is generally calculated as the total income reduced by the costs generated by the business.

Foreign

Foreign companies with limited tax liability in Norway are generally taxable on their relevant net Norwegian source income in the same manner as domestic companies.
Interest deduction limitation rules

Norway has legislation to limit the deduction of interest on loans on both internal and external debt. In principle, tax deductions for interest are limited to 25 percent of the company’s deemed Tax EBITDA. The application threshold is generally NOK25 million in net interest expenses on the Norwegian part of consolidated group. To certain related parties, the threshold may be only NOK5 million on a company level. Certain exemptions apply, based on the asset-to-equity ratio of the company compared to the group. For Norwegian entities that are not part of a consolidated group, the applicable threshold is NOK5 million for net interest on internal debt.

TAX RATES

The corporate tax rate is 22 percent (2021).

TAX COMPLIANCE

Norwegian tax resident companies and foreign companies that have assets or receive income in Norway are generally required to submit a yearly tax return (with attachments). The tax return must be submitted electronically by May 31 the year after the income year.

Advance payments of corporate taxes are due twice a year (February 15 and April 15 the year following the tax year). Any shortfall is payable during the fall, normally in November.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable in this jurisdiction.

Tax rulings

Companies may apply for a binding advance ruling concerning tax consequences on a future transaction. A binding advance ruling will last for 5 years.

Tax incentives

Limited research and development credits are available.

A Tonnage Tax Regime is available, which implies favorable taxation of qualifying shipping companies.

CONSOLIDATION
Norway does not have a tax consolidation system and hence separate entity taxation applies for income tax purposes.

However, companies belonging to the same group (which applies to share ownership of more than 90 percent of the shares) may exchange group contributions. A group contribution is deductible for the paying company and is taxable for the recipient company.

**PARTICIPATION EXEMPTION**

**Dividends**

Dividends received by a company tax resident in Norway from another Norwegian company resident in Norway (or similar company resident in the European Economic Area, or EEA) are 97-percent exempt of tax. The remaining 3 percent are taxed with the ordinary corporate income tax rate of 2 percent. For dividends received from a company resident in in a low-tax jurisdiction with the EEA, the 97-percent exemption applies only if real business activities are conducted in that jurisdiction.

Dividends from group companies within the EEA are 100-percent exempt if more than 90 percent ownership.

Dividends received from a foreign company outside the EEA are 97-percent exempt if both of the criteria below are met:

- The Norwegian company has held at least 10 percent of the shares and votes for at least 2 years and
- The foreign country is not a low-tax country.

**Capital gains**

Capital gains derived by a Norwegian company on the realization of shares in another Norwegian (or EEA-resident) company are exempt from taxation. For capital gains derived by a Norwegian company on the realization of shares in an EEA-company resident in a low-tax jurisdiction, the exemption applies only if real business activities are conducted in that jurisdiction.

Capital gains derived by a Norwegian company on the realization of shares in a company resident outside of EEA are exempt from taxation if both of the criteria below are met:

- The Norwegian company has held at least 10 percent of the shares and votes for at least 2 years and
- The foreign company is not resident in a low-tax jurisdiction.

**CAPITAL GAIN**

Please see Participation exemption. If the participation exemption regime does not apply, the capital gain will be taxed at the ordinary corporate tax rate of 22 percent.

**DISTRIBUTIONS**
Please see Participation exemption. If the participation exemption regime does not apply, the dividends will be taxed at the ordinary corporate tax rate of 22 percent.

**LOSS UTILIZATION**

Unused losses may be carried forward without limit. Disallowed interest deductions (see Taxable income) can be carried forward for 10 years.

**TAX-FREE REORGANIZATIONS**

Merger and demergers may be carried out without triggering any adverse tax consequences.

**ANTI-DEFERRAL RULES**

The CFC rules states, if Norwegian resident taxpayers hold or control at least 50 percent of the shares or equity in certain "low taxed" foreign entities, the Norwegian resident taxpayers will be subject to taxation on a current basis for its proportionate share of the foreign entity's profits. A foreign legal entity is considered "low taxed" if the entity is subject to less than 2/3 of the Norwegian tax on the same income (ie, 14.67 percent in 2021).

The CFC rules does not apply if Norway has entered into a tax treaty with the relevant country and the income is not of a mainly passive nature. The same applies to entities resident in EEA-countries, provided that real business activities are carried out in the relevant jurisdiction.

**FOREIGN TAX CREDITS**

Foreign taxes paid on income subject to Norwegian taxation may be credited under the Norwegian tax credit system.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

Municipal authorities levy real estate tax on the ownership of real estate. Real estate tax applies to the assessed real market value of the real estate at rates ranging between 0.1 percent and 0.5 percent. Some municipalities do not levy real estate tax.

**TRANSFER PRICING**

The Norwegian transfer pricing rules are based on the arm's-length principle and the OECD guidelines. Documentation requirements apply to cross-border transactions with affiliated companies.

**WITHHOLDING TAX**

Dividends, royalties, interest, rents, etc.
**Dividends**

Under the general rule, a dividend payment to a foreign shareholder will be subject to 25-percent withholding tax.

Dividend payments to corporate shareholders resident in the EEA are exempt from withholding tax, provided that the shareholder conducts a real business activity in the relevant jurisdiction. Otherwise, the rate may be reduced under an applicable tax treaty.

Dividend payments to shareholders resident outside the EEA are subject to 25-percent withholding tax, unless the rate is reduced under an applicable tax treaty.

Documentation requirements apply in order to benefit from exemption from or reduced dividend withholding tax.

**Service fees**

*Royalties, interests, rents, etc.*

Interest, royalties and lease payments for certain types of tangible assets (ships, rigs, planes, etc.) paid to related parties resident in low-tax jurisdictions outside the European Economic Area (EEA) are subject to a withholding tax of 15 percent.

Royalties, interests and lease payments to corporate shareholders resident in the EEA are exempt from withholding tax, provided that the shareholder conducts a real business activity in the relevant jurisdiction.

The effective date is July 1, 2021 for interest and royalties and October 1, 2021 for lease payments. Norway does not levy withholding tax on service fees.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

The sale or other transfer of real estate is generally subject to 2.5-percent stamp duty, based on the market value of the real estate. Transfer tax is generally not levied.

**EMPLOYMENT TAXES**

Employers are obliged to pay employer’s contributions of the total salary. The rate is differentiated regionally and ranges between 0 percent and 14.1 percent.

Employers are further obliged to make tax deductions from the salary payments made to the employees.

**OTHER TAX CONSIDERATIONS**

**Foreign employees**

Foreign employees who work temporarily in Norway may opt to pay 25-percent salary tax on the gross remuneration received, up to a certain maximum (NOK651,250 in 2021). The 25-percent salary tax is final, and no deductions are allowed. Certain exemptions apply.
KEY CONTACTS

Jonas Aartun
Partner
DLA Piper
jonas.aartun@dlapiper.com
T: +47 95 07 44 47
RESIDENCE AND BASIS FOR TAXATION

Subject to the application of a relevant tax treaty, companies that have their legal seat or place of management in Poland are treated as domestic corporations (i.e., tax resident in Poland).

**Domestic**

A domestic corporation is subject to Polish tax on its worldwide income. A domestic corporation generally is not subject to Polish tax on the income of its foreign subsidiaries unless controlled foreign corporation (CFC) rules apply.

**Foreign**

Foreign corporations are taxable on their Polish-source income only. Tax treaties can reduce or eliminate these taxes.

TAXABLE INCOME

Taxable income of a domestic corporation is equal to a sum of gross income from 2 separate sources of income: capital gains and other sources. Income from a given source is equal to the excess of the sum of revenues from that source over costs incurred to generate revenues during the fiscal year. A tax year is generally the same as the financial year and can be a calendar year or any other 12 consecutive months.

TAX RATES

The corporate income tax (CIT) rate is 19 percent or 9 percent for taxpayers with sales revenue, excluding output VAT and not exceeding EUR1.2 million (with certain restrictions).

TAX COMPLIANCE

CIT is paid in monthly installments by the 20th day of each month for the preceding month (quarterly payments for companies accumulating CIT).
are possible for small taxpayers). An annual CIT return should be submitted within 3 months of the tax year end.

**ALTERNATIVE MINIMUM TAX**

Not applicable.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Tax rulings are of a general or individual nature. Individual rulings are issued upon request within 3 months from filing of a request. Individual tax rulings may be requested by anyone who wants to confirm interpretation of tax provisions – not only by taxpayers, but also by potential shareholders, foreign investors or foreign entities considering starting business activity in Poland.

Tax incentives

There are tax incentives for specific activities or types of income, including relief for R&D activities, income from intellectual property (IP Box), notional interest deduction for retained profits and additional equity contributions, as well as investment incentives related to business activity carried out in special economic zone.

**CONSOLIDATION**

It is possible to consolidate for tax purposes within a tax capital group. Several requirements must be fulfilled, eg, an average capital of PLN500,000 for each group company, a minimum share of 75 in subsidiaries by the parent and a minimum income-to-revenues ratio of 2 percent.

**PARTICIPATION EXEMPTION**

There is a participation exemption from withholding tax for dividends based on the EU Parent-Subsidiary Directive. The exemption applies to dividends paid by the Polish company to the EU company provided that the latter company holds at least 10 percent shares of the Polish company for a continuous period of at least 2 years. The exemption is not available if the dividend distribution is aimed at tax avoidance. From 2019, the requirements to apply the withholding tax exemptions have been extended and more formalized.

**CAPITAL GAIN**

Capital gain constitutes a separate source of income starting from 2018 and is taxed at the same rate as ordinary income (19 percent). Exemption is available only in specific circumstances – eg, share-for-share swaps, in-kind contribution of an enterprise or part thereof, or profit distributions that are exempt based on the EU Parent
Subsidiary Directive. There is no general participation exemption applicable to capital gains.

A participation exemption applies to qualifying dividends (see above).

**DISTRIBUTIONS**

A participation exemption applies to qualifying dividends.

**LOSS UTILIZATION**

Losses may be carried forward for 5 years. The deduction may not exceed 50 percent of loss incurred in a given year but, in addition to the 50-percent limit, a PLN5 million loss may be settled in 1 of 5 years. Losses cannot be carried back. Losses incurred from a given source (capital gain or other sources) may be settled only with income from that source.

Starting from 1 January 2021, losses of a taxpayer which acquired an enterprise/organized part of enterprise or took over another entity (via a merger) cannot be deducted:

- if the scope of the core business activity carried out by the taxpayer differs from the scope of the core business activity which had been conducted by the taxpayer before the acquisition (merger), or
- when at least 25 percent of shares of the taxpayer are held by entity or entities which did not have these rights at the end of the tax year in which the taxpayer incurred loss.

**TAX-FREE REORGANIZATIONS**

Based on the EU Mergers and Acquisitions Directive, mergers, divisions and share-for-share swaps may be tax-neutral provided that certain conditions are met and they are conducted for economic reasons. Otherwise, they result in taxation.

**ANTI-DEFERRAL RULES**

Under the CFC rules, a domestic corporation may be subject to tax at the rate of 19 percent on the income of a foreign controlled entity if certain criteria apply. This includes where the ownership of the foreign entity is at least 50 percent, the so-called passive income of the foreign entity is 33 percent or more and the effective rate of taxation of income of the foreign entity is below a certain level.

**FOREIGN TAX CREDITS**

Foreign tax credits are available under domestic law and under relevant tax treaties.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**
In 2018, an income tax that is payable on certain commercial properties (fixed assets) was introduced. The tax applies to office buildings, shopping centers, department stores and other retail and service buildings with an initial value of more than PLN10 million. The tax is payable on a monthly basis; the rate is 0.035 percent of property value if it exceeds the sum of PLN10 million, determined at the first day of each month. The tax so calculated will reduce the "standard" corporate income tax, and any surplus over the standard corporate income tax may be refunded to the taxpayer upon its application and after tax authorities verify the correctness of the taxpayer's tax calculation.

TRANSFER PRICING

Arm's-length principles are generally applied to transactions between related entities. The Polish rules generally follow the OECD guidelines.

WITHHOLDING TAX

From 2019, the requirements to apply the withholding tax exemptions and reduced withholding tax rates based on EU law or the applicable double tax treaties have been extended and more formalized. In order to benefit from a reduced rate or full tax exemption in accordance with the new regulations, regardless of the value of payments made, payers are required to exercise “due diligence.”

If the total amount of payments to the same recipient in a given tax year exceeds PLN2 million, the payer will be obliged to calculate, collect and pay the withholding tax using the standard rates set out in the CIT Act (19 to 20 percent), with a right to apply for a tax refund to the tax authority. The entry into force of this new withholding tax collection mechanism, planned initially on January 1, 2019, has been postponed until June 30, 2020. The postponement is caused by plans to amend of the regulations regarding withholding tax announced by the Ministry of Finance.

Dividends

The general withholding tax (WHT) for dividends is 19 percent. The WHT rate may be reduced by specific provisions of the applicable income tax treaty or an exemption based on the EU Parent Subsidiary Directive may be available. WHT is payable monthly by the 7th day of each month for preceding month. The exemption is not available if the dividend distribution is aimed at tax avoidance.

Royalties and interest

A 20-percent withholding tax applies to royalties, interest and other passive income paid by a domestic corporation to a foreign person, subject to reduction or elimination by an applicable income tax treaty or regulations based on the EU Interest Royalties Directive. WHT is payable monthly by the 7th day of each month for the preceding month. The exemption is not available if the royalty or interest distribution is aimed at tax avoidance.

Intangible services

A 20-percent withholding tax applies to fees for intangible services paid to foreign recipients, like management fees or fees for advisory, legal, marketing, accounting, recruitment services or guarantees, the tax may be reduced based on the relevant tax treaty.
CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

There is no capital duty. Stamp duties and transfer taxes are imposed for certain types of sales and transactions. In particular, 1 percent transfer tax is payable on direct sales of shares in Polish companies.

EMPLOYMENT TAXES

Employers must withhold personal income tax from the employees’ gross remuneration. Employers also must pay social security contributions in respect of compensation paid to employees. These taxes are deductible by an employer for corporate income tax purposes.

OTHER TAX CONSIDERATIONS

Certain legislative measures have been introduced in the recent years to ensure more effective tax collection and combating tax fraud,

• Introduction of the general anti-avoidance rule and a number of special anti-avoidance rules

• An obligation to electronically file Standard Audit File for Tax (SAF-T) as a regular evidence for tax audit purposes and for VAT monthly reporting

• An obligation to pay for supplies of goods and services to bank accounts registered with the tax authorities and an obligation for split the payment of VAT for certain types of goods and services (transactions exceeding PLN15,000) and

• An obligation to inform the head of the National Tax Administration about the details of applied tax schemes. The reporting entities will in principle be intermediaries, such as tax advisers, legal advisors, advocates and other experts, but also taxpayers implementing tax schemes. The information provided as part of a special procedure should include details of the arrangements agreed upon as part of the transaction with a description of it and an estimate of the expected tax benefit.

KEY CONTACTS

Bartosz Matusik
Partner
DLA Piper Giziski Kycia sp.k.
bartosz.matusik@dlapiper.com
T: +48 22 540 74 66
View bio
PORTUGAL

RESIDENCE AND BASIS FOR TAXATION

An entity is treated as a domestic entity for corporate income tax purposes if its registered seat or the effective place of management is located in Portugal.

Domestic

A domestic entity is subject to Portuguese corporate tax on its worldwide income.

Foreign

A foreign entity is subject to Portuguese corporate tax on:

- Income from business carried on through a Portuguese permanent establishment, and
- Portuguese-source income

TAXABLE INCOME

Domestic

Taxable income of a domestic entity is equal to gross income less applicable deductions.

Foreign

Taxable income of a foreign entity is equal to the gross income of the business carried on through the Portuguese permanent establishment less any deductions applicable to that Portuguese business, or, when there is no permanent establishment, the amount of income sourced from Portugal.

TAX RATES

The general corporate income tax rate is 21 percent. A reduced tax rate of 17 percent applies to the first EUR25,000 of taxable profits of small and medium-sized enterprises.
A state surcharge is levied on taxable profits at the following rates: 3 percent for profits over EUR1.5 million up to EUR7.5 million; 5 percent on profits over EUR7.5 million up to EUR35 million and 9 percent on profits exceeding EUR35 million.

A municipal surcharge may be levied on taxable profits at rates up to 1.5 percent, depending on the municipality.

**TAX COMPLIANCE**

The tax return must be filed within 5 months after the end of the tax year.

The supporting accounting and tax report must be filed by the 15th day of the 7th month after the end of the tax year.

CBC reports must be filed within 12 months after the end of the MNE’s tax year.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

No broad-based rulings are available. Taxpayers can request a private letter ruling that applies only to a specific issue.

**Tax incentives**

There are tax incentives for specific activities, including R&D expenses and deductions (eg Research and development (R&D) (Sistema de Incentivos Fiscais em Investigação e Desenvolvimento Empresarial or SIFIDE II), tax regime for investment support (Regime Fiscal de Apoio ao Investimento or RFAI), Pension funds, Investment Funds, including Real Estate Investment Funds (REIFs), and newly enacted “Sociedades de Investimento e Gestão Imobiliária” or “SIFI” (with a regime akin to Real Estate Investment Trusts), Incentives to urban rehabilitation, Madeira International Business Centre (MIBC), Non-habitual tax residents, Golden Visa, etc.

**CONSOLIDATION**

Eligible corporations that are affiliated (generally based on at least 75 percent or more ownership of the statutory capital of the other affiliates and ownership of more than 50 percent of the voting rights) may elect to file corporate income tax returns on a consolidated basis.
PARTICIPATION EXEMPTION

Dividends and capital gains arising from the disposal of participations in other companies are exempt from corporate tax provided the following requirements are cumulatively met:

- The Portuguese company, directly or indirectly, holds a minimum 10 percent of the capital or voting rights of its subsidiary
- Such participation is held or maintained for a minimum period of 1 year
- The Portuguese company is not taxed under the tax transparency rules
- The participated company is subject and not exempted from CIT or, if EU resident, from a tax mentioned under article 2 of Directive 2011/96/UE or, if resident outside the EU, from a tax similar to the CIT and the rate applicable under such CIT is not below 60 percent of the Portuguese CIT, but note this condition may be waived under certain circumstances (article 66(6) CIT Code)
- The participated company is not resident in a blacklisted jurisdiction.

The capital gains exemption does not apply if the participated company has real estate in Portugal valuing more than 50 percent of its assets, unless such real estate is used in connection with an agricultural, industrial or commercial activity.

CAPITAL GAIN

Capital gain is taxed at the same rate as ordinary income. Capital gain arising from the disposal of shares may be exempt from tax under the participation exemption regime (see Participation exemption).

Fifty percent of the gains derived from the disposal of tangible fixed assets and intangible assets held for at least 1 year may be excluded from taxation if the total disposal proceeds are reinvested within the prescribed period.

DISTRIBUTIONS

Distributions paid by a corporation to its shareholders are treated as dividends.

LOSS UTILIZATION

Net operating losses can be carried forward 5 years but can be used to offset only 70 percent of the taxable income.

The time limitation applicable to agricultural, commercial or industrial entities qualified as micro, small and medium-sized enterprises is 12 years.

Due to the Covid-19 pandemic, the following additional rules on net operating losses were approved:
• Net operating losses generated in 2020 and 2021 by taxable persons whose main activity is of a commercial, industrial or agricultural nature can be carried forward for a 12-year period (counted as from 2022), irrespective of the taxable persons qualification as a micro, small or medium-sized enterprise.

• Net operating losses generated in 2020 and 2021 may be used to offset 80 percent of the taxable income (instead of 70 percent).

TAX-FREE REORGANIZATIONS

Group reorganizations are ordinarily tax neutral.

ANTI-DEFERRAL RULES

Profits or income derived by an entity resident in a blacklisted jurisdiction or in a jurisdiction where it is subject to an effective tax rate lower than 50 percent of the tax that would be paid according to the Portuguese CIT rules are imputed to the Portuguese taxpayer, provided it holds, directly, indirectly or constructively, at least 25 percent of the share capital, voting rights or rights to income or assets of that entity.

CFC rules also apply if the controlled entity is held by a Portuguese entity through a legal representative, fiduciary or intermediary.

CFC rules do not apply if the CFC is resident in another EU country or in an EEA member state (bound to administrative cooperation on tax matters), provided that there are valid economic reasons underlying the incorporation and running of such company and it carries out agricultural, commercial, industrial or services activities supported by staff, equipment, assets and premises.

FOREIGN TAX CREDITS

Foreign taxes paid on income subject to Portuguese taxation can be credited under the Portuguese tax credit system.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Not applicable for this jurisdiction.

TRANSFER PRICING

Arm’s-length principles are applied to transactions between related entities. The Portuguese rules generally follow OECD principles.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc
Dividends paid to a foreign entity are subject to withholding tax at a rate of 25 percent (35 percent if paid to a resident of a black-listed country or if paid or made available in accounts in the name of 1 or more holders acting on behalf of undisclosed 3rd parties). The withholding tax rate may be reduced under a tax treaty. Dividends are not subject to withholding tax in the case of qualified participations (generally, 10 percent or more equity interest held for at least 1 year), subject to additional requirements.

Interest paid to a foreign entity is subject to withholding tax at a tax rate of 25 percent (35 percent if paid to a resident of a black-listed country or if paid or made available in accounts in the name of 1 or more holders acting on behalf of undisclosed 3rd parties). The withholding tax rate may be reduced under a tax treaty. Interest is not subject to withholding tax if the EU Interest & Royalty Directive applies.

Royalties paid to a foreign entity is subject to withholding tax at a tax rate of 25 percent (35 percent if paid to a resident of a black-listed country or if paid or made available in accounts in the name of 1 or more holders acting on behalf of undisclosed 3rd parties). The withholding tax rate may be reduced under a tax treaty. Royalties are not subject to withholding tax if the EU Interest & Royalty Directive applies.

Other payments made to foreign entities may be subject to withholding tax. The general tax rate is 25 percent.

Service fees

Withholding tax may be applied to service fees if the services are performed or used in Portugal.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

Stamp duty and transfer tax are applicable in Portugal.

**EMPLOYMENT TAXES**

Employers must withhold income tax and social security contributions.

**OTHER TAX CONSIDERATIONS**

Not applicable.

---

**KEY CONTACTS**

António Moura Portugal  
Partner  
DLA Piper ABBC  
antonio.portugal@dlapiper.com  
T: +351 21 358 36 20  
View bio
RESIDENCE AND BASIS FOR TAXATION

Any Romanian legal entity, a legal entity setup under the European law with its legal seat in Romania or a foreign legal entity whose place of effective management is in Romania will be treated as residents in Romania for tax purposes.

Resident

An entity that is a resident for tax purposes in Romania is subject to Romanian corporate income tax on its worldwide income.

Foreign

Foreign legal entities are generally subject to Romanian tax if:

- They have a permanent establishment in Romania
- They have a place of effective management in Romania
- They derive income from the transfer of a real estate property located in Romania or from the disposition of any rights related to such real estate property or from the exploitation of natural resources located in Romania or
- They derive income from the transfer of the participation titles in a Romanian legal entity.

Tax treaties can reduce or eliminate these taxes. Romania has an extensive network of treaties.

TAXABLE INCOME

Resident

The taxable income of a resident legal entity is represented by the difference between all gross income, less any non-taxable income and all expenses, less any non-deductible expenses, to which supplementary taxable or
deductible items may be added or subtracted, as the case may be.

Foreign

Taxable profits attributed to a Romanian branch or any other Romanian permanent establishment are subject to corporate income tax under similar rules applicable to a Romanian tax resident entity.

The taxable profit derived from the transfer of a real estate property located in Romania or from the disposition of any rights related to such real estate property are also subject to the standard corporate income tax rate.

Foreign entities may also be taxed in Romania for the taxable profits derived from the transfer of participation titles in a Romanian legal entity if the minimum holding conditions are not met.

Tax treaties can reduce or eliminate these taxes, provided that the documentation needed to apply such treaties is available locally.

**TAX RATES**

Romanian legal entities can be subject of 1 of the following tax systems:

**Corporate income tax regime**

Romanian tax resident entities and local permanent establishments of foreign entities are subject to 16 percent tax on their profits, computed/allocated as described above.

**Micro-enterprise tax regime**

Newly incorporated legal entities and companies that register a cumulative level of their taxable revenues (as listed by the tax legislation) lower than the RON equivalent of EUR1 million are obliged to apply the micro-enterprise taxation regime unless specific criteria regarding the share capital and the number of employees are met. The micro-enterprise tax applies to revenues derived by the entity and is 1 percent for entities that have at least 1 employee, and 3 percent for entities that have no employees.

After the above-mentioned threshold is exceeded, the legal entity automatically shifts to the corporate income tax regime.

**Specific tax system for certain industries**

Entities that operate in the hospitality industry are obliged to apply a specific taxation regime that is based on the business capacity and not on the level of the profits derived from their activity.

Casinos are obligated to apply the corporate income tax regime and pay a tax no lower than 5 percent of revenues related to gambling activities.

**TAX COMPLIANCE**

For entities whose fiscal year is the calendar year, the annual domestic corporate income tax returns are due on
March 25 of the following year, with few exceptions applicable to some industries. Quarterly corporate income tax returns should also be submitted by the 25th of the first month following each quarter, except for the last quarter. Romanian companies that qualify as micro-companies for tax purposes have only quarterly tax reporting obligations.

**ALTERNATIVE MINIMUM TAX**

**Micro-companies tax**

Romanian legal entities that register a cumulative level of their taxable revenues (as listed by the tax legislation) lower than the RON equivalent of EUR1 million in the previous year are subject to a specific micro-companies taxation system. Micro-companies are liable to pay a tax on their turnover of 1 percent for companies having at least one employee on their payroll and 3 percent otherwise.

Entities that operate in the hospitality industry are obliged to apply a specific taxation regime that is based on business capacity and not on the level of the profits derived from their activity.

Casinos are obligated to apply the corporate income tax regime and pay a tax no lower than 5 percent of revenues related to gambling activities.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

Taxpayers can request an individual tax ruling that applies only to a future fiscal situation. Taxpayers engaged in transactions with related parties may also request the tax authorities to issue an Advance Pricing Agreement (APA).

**Tax incentives**

There are tax incentives for R&D activities and for profits reinvested in technological equipment, computers and software.

**CONSOLIDATION**

Starting 2021, taxpayers may register for a corporate income tax consolidation group. The entities that are part of such a group must meet the following requirements:

- They are Romanian legal entities or have their head office in Romania;
- They are affiliated via an individual or entity owning, directly or indirectly, at least 75 percent of shares/voting rights in each entity;
• The individual or entity generating the affiliation is either a Romanian resident or resides in a state with which Romania has concluded a double taxation avoidance treaty or an information exchange treaty.

Consolidation is also available also for VAT purposes. However, different requirements apply.

PARTICIPATION EXEMPTION

Participation exemptions apply where a minimum holding criteria of 10 percent for at least 1 year is met for:

• Dividends received from an EU company or a company situated in a third country that has concluded a tax treaty with Romania

• Capital gains derived from the sale of the participation titles in a Romanian company or a company resident of a tax treaty jurisdiction and

• The liquidation of a Romanian company or a company resident of a tax treaty jurisdiction.

Dividends received from a Romanian legal entity are non-taxable with no minimum holding requirements.

CAPITAL GAIN

Capital gain realized by a resident entity is included in its taxable profits and taxed at the same rate as ordinary income.

Capital gain derived by a foreign entity from Romania is also taxed at the standard corporate income tax rate.

Capital gain tax may be eliminated under the participation exemption regime or under the provisions of tax treaties.

DISTRIBUTIONS

Distributions of current profits and retained earnings paid by a corporation to its shareholders represent dividends. A distribution in excess of current profits and retained earnings may qualify as a return of capital (if carried out as a share capital reduction), non-taxable up to the contributions of each shareholder to the share capital of the distributing company. A distribution of new participation titles or an increase of their nominal value, as a result of an incorporation of reserves, benefits or share premiums, are non-taxable for corporate income tax purposes.

LOSS UTILIZATION

Fiscal losses can be carried forward for seven consecutive years and offset against future profits. Losses can also be transferred within reorganization processes, such as mergers, spin-offs, etc.
TAX-FREE REORGANIZATIONS

Qualifying mergers and spinoffs, as well as the transfer of business lines made in exchange for shares, may be tax-free to a participating corporation and its shareholders, provided that such operations are not tax-driven. Similar tax neutrality rules apply to cross-border reorganizations involving EU companies.

ANTI-DEFERRAL RULES

CFC

Under the controlled foreign corporation (CFC) rules, a Romanian tax resident shall include in its taxable basis the non-distributed revenues of an entity or a permanent establishment that qualifies as a CFC, proportionally to the taxpayers’ participation in said CFC.

Exit taxation rules

Under the exit taxation rules, corporate tax resident involved in transfers of assets to or from the head office or a permanent establishment for which Romania loses the taxation right is liable to pay standard corporate income tax on the difference between the market value and the fiscal value of those assets.

General Anti - Abuse Rules (GAARs)

Under the GAAR, non-genuine arrangements or series of arrangements, meaning those that do not have valid commercial reasons that reflect economic reality, carried out for the main purpose of obtaining a tax advantage, will be disallowed by the tax authorities when computing the fiscal result of a taxpayer.

FOREIGN TAX CREDITS

Subject to limitations and the availability of supporting documentation, foreign tax credits are available for foreign taxes paid.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Gains derived by a foreign entity from transfer of a real estate located in Romania or from the disposition of any rights related to such real estate are subject to the standard corporate income tax rate. Tax treaties can reduce or eliminate these taxes.

TRANSFER PRICING

Arm’s-length principles generally are applied under Romanian law to transactions between related entities. The Romanian rules are similar in many respects to the OECD guidelines, with certain differences. Specific transfer pricing documentation should be prepared by Romanian corporate tax residents for transactions with related parties with annual values exceeding certain thresholds.
WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

A 5-percent withholding tax applies to dividends and a 16-percent withholding tax applies to royalties, interest, commission and other taxable income paid by a Romanian tax resident to a foreign person, subject to reduction or elimination by an applicable tax treaty.

An increased 50-percent tax rate applies for payments made under certain conditions and when income is paid in respect of transactions that qualify as artificial.

Dividends, interest and royalties could be exempt from withholding tax where paid to a resident of another EU member state provided the minimum holding criteria and specific conditions referring to the legal and fiscal status of the payer and the beneficiary of the income are equally met.

Service fees

Withholding tax of 16 percent may apply to fees for management and consultancy services and for other services if performed in Romania.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

There is no capital duty. Transfer taxes and notary fees may be imposed upon sale of a real estate property.

EMPLOYMENT TAXES

Employers must withhold income tax, social security contributions (pension contributions) and health fund contributions from the gross salary received by each employee. Salary tax incentives are applicable for the IT and R&D sectors.

Employers also must pay a labor insurance contribution on top of the gross salary costs and an additional pension fund contribution for employees working in hard and special conditions, which are deductible for Romanian corporate income tax purposes at the level of the employer.

OTHER TAX CONSIDERATIONS

An annual property tax is levied by the local tax authorities for constructions, land and vehicles held in patrimony. Other local taxes are applicable in some cases.

Rules for deductibility of borrowing costs

In certain situations, excess borrowing costs, which are higher than the RON equivalent of EUR1 million, are deductible within a limit of 30 percent of the computation basis.

The excess borrowing costs which fail the 2 deductibility tests are not deductible in the tax period when they are incurred, but will be carried forward to the following tax periods without a time limit.
MAP timeline

The provisions of EU Directive 2017/1852 on tax dispute resolution mechanisms within the European Union are present in the Romanian legislation. This provides the steps, and maximum deadline for each step, for the resolution of any tax disputes involving a Romanian tax resident entity and an EU tax resident entity.

DAC6 requirements

The DAC6 provisions (i.e. reporting of cross-border arrangements) have been implemented in the Romanian legislation. The wording is in line with EU Directive 2018/822 of 25 May 2018 and introduces reporting obligations for local taxpayers and intermediaries (e.g., advisors) that were involved in implementation of cross-border transactions that meet certain hallmarks listed by the legislation. Tax consultants and lawyers are covered by the professional privilege and can only report if the taxpayer releases them from such privilege. In the absence of such a waiver granted by the taxpayer, the reporting responsibility lies with the taxpayer.

VAT

Value-added tax shall be charged by Romanian companies for goods supplied or services provided.

Foreign entities are also liable to register for VAT purposes in Romania and charge Romanian VAT on supplies of goods and provision of services whose place of supply is in Romania. The standard VAT rate is 19 percent, while reduced VAT rates of 9 percent or 5 percent are applicable for supply of certain goods.

Companies registered for VAT purposes are allowed to deduct the input VAT incurred upon acquisition of goods and services used in respect of taxable transaction. The difference between the output VAT charged on goods supplied or services provided and the input VAT incurred upon acquisitions of goods or services should be paid to the state budget, if positive, or could be requested for refund from the state budget, where negative.

KEY CONTACTS

Tudor Nedelea
Partner
DLA Piper Tax SRL
tudor.nedelea@dlapiper.com
T: +40 372 155 815
View bio
RESIDENCE AND BASIS FOR TAXATION

An entity is treated as a tax resident for corporate profits tax purposes if it is registered as a Russian legal entity in accordance with Russian law. Likewise a foreign entity whose place of effective management is located in Russia is treated as a tax resident for corporate profits tax purposes (unless otherwise established by an applicable double tax treaty).

Domestic

A resident company (both Russian and foreign entities are recognized as Russian tax residents) is subject to the corporate profits tax in Russia on its worldwide income.

Foreign

A non-resident company is subject to corporate profits tax in Russia only on income derived through a Russian permanent establishment or on passive income derived from a Russian source.

TAXABLE INCOME

Domestic

Corporate profits tax is charged on income less the duly documented and economically justified business expenses.

Foreign

Taxable income equals income less applicable deductions attributed to a permanent establishment in Russia or certain types of income from a Russian source less applicable deductions (where applicable). Double tax treaties can reduce or eliminate these taxes.

TAX RATES

The general corporate profits tax rate is a flat rate of 20 percent.
TAX COMPLIANCE

A resident must file corporate profits tax returns either monthly or quarterly. The annual corporate profits tax return is due by March 28 of the following year. A non-resident with a permanent establishment in Russia should file corporate profits tax returns quarterly.

A resident pays a monthly advance payment on corporate profits tax. A non-resident with a permanent establishment in Russia pays quarterly advance payments. Final payments are due on March 28 of the following year. Corporate profits tax with respect to passive income of non-residents is generally levied through a tax withholding mechanism.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Tax holidays are available for particular projects (eg, Skolkovo).

Tax rulings

An individual ruling may be obtained by a taxpayer from the Russian Ministry of Finance with respect to a specific situation. Such tax rulings, where issued on the basis of full and complete facts and information disclosed, are technically binding for the tax authorities. However, in practice, the binding character of the tax rulings is often ignored by the authorities or courts. That said, if the taxpayer follows the recommendation expressed in such a ruling and the tax authorities disagree with this position and charge additional taxes, then the taxpayer will be exempt from tax fines and interest for the late payment of the tax.

Tax incentives

Tax incentives are available in relation to certain activities (eg, R&D, IT, manufacturing), for companies resident in the special economic zones, territories of advanced social and economic development, and investment projects in several Far Eastern and Siberian regions.

Regional authorities are no longer allowed to establish new reduced regional rates of the Russian profits tax. Accordingly, the application of regional low rates is now limited to the instances specified by the Russian Tax Code (eg, Special Investment Projects, Regional Investment Projects, special economic zones). The existing regional reduced tax rates introduced before January 1, 2018 will apply until January 1, 2023.

Previously, Russian regional authorities could grant tax incentives that reduced the regional portion of the corporate profits tax rate to no lower than 12.5 percent until 2020 for certain groups of taxpayers.

Russian tax law provides for special tax regimes for small and medium-sized businesses.
**Special investment contracts (SPIC)**

SPIC constitutes a new measure of governmental support aimed at stimulating investment in the establishment and modernization of industrial production in Russia at the federal and regional levels.

Under Federal Law of August 8, 2019, 290-FZ, the legislation that had previously regulated this area was significantly changed, introducing a so-called SPIC 2.0 regime. Under a SPIC, the investor must implement a project involving the launch or development of a technology included on the List of Advanced Technologies, determined by the Russian Government.

The previous investment threshold of RUB750 million has been repealed, while the new regulation sets no minimum level of investment-project financing. However, the investor must finance the project at the level specified in the relevant SPIC.

On the one side, the SPIC is concluded by the investor, and on the other, it is concluded jointly by the Russian Federation (the federal executive body authorized by the Russian government), the Russian constituent entity and municipality. The procedure for concluding a SPIC is established by the Russian government. In general, the SPIC is concluded with the investor(s) on the basis of open or closed competitive bidding for the right to conclude the contract.

The deadline for concluding a SPIC has been set at no later than December 31, 2030, while the effective term of a SPIC depends on the level of investments (no more than 5 years for investments of RUB50 billion or less, and no more than 20 years for investments of over RUB50 billion).

The profit tax benefit covered by the SPIC 2.0 regime has been left at the previous level, ie, the rate can be lowered all the way to 0 percent (rate levels are set by the relevant Russian constituent entity). However, provisions have also been made for the possible application of a preferential tax rate in those cases where proceeds from the sale of the goods manufactured within the scope of the SPIC account for less than 90 percent of total revenue (provided a number of conditions are complied with). At the same time, a number of additional restrictions have been introduced.

The new mechanism of SPIC 2.0 has not yet been fully implemented and requires certain sub-laws to be enacted before it becomes operational.

**CONSOLIDATION**

Under federal law, the availability of a consolidated taxpayer group has been terminated with effect from January 1, 2023. No new contracts on consolidated taxpayer groups can be registered as of 2019. The tax consolidation registrations obtained in 2018 have been rescinded. The pre-2018 consolidated taxpayer groups will continue to operate until their expiration date, but in any event until January 1, 2023.

**PARTICIPATION EXEMPTION**

Dividends received by Russian organizations are taxed with corporate profits tax at a rate of 0 percent, under the following criteria:

- The Russian legal entity receiving the dividend owns at least 50 percent of the capital of the paying entity
(or owns depository receipts entitling it to receive at least 50 percent of the total amount of dividends paid) and has a right for at least 50 percent of the dividends declared and

- The participatory interest (shareholding) or depository receipts have been owned for at least 365 consecutive calendar days on the day the dividends are declared.

Dividends received from foreign entities located in the offshore zones (the list of territories treated as the "offshore zones" for this purpose is established by the Ministry of Finance of the Russia) are not eligible to this exemption.

**CAPITAL GAIN**

Income or capital gain received from the sale of shares or participation interest in other companies less applicable deductions is taxed at a regular 20-percent corporate profits tax rate.

Income from the sale of unquoted shares and participation in Russian companies held for at least 5 years is taxed at a 0-percent corporate profits tax rate. It is no longer required that the qualifying participations must have been acquired after January 1, 2011 for the capital gain exemption to apply for sellers.

Income from the sale of quoted shares in high-technology Russian companies and held for at least one year is no longer eligible for capital gain exemption that used to exist until January 1, 2019. This capital gain exemption in relation to high-technology companies has been suspended until January 1, 2023.

Income or capital gain from the sale of shares in Russian subsidiaries whose immovable property located in Russia represents, directly or indirectly, more than 50 percent of assets (as well as finance instruments backed by these shares or participation interests, except for shares traded on the stock exchange) is taxed at a regular corporate profits tax rate.

Reduced tax rates or full protection from withholding tax may be available under an applicable double tax treaty.

**DISTRIBUTIONS**

Dividends received by a Russian organization are taxed at a 13-percent corporate profits tax rate. If dividends are paid to a foreign organization, they are subject to a corporate profits tax withholding at a rate of 15 percent, unless the relevant treaty relief is applied.

Under recent Tax Code clarification, a distribution received by a shareholder from exiting a subsidiary or as a result of the subsidiary’s liquidation is classified as a dividend for tax purposes. If the withdrawal or liquidation results in a loss on an investment in subsidiary, this loss shall be treated as a tax-deductible non-sales expense for corporate profits tax purposes.

These rules have also established that, if a distribution is the result of voluntary reduction of the subsidiary’s charter capital, the shareholder shall not recognize taxable income on the return of capital.

**LOSS UTILIZATION**
Russian tax rules allow tax losses to be carried forward for an unlimited period, but for financial years from 2017 to 2021, the taxpayer may reduce the tax base by such losses to the amount of no more than 50 percent.

Losses from the sale of securities may be credited only against future income from the sale of the same type of securities. Losses from the disposal of fixed assets are recognized evenly over the remaining useful life of the assets.

**TAX-FREE REORGANIZATIONS**

Reorganizations are subject to general profits tax rules. Generally, it is possible to carry out a reorganization in a tax-neutral way. However, Russian anti-abuse tax rules must be observed to secure a tax-free reorganization for both the participants and the companies going into the reorganization.

**ANTI-DEFERRAL RULES**

**CFC**

A CFC shall be a foreign organization, in which so-called "controlling persons" are Russian entities and/or individuals recognized as tax residents of the Russian Federation.

A CFC for Russian tax purposes also includes an unincorporated foreign structure (such as a fund, partnership, trust and similar entities) whose controlling persons are organizations and/or individuals who are recognized as tax residents of the Russian Federation.

Such a Russian resident (both an organization or individual) must include in its taxable income the profits of the foreign company treated as a CFC (subject to certain exemptions) even if the foreign company has not actually distributed any profits.

Taxpayers who are recognized as tax residents of the Russian Federation must serve notifications of their participation interest in both:

- Foreign organizations and unincorporated structures and
- All CFCs in which they are recognized to be controlling persons.

Notification on the CFC shall be served not later than March 20 of the year following the tax period in which the relevant share of profit in the hands of the controlling person shall be declared.

Russian tax residents owning foreign subsidiaries through a foreign public company are generally not subject to the Russian CFC taxation of foreign profits, provided that 2 conditions are met: (i) more than 25 percent of its the foreign company are publicly traded on a foreign stock exchange in an OECD member state that is not "blacklisted" by the Russian Federal Tax Service and (ii) the Russian tax resident investor directly or indirectly owns 50 percent or less in such a publicly traded company.

**Thin-capitalization rule**

Interest charged under a controlled debt (generally, a loan granted to a Russian organization by a related party)
will be fully or partially reclassified as dividends for tax purposes if the amount of controlled debt exceeds the net assets by more than 3 times (12.5 times for banks and leasing companies). A sister company debt is also captured by the controlled debt concept. If the taxpayer has negative net assets, the whole amount of interest will be treated as dividends for taxation purposes (i.e., they will be non-deductible and subject to withholding tax).

Foreign debts are not subject to Russian thin capitalization rules if all the following conditions are met:

- Debt received is used exclusively to finance the Russian debtor’s investment project in Russia. An investment project is defined as development of Russian manufacturing facilities for the production of goods and/or provision of services newly commissioned after January 1, 2019.

- The debt is long-term and anticipates repayment not earlier than after 5 years from the grant.

- The cumulative share of direct and indirect foreign participation in the Russian debtor’s entity owned by the qualifying participant does not exceed 35 percent.

- The foreign creditor is a registered and is tax resident in a tax treaty country with Russia.

FOREIGN TAX CREDITS

A tax credit for the amount of foreign tax paid on foreign sources of income is generally available, but it is subject to a limit of the maximum amount of Russian tax due on the same income.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Income from the sale of real property located in Russia is considered income sourced in Russia.

TRANSFER PRICING

Related party and certain unrelated transactions must be conducted on an arm’s-length basis. Russian rules are similar in many respects to the OECD guidelines, with certain differences.

The tax authorities may request transfer pricing documentation within the framework of a transfer pricing audit, but not earlier than June 1 of the calendar year following the year in which the controlled transaction was performed.

Additionally, there are reporting requirements for taxpayers who will be required to submit a notification on controlled transactions. Notifications are to be submitted by May 20 of the year following the reporting calendar year.

From January 1, 2019, only domestic transactions between Russian companies that apply different tax rates of corporate profits tax or special tax regimes shall be subject to the transfer pricing rules, and only if income earned (or cost incurred) from these related party transactions exceeds RUB1 billion per year.

For cross-border related party transactions, a threshold of RUB60 million was introduced for transfer pricing purposes. There was no threshold established for cross-border operations in the period from January 1, 2014 until
January 1, 2019.

CBC

In December 2017, Russia adopted the law on the tree-tiered approach for transfer pricing documentation in accordance with OECD BEPS Action Plan 13.

This approach applies to multinational enterprises groups (MNE) with a consolidated income of or exceeding RUB50 billion.

**WITHHOLDING TAX**

Dividends, royalties, interest, rents, etc.

Certain items of passive income (including dividends, royalties and interest) paid to a nonresident are generally subject to Russian withholding profits tax at a rate of 20 percent (15 percent for dividends).

Following the instruction by the Russian president voiced on March 25, 2020, the Russian Ministry of Finance have commissioned work to revise the withholding tax rate on dividends and interests paid to bank accounts in certain “transit” jurisdictions. It is planned that the unilateral rate will be 15 percent as opposed to the current reduced tax rates available under applicable double tax treaties.

The change announced by the president will require amendments to the existing double tax treaties. It was also noted that, if foreign countries do not cooperate, Russia will unilaterally withdraw from the consequent double tax treaty. Currently, Russia has notified Cyprus, Malta and Luxembourg on the proposed changes to the respective double tax treaties.

Service fees

Generally, service fees are subject to profits tax in Russia if such fees are attributed to a permanent establishment of a foreign recipient in Russia.

Reduced tax rates or full protection from withholding tax may be available under an applicable double tax treaty.

Fees earned from rendering of services that are physically provided from locations outside Russia are not deemed to be Russian-sourced. Accordingly, they are not subject to a 20-percent Russian profits tax at source, irrespective of availability of a relevant treaty.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

No capital duty or transfer tax is levied in Russia.

A legal entity that performs certain legal actions is required to pay a stamp duty. The list of such actions includes the following:

- State registration of a legal entity
- Registration of branches and representative offices of a foreign legal entity
- Registration of the title transfer in relation to real estate property
- The obtaining of a license to conduct certain activities
- Initiation of a court action, and
- Notary services.

**EMPLOYMENT TAXES**

Employers must withhold personal income tax from income earned by their employees and make mandatory social insurance contributions which are tax deductible expenses at the level of the paying entity.

**OTHER TAX CONSIDERATIONS**

**E-commerce taxation**

From January 1, 2019, foreign companies supplying e-commerce services to Russian customers, including to private individuals, legal entities and individual entrepreneurs, are obliged to register with the Russian tax authorities. The legislative changes cover both B2C e-commerce supplies, as is the case under previously enacted rules, and B2B e-commerce operations. B2B supplies shall not be subjected to VAT taxation via a reverse-charge VAT mechanism, and foreign e-commerce suppliers must independently calculate and pay VAT on the value of rendered services from January 1, 2019 on a go-forward basis.

**Tax implications and latest initiatives associated with COVID-19 pandemic**

In response to the economic difficulties presented by the current public health situation, the Russian president, legislature and government are enacting initiatives designed to support businesses through easing tax payment and compliance burdens. While some provisions apply to businesses of all sizes and in all sectors, there are special measures targeted at helping small and medium-sized businesses and those operating in the industries most heavily affected by the current circumstances.

The measures can be grouped as follows: extension of deadlines for payment of taxes, extension of the deadlines for submitting tax returns and tax calculations, suspension of tax control and granting deferrals on individual basis. The most important tax measures include (applicable for specific types of taxpayers):

- A 6-month delay for the payment of income tax for 2019; a 6-month delay for the payment of taxes (excluding VAT and taxes paid as tax agents) for the first quarter of 2020; a 4-month delay for the second quarter and first half of 2020

- A 6-month delay for social insurance contributions for the March-May period 2020 for 6 months; a 4-month delay for the June-July period of 2020 and

- Deferrals (installments) for payment of specific taxes, advance payments for taxes and insurance contributions which may be requested on an individual basis.
KEY CONTACTS

Ruslan Vasutin
Partner
DLA Piper Russia
ruslan.vasutin@dlapiper.com
T: +7 (812) 448 7200
View bio
SINGAPORE

RESIDENCE AND BASIS FOR TAXATION

A company is resident in Singapore for income tax purposes if control and management of its business is exercised in Singapore.

In general terms, control and management of a company’s business is vested in its board of directors, and the place of control and management of the company is where the directors meet to make policy-level decisions for the company.

Due to the travel restrictions relating to COVID-19, the Singapore tax authorities are prepared to consider concessions for tax residency purposes where certain conditions are satisfied.

Singapore adopts a territorial basis of taxation, i.e., only income accrued in or derived from Singapore, or received in Singapore from outside Singapore, is assessable to income tax in Singapore.

Income is assessed on a preceding year basis. For example, income derived in the financial year ended in 2020 will be assessable to income tax in the Year of Assessment (YA) 2021.

TAXABLE INCOME

Taxable income refers to:

- Gains or profits from any trade, business, profession or vocation
- Income from investment such as dividends, interest and rental
- Royalties, premiums and any other profits from property
- Other gains that are revenue in nature

Deductions such as business expenses, capital allowances (tax depreciation) and reliefs can be claimed to reduce taxable income, which leads to lower taxes.
TAX RATES

The current prevailing rate of corporate income tax is 17 percent. Partial exemptions are available in respect of the first S$200,000 of chargeable income, as follows:

<table>
<thead>
<tr>
<th>YA 2020 Onwards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chargeable income</td>
</tr>
<tr>
<td>First S$10,000</td>
</tr>
<tr>
<td>Next S$190,000</td>
</tr>
<tr>
<td>Total exempt amount</td>
</tr>
</tbody>
</table>

Alternatively, a 75 percent tax exemption on the first S$100,000 of normal chargeable income and a 50 percent exemption on the next S$100,000 of normal chargeable income is available to new start-up companies, subject to certain conditions.

TAX COMPLIANCE

There are 2 major deadlines:

- Filing of the estimated chargeable income (ECI)

A company carrying on business is required to file its ECI within 3 months after its financial year end. For example, the ECI in relation to the financial year ended on September 30, 2020 will be due for filing by December 31, 2020.

- Filing of the corporate income tax return (Form C)

The Form C is due for filing by November 30 of the year following that in which the financial year ended. For example, the corporate income tax return in relation to the financial year ended on September 30, 2020 will be due for filing by November 30, 2021.

ALTERNATIVE MINIMUM TAX
Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Please refer to the comments under “Tax incentives”.

**Tax rulings**

An advance ruling can be obtained from the Inland Revenue Authority of Singapore (IRAS) if a taxpayer wishes to seek clarity on certain issues that may arise from a proposed arrangement. The IRAS charges a fee for making such rulings.

**Tax incentives**

There are tax incentives for specific activities. These take the form of lower or 0 tax rates being granted in respect of qualifying income for a specified number of years. Eligible companies (ie, those that meet the specified qualifying criteria) may apply for these incentives. Approval is granted at the discretion of the relevant authority. Further deductions are also available for certain R&D expenditure.

**CONSOLIDATION**

Singapore companies within the same group are required to file their corporate income tax returns separately.

**PARTICIPATION EXEMPTION**

Subject to the relevant conditions being met, a Singapore tax resident company can enjoy tax exemption on its foreign-sourced dividend income that is received in Singapore. Dividends paid by a Singapore resident company will be exempt from Singapore tax.

**CAPITAL GAIN**

There is no capital gains tax in Singapore.

**DISTRIBUTIONS**

Dividends paid by a Singapore resident company will be exempt from tax. Further, there is no need to withhold tax on dividend payments.

**LOSS UTILIZATION**

Unabsorbed losses, capital allowances and donations may be:
Carried forward indefinitely (except for donations which can only be carried forward for up to 5 years), provided that the shareholding composition of the shareholders and their respective shareholdings of the ultimate holding company remain substantially (ie, 50 percent or more) the same on the relevant dates. For utilization of unabsorbed capital allowances, there is an additional condition that the company must continue to carry on the same trade.

Carried back for set-off against income earned in the immediate preceding year, also subject to the substantial shareholders' test being met. The amount that can be carried back is capped at S$100,000.

Transferred to eligible related companies under the group relief system.

TAX-FREE REORGANIZATIONS

There are provisions to minimize the tax consequences arising from certain intra-group reorganization transactions.

ANTI-DEFERRAL RULES

Not applicable for this jurisdiction.

FOREIGN TAX CREDITS

Singapore resident companies may claim foreign tax credit for tax paid in a foreign jurisdiction against the Singapore tax payable on the same income.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Not applicable for this jurisdiction.

TRANSFER PRICING

The arm's length principle should be adopted for transfer pricing between related parties. Taxpayers should prepare and keep contemporaneous transfer pricing documentation to demonstrate that their related party transactions are conducted on an arm's-length basis, if the value of transactions exceeds certain de minimis amounts.

Singapore has also adopted country-by-country reporting.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

Withholding tax applies to royalties, interest and rents etc. paid to non-residents of Singapore, subject to
reduction by an applicable income tax treaty.

Service fees

Withholding tax may apply to service fees if the services are performed in Singapore.

Dividends

No withholding tax.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

Stamp duty is payable on dutiable documents relating to any immovable property in Singapore and any stocks or shares.

**EMPLOYMENT TAXES**

An employer is required to file tax clearance for its foreign employees (ie, non-Singapore citizens including Singapore permanent residents) who:

- Cease employment
- Start an overseas posting or
- Leave Singapore for more than 3 months.

In particular, the employer must file the relevant form at least 1 month before the last date of employment, or the departure date, to report the employee's taxable remuneration. The employer must also withhold all monies due to the employee for 30 days unless otherwise notified by the IRAS.

**OTHER TAX CONSIDERATIONS**

Not applicable for this jurisdiction.

---

**KEY CONTACTS**

Loh Eng Kiat (Mr)
Partner
Baker Tilly TFW LLP
engkiatloh@bakertilly.sg
T: +65 6336 2828
SOUTH AFRICA

RESIDENCE AND BASIS FOR TAXATION

A company incorporated in South Africa (SA) is treated as a tax resident, subject to an applicable treaty.

Resident corporates

An SA corporate resident is subject to SA tax on its worldwide income. An SA corporate resident is generally not subject to SA tax on the income of its foreign subsidiaries until it is repatriated unless the Controlled Foreign Corporation (CFC) rules apply.

Foreign corporates

Foreign corporates generally are not subject to SA tax except on:

- Income derived from a trade carried on through a permanent establishment in SA
- Income derived from a source in SA and
- Capital gains from the disposal of i) SA assets attributable to a permanent establishment in SA or ii) immovable property situated in SA, as contemplated in SA’s domestic legislation.

Tax treaties can reduce or eliminate these taxes.

TAXABLE INCOME

Resident corporates

Taxable income of a resident corporate is equal to all gross income plus any deemed inclusions less applicable exemptions, deductions or allowances.

Foreign corporates

Foreign companies which operate through a branch or which have a permanent establishment within SA are subject to tax on all income from a source within SA. Tax treaties can reduce or eliminate these taxes.
TAX RATES

The tax rate for resident and foreign corporate entities is 28 percent.

TAX COMPLIANCE

Resident and foreign companies are generally required to submit income tax returns within 12 months from the date on which the relevant financial year ends.

All companies, including foreign companies with a South African branch, are required to make provisional tax payments in respect of their SA tax liability. Provisional tax payments are advance tax payments in respect of income tax payable for the tax year and reflect as a credit against the income tax finally assessed.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Taxpayers may approach the South Africa Revenue Service (SARS) for a binding advance tax ruling. However, SARS will not give a binding ruling on certain issues (e.g., transfer pricing, general anti-avoidance or matters of a factual nature).

It is also possible to obtain non-binding opinions.

Tax incentives

There are tax incentives for specific activities, including R&D deductions, venture capital company contributions and special economic zones.

CONSOLIDATION

Companies may not elect to file corporate income tax returns on a consolidated basis and must file individually.

PARTICIPATION EXEMPTION

In certain instances, SA corporates may rely on participation exemptions for dividends received from or capital
gains realized on the shares in foreign corporates.

**CAPITAL GAIN**

Capital gains tax (CGT) applies to a resident’s worldwide assets, and, in the case of a nonresident, to their immovable property or assets of a permanent establishment in SA.

CGT is triggered on the disposal or deemed disposal of an asset and is calculated as being the difference between the proceeds and the base cost of the asset. Assessed capital losses are carried forward and may be set off against capital gains in the following year of assessment.

Provision is made for exclusions and rebates, as well as rollover relief, where the gain made from a disposal is disregarded until ultimate disposal of the assets. The effective capital gains tax rate for corporates is 22.4 percent.

**DISTRIBUTIONS**

Distributions paid by a corporate are generally treated as a dividend to shareholders unless the board of a corporate entity determines that the distribution results in a reduction of contributed tax capital. A return in capital in excess of a shareholder’s tax base is normally treated as a capital gain.

**LOSS UTILIZATION**

Net operating losses and assessed losses of a corporate may generally be carried forward indefinitely. However, a corporate will lose its right to carry forward an assessed loss to a subsequent year of assessment if it fails to carry on a trade during a specific year of assessment.

Legislative changes have been proposed that may impact a corporate’s ability to utilize the whole assessed loss in a given tax year.

**TAX-FREE REORGANIZATIONS**

Qualifying corporate reorganization, formations and dividends may be implemented on a tax-free basis, provided all requirements are satisfied. Limited rules apply for foreign corporate reorganizations.

**ANTI-DEFERRAL RULES**

SA has complicated CFC legislation. The aim of this legislation is now not only to prevent the avoidance of taxation on investment income, but also to prevent the avoidance of taxation on all foreign income and capital gains earned by a CFC. Where residents of SA hold more than 50 percent of the participation rights in a foreign company which is nonresident, the resident must include a proportional ownership percentage of the net income earned by the foreign company in their income, subject to various exclusions.

**FOREIGN TAX CREDITS**
Subject to certain limitations, foreign tax credits and deductions are available to SA residents on foreign taxes paid, either in terms of domestic legislation or applicable tax treaties.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

In 2013, South Africa introduced a special regime for real estate investment trusts (REITs). This new regime, currently only applicable to listed REITs, offers certain tax advantages to qualifying entities and provides certainty on the tax treatment of property loan stock companies, which previously did not exist in South Africa.

**TRANSFER PRICING**

Arm’s-length principles are generally applied under SA law for transactions between related parties.

SA is a signatory to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

**WITHHOLDING TAX**

Dividend, royalties, interest and foreign entertainment withholding taxes apply.

A 20-percent withholding tax applies to dividends, whereas the other withholding taxes are imposed at a rate of 15 percent.

Withholding taxes may be reduced in terms of tax treaties.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

There is no capital or stamp duties. Transfer taxes are payable on the transfer of securities and properties.

**EMPLOYMENT TAXES**

Employers are required to deduct PAYE on all remuneration paid to employees, including directors, unless a tax deduction directive is issued by SARS. Fringe benefits are included in remuneration.

In addition, employers may be required to deduct and pay unemployment fund contributions and skills development levies.

**OTHER TAX CONSIDERATIONS**

Interest deduction limitations

In addition to any transfer pricing adjustments that may be applicable, SA has interest deduction limitation provisions, which may apply to loan funding obtained from a controlling foreign company not subject to tax in SA.
Interest deduction limitation rules also apply to certain reorganization transactions.

Value-added tax

VAT is levied in SA at a standard rate of 15 percent. VAT is largely directed at the domestic consumption of goods and services as well as at goods and services imported into South Africa. The tax is designed to be paid mainly by the ultimate consumer or purchaser in South Africa.

Most business transactions carried out in South Africa are subject to VAT. The tax is collected by businesses, which are registered as vendors with SARS. A vendor is required to register for VAT if they made taxable supplies or have a written contractual obligation to make taxable supplies of more than ZAR1 million during the relevant period. A vendor may register voluntarily in certain instances.

Foreign exchange controls

The Financial Surveillance Department (FSD) of the South African Reserve Bank imposes exchange controls on South African residents. Exchange control is not applicable to nonresidents, but they must comply with the notice requirements to the FSD in order to facilitate subsequent withdrawals of their capital from SA. Most commercial banks are authorized dealers of the FSD.

KEY CONTACTS

Andrew Lewis  
Director  
DLA Piper South Africa  
andrew.lewis@dlapiper.com  
T: +27 (0)11 302 0843  
View bio
SOUTH KOREA

RESIDENCE AND BASIS FOR TAXATION

A corporation formed in a ROK jurisdiction will be treated as a domestic corporation.

Domestic

Domestic corporations are obligated to pay corporate tax for all income generated domestically and in foreign countries.

Foreign

Foreign corporations are obligated to pay corporate tax for income from domestic sources.

TAXABLE INCOME

Domestic

Corporate tax for income from the business year is levied for taxable net income of businesses in each business year.

Foreign

Foreign corporations are subject to corporate tax at regular tax rates on a net income basis. A branch tax may be added on the corporate tax in accordance with the applicable tax treaty.

TAX RATES

The basic rate on corporate income tax starts at 10% with a top rate of 25%. Corporate local income tax equivalent to approximately 10% of the corporate tax is also imposed.

TAX COMPLIANCE
Corporate income tax returns must be filed for the taxable business activities of the corporations within 3 months from fiscal year end. An interim corporate income tax return should be filed within 2 months from the date of the entity’s mid-fiscal year.

Corporate local income tax return should be filed within a month from the due date of the corporate income tax return.

**ALTERNATIVE MINIMUM TAX**

Every domestic corporation is subject to minimum tax. A corporation pays the greater of its regular tax liabilities or its minimum tax liability. Foreign corporations are subject to minimum tax on taxable income that is effectively connected with domestic source income.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

Tax holidays and incentives

The corporate income tax exemption was effective on the application for foreign investments submitted on or before December 31, 2018, and it is abolished after January 2019.

Tax rulings

No broad-based rulings are available. Taxpayers can request a clear ruling with regard to a specific transaction of a taxpayer’s business through the advance ruling system.

Cash grant

Effective from January 1, 2019, most tax incentives concerning corporate income tax and personal income tax for foreign investors nullified. To compensate this change, Korean government announced to dramatically increase cash grant in accordance with Foreign Investment Promotion Act. Cash grant should be provided by the central and local governments of Korea as matching fund basis.

**CONSOLIDATION**

Eligible corporations that are affiliated (generally based on 100% stock ownership) may elect to file corporate income tax returns on a consolidated basis.

**PARTICIPATION EXEMPTION**

Not applicable for this jurisdiction.

**CAPITAL GAIN**

Capital gain or loss recognized by a corporation is included in corporate ordinary income or loss.
DISTRIBUTIONS

Distributions paid by a corporation are treated as dividends to shareholders within the limit of the amount obtained by subtracting the amount of capital from the amount of net asset value on the balance sheet.

LOSS UTILIZATION

Net operating losses can be carried forward 10 years.

TAX-FREE REORGANIZATIONS

Not applicable for this jurisdiction.

ANTI-DEFERRAL RULES

Not applicable for this jurisdiction.

FOREIGN TAX CREDITS

Foreign tax credits are available for foreign taxes paid. A "deemed" foreign tax credit may be available for reduced taxes by tax treaties, and an "indirect" foreign tax credit also may be available for taxes paid by foreign subsidiaries on profits repatriated to domestic corporations.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

A land transaction is not subject to VAT (value added tax). Property tax varies on the type of real property.

TRANSFER PRICING

Where the price of an international transaction in which either party to the transaction is a foreign related party is lower or higher than the arm's length price, the tax authority may determine or rectify the tax base and tax amount of a resident (including a domestic corporation and a domestic place of business) based on the arm's length price.

WITHHOLDING TAX

The payer of interest, dividends, business income, other income, etc. should withhold taxes in accordance with their respective withholding tax rates. Tax treaties can reduce or eliminate these taxes when the income is paid to a foreign person.
CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Inheritance tax, gift tax, stamp tax, securities transaction tax and capital duty may be imposed at national tax level.

EMPLOYMENT TAXES

Employers must withhold wage income tax. Employers also must pay 4 compulsory social insurances which are pension, health, unemployment and industrial accident in respect of compensation paid to employees. These taxes are deductible by an employer for corporate income tax purposes.

OTHER TAX CONSIDERATIONS

Value added tax (VAT) is a tax levied on added value acquired in the process of the transaction of goods or the provision of services. VAT is imposed on value generated at each step of a transaction, and applies a VAT rate of 10%. Certain supplies are eligible for VAT zero-rating or VAT exemption. VAT zero-rating is the same as VAT exemption in that no VAT is charged. However, only VAT zero-rating allows input VAT deduction for VAT incurred in relation to the VAT zero-rating supplies. The VAT imposed on businesses is calculated by subtracting the input tax from the output tax.

Value added tax should be reported and paid every 6 months, and the taxable period of 6 months is divided into 3 months for a preliminary report.

KEY CONTACTS

Roderik Bouwman
Partner
DLA Piper Netherlands
roderik.bouwman@dlapiper.com
T: +31 (0)20 5419 894
View bio
RESIDENCE AND BASIS FOR TAXATION

A corporation will be tax resident in Spain if:

- It has been registered under Spanish laws
- It is domiciled in Spain or
- Its center of effective management is located in Spain.

Domestic

A resident corporation is subject to Spanish tax on its worldwide income. A resident corporation generally is not subject to Spanish tax on the income of its foreign subsidiaries unless an anti-deferral provision applies (i.e., the CFC rules).

Foreign

Foreign corporations are not subject to Spanish tax except on:

- Income effectively connected with the conduct of Spanish trade or business
- Taxable income under the Spanish CFC rules or
- Look-through entities.

Tax treaties can reduce or eliminate these taxes.

TAXABLE INCOME

Domestic

Taxable income of a domestic corporation is equal to all net income less applicable deductions.
Foreign corporations operating in Spain through a permanent establishment (PE) are subject to Spanish tax at regular tax rates, as a general rule on a net income basis, with limitations on the deductibility of certain expenses (e.g., interest and royalties paid to the head office). Branch profits tax may also apply to income repatriated to a foreign entity.

**TAX RATES**

The general corporate income tax rate is 25 percent. Reduced tax rates of 20 percent, 15 percent, 10 percent and 1 percent are applied to certain corporations. An increased tax rate of 30 percent applies to credit institutions and certain oil companies.

**TAX COMPLIANCE**

The return shall be submitted within 25 days following the next 6 months after the end of the fiscal year to which the return refers.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

Rulings are available and they are binding for the Spanish Tax Authorities.

**Tax incentives**

There are several tax reliefs for the engagement in certain activities such as R&D credits, employment generation credits and incentives to the film industry.

**CONSOLIDATION**

Eligible corporations that are affiliated (generally based on at least 75-percent stock ownership or 70-percent stock ownership for listed companies and the majority of the voting rights) may elect to file corporate income tax returns on a consolidated basis. A Spanish group may apply tax consolidation when the dominant company is tax resident in a foreign country (horizontal consolidation) provided that it has legal personality, is taxed by a foreign tax identical or analogous to the Spanish corporate income tax, and is not resident in a tax haven.
PARTICIPATION EXEMPTION

Spanish resident corporations are entitled to the application of the participation exemption on dividends and capital gain received from foreign or domestic subsidiaries provided the following conditions are met:

- Direct or indirect participation of at least 5 percent. If the participation has been acquired before January 1, 2021, during a provisional period of 5 years, there is the possibility of applying this exemption to holdings with an acquisition value of over EUR20 million even though the 5 percent participation is not reached.

- The participation shall be held during the previous fiscal year, and

- In the case of foreign subsidiaries, they shall be subject to corporate income tax in its country of residence similar to the Spanish Corporate Income Tax. This requirement will be satisfied when the foreign entity is subject to a Corporate Income Tax rate of at least 10 percent or the country of residence has signed a Double Tax Treaty with Spain which includes an information exchange clause.

The above-mentioned dividends and capital gains are exempt, although, for the purposes of applying the exemption, the amount of the dividends and capital gains shall be reduced by 5 percent as management expenses, resulting in an effective taxation of 1.25 percent of the amount of the dividend or capital gain.

CAPITAL GAIN

Capital gain recognized by a corporation is taxed at the same rate as ordinary income (ie, 25 percent).

DISTRIBUTIONS

As a general rule, distributions paid by a corporation are treated as dividends to shareholders to the extent of the current and accumulated earnings and profits. A distribution in excess is treated as a return on capital up to the limit of the shareholder’s tax basis and thereafter is treated as taxable income.

LOSS UTILIZATION

Net operating losses (NOLs) can be carried forward with no time limit. However, the following limitations apply:

- Companies with net turnover in the previous fiscal year of less than EUR20 million can only offset NOLs up to the limit of 70 percent of the net taxable income

- Companies with net turnover in the previous fiscal year between EUR20 million and EUR60 million can only offset NOLs up to the limit of 50 percent of the net taxable income, and

- Companies with net turnover in the previous fiscal year of more than EUR60 million can only offset NOLs up to the limit of 25 percent of the net taxable income

Nevertheless, NOLs up to EUR1 million can be offset with no limit.
TAX-FREE REORGANIZATIONS

A special Spanish tax regime is applied to corporate reorganizations such as mergers and spinoffs. This regime establishes a tax deferral scheme for these transactions.

ANTI-DEFERRAL RULES

Generally, CFC rules apply when a controlled entity resident outside of the EU is subject to a tax rate below 75 percent of the effective Spanish Corporate Income Tax rate and obtains certain passive income, which shall be allocated to the Spanish controlling entity.

FOREIGN TAX CREDITS

If the participation exemption does not apply, withholding taxes and underlying tax can be deducted, under certain rules.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Not applicable for this jurisdiction.

TRANSFER PRICING

Arm’s-length principles generally are applied under Spanish law to transactions between related entities. The Spanish rules are in accordance with OECD guidelines.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

A 19 percent withholding tax applies to dividends and interest paid by a domestic corporation to a foreign person. Royalties are subject to a 24 percent withholding tax, except for payments made to EU residents which are subject to a 19 percent withholding tax. These rates could be subject to reduction by an applicable Double Tax Treaty.

Under the EU Parent-Subsidiary Directive and the EU Interest and Royalties Directive, dividends and royalties paid to an associated company may qualify for an exemption. In addition, as a general rule, interest payments to EU residents are exempt from withholding tax in Spain.

Service fees

As a general rule, withholding tax only applies to service fees if the services are performed in Spain, provided that a double tax treaty does not apply.
CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

One-percent capital duty applies to share capital distributions and to dissolution of Spanish entities, to be paid by the shareholders.

Transfer tax is applicable on certain transactions, including the transfer of real estate and the lease of real estate exempt from VAT. Transfer tax is not recoverable and paid by the buyer or lessee.

Stamp duty is applicable to notarial deeds over a valuable right or asset which can be registered in a public registry, among other transactions, with rates generally ranging from 0.5 percent to 3 percent depending on the region and the transaction.

EMPLOYMENT TAXES

Employers must withhold income tax. Employers also must pay social security contributions. Social security contributions are deductible by the employer for Spanish income tax purposes.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.

KEY CONTACTS

Carlos Rodriguez
Partner
DLA Piper Spain S.L.U.
carlos.rodriguez@dlapiper.com
T: +34 91 788 7309
View bio
SWEDEN

RESIDENCE AND BASIS FOR TAXATION

Domestic

Companies that are registered in Sweden or, if no registration is made, are domiciled in Sweden are regarded as unlimited tax liable in Sweden.

Foreign

Companies that are not considered unlimited tax liable in Sweden are treated as limited tax liable in Sweden.

TAXABLE INCOME

Domestic

An unlimited tax liable company is taxed on its worldwide income. The taxable income is generally calculated as the total income reduced by the costs generated by the business.

Foreign

A limited tax liable company is taxed on income deriving from a permanent establishment in Sweden and real estate located in Sweden.

TAX RATES

The corporate income tax rate is 20.6 percent.

TAX COMPLIANCE

Both unlimited and limited tax liable persons must submit an income tax return. Generally, the income tax return shall be submitted with the Swedish Tax Agency within 6 months after the end of the company’s financial year.
ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

Companies may apply for a binding advance ruling concerning a specific tax question with the Swedish National Board of Advance Rulings. The Swedish Tax Agency offers written tax guidance for a specific question.

Tax incentives

Key foreign employees may, during a 5-year period, qualify for a 25-percent reduction of the taxable portion of their income when working in Sweden.

CONSOLIDATION

In Sweden, it is not possible for companies to file corporate income tax returns on a consolidated basis. However, companies belonging to the same group, which applies to share ownership of more than 90 percent of the shares, may exchange group contributions. A group contribution is deductible for the paying company and is taxable for the recipient company.

PARTICIPATION EXEMPTION

Dividends and capital gain on business-related shares are tax exempt in Sweden.

Dividends and capital gain on unlisted shares in a Swedish company are normally considered business-related unless the shares are classified as current assets or inventory. Generally, the shares should be classified as capital assets. If the shares are listed, the shares must represent 10 percent or more of the voting rights in the company and the shares must have been business-related for a period of at least 1 year.

If the shares are held in a foreign company, the same requirements apply. However, the foreign company must also be regarded as the foreign equivalent of a Swedish limited liability company.

CAPITAL GAIN

See “Participation exemption.” If the participation exemption regime does not apply, the gain will be taxed at the ordinary corporate tax rate of 20.6 percent.
DISTRIBUTIONS

Distributions paid by a corporation to a shareholder are normally treated as dividends for tax purposes. A transfer of funds from a shareholder to a company is normally treated as a conditional or unconditional shareholder’s contribution.

LOSS UTILIZATION

Tax losses may be carried forward indefinitely. Changes in the ownership of a company with tax losses carried forward may result in the tax losses being permanently or temporarily restricted.

TAX-FREE REORGANIZATIONS

It is possible to transfer assets or a business at tax book value without triggering exit taxation.

Mergers and demergers may also be carried out without triggering any adverse tax consequences.

ANTI-DEFERRAL RULES

The controlled foreign corporation (CFC) rules state that a Swedish shareholder with a direct or indirect interest equal to at least 25 percent of the equity or voting rights in certain low-taxed foreign legal entities is subject to immediate taxation on its proportionate share of the foreign legal entity’s profits. Per 2021 law, a foreign company is considered low-taxed if its income is taxed at a rate below 11.33 percent, calculated under Swedish rules.

Shareholders in companies that are resident in approved countries are, however, not subject to CFC taxation. Approved countries are included in a white list, which is part of the Swedish Income Tax Act.

FOREIGN TAX CREDITS

Foreign taxes paid on income subject to Swedish taxation may be credited under the Swedish tax credit system.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Stamp duty may be triggered on the sale of real estate. If the buyer is a legal person, the tax rate is 4.25 percent of the basis. The basis for the tax is the higher of the purchase price and the tax assessment value of the real estate. The buyer and the seller are equally liable to pay the tax, but contractually, that liability is normally the buyer’s.

TRANSFER PRICING

The Swedish transfer pricing rules are based on the arm’s-length principle and OECD guidelines. Documentation requirements apply to cross-border transactions with affiliated companies.
WITHHOLDING TAX

Dividends, royalties, interest, rents, etc

Under the general rule, a dividend payment to a foreign shareholder is subject to 30-percent withholding tax. However, domestic law contains exemptions from withholding tax under certain conditions:

**Exemption 1**

Withholding tax should not be levied on a dividend payment to a legal person within the EU if such person holds more than 10 percent of the shares in the paying company and fulfills the requirements in Article 2 of the Parent Subsidiary Directive.

**Exemption 2**

Withholding tax should not be levied on a dividend payment if the shares are unlisted or, if listed, the recipient holds at least 10 percent of the voting rights in the paying company. The recipient must also fulfill the definition of being a "foreign company" and be the foreign equivalent of a Swedish limited liability company. Further, for the exemption to apply, it is required for the dividend payment to have been tax exempt under the participation exemption regime should the shareholder have been a Swedish limited liability company.

A rule from January 1, 2016 in the Swedish Withholding Tax Act states that dividends from a Swedish subsidiary to a foreign company should not be tax exempt if certain conditions are met.

Sweden does not levy withholding tax on interest or royalty payments. However, royalty payments made to nonresidents are deemed to derive from a Swedish business and are taxed as income from a permanent establishment in Sweden. Thus, the recipient is taxed in Sweden on the net royalty income at the ordinary corporate income tax rate of 20.6 percent. Sweden's right to tax royalties may be reduced under an applicable tax treaty.

**Service fees**

Not applicable for this jurisdiction.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Stamp duty may be triggered on the sale of real estate. There is no stamp duty or similar on the sale of assets. Sweden does not have transfer tax.

EMPLOYMENT TAXES

Employers are obliged to pay employer’s contributions at a rate of 31.42 percent of the total salary. In addition, employers are obliged to make tax deductions from the salary payments made to the employees.

OTHER TAX CONSIDERATIONS
Value Added Tax (VAT)

VAT should be charged on the supply of goods or services. Registration for VAT is normally mandatory if sales of taxable goods or services are made in Sweden by a taxable person. The standard VAT rate is 25 percent. Reduced rates apply on certain goods and services.
RESIDENCE AND BASIS FOR TAXATION

Domestic

Corporate taxpayers are resident under Swiss domestic tax laws if either their statutory seat or effective management is in Switzerland.

Foreign

Nonresident companies may be subject to Swiss corporate taxation if they:

- Are partners of a business partnership in Switzerland
- Have a permanent establishment in Switzerland
- Own Swiss real estate
- Have claims secured by a mortgage on Swiss real estate or
- Act as brokers for Swiss real estate.

TAXABLE INCOME

Domestic

Resident companies are subject to corporate income tax on their worldwide income with the exception of income attributable to foreign permanent establishments or foreign immovable property. Such income is excluded from the Swiss tax base and is only considered for rate progression purposes in cantons that still apply progressive tax rates.

Foreign

Non-resident companies in general are subject to tax only on Swiss source income (i.e., income and capital gain derived from Swiss business partnerships, permanent establishments (a fixed place of business through which the
business activity of an enterprise is wholly or partly carried out) or immovable property.

**TAX RATES**

Federal corporate income tax is levied at a flat rate of 8.50 percent on profits after tax (i.e., the effective tax rate, or ETR, is about 7.83 percent on profit before tax, since income and capital taxes are deductible in determining taxable income).

In addition, each canton has its own tax laws and levies cantonal and municipal corporate income taxes, generally imposed at flat rates.

As a general rule, the combined effective federal, cantonal and communal corporate income tax rate (ETR) currently varies between 12 to 22 percent on profits before tax, depending on the canton and municipality.

For associations, foundations and other legal entities, as well as collective investment vehicles, lower rates may apply.

Equity tax is levied on a cantonal and communal level. The tax rates currently vary from 0.001 to 0.60 percent. On a federal level, no equity tax is levied.

**TAX COMPLIANCE**

All corporate taxpayers must file a tax return at the end of their fiscal year.

**ALTERNATIVE MINIMUM TAX**

In half of the cantons, instead of corporate income tax, a minimum tax is paid, provided such minimum tax exceeds the corporate income tax otherwise due. There are no minimum taxes on a federal level.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

Tax holidays

On a federal level, the confederation may provide incentives by way of tax reductions to enterprises which establish themselves in certain areas of the country that are economically underdeveloped. In addition, federal aid may be granted as security on commercial loans or as a contribution to the payment of interest on such loans.

Tax incentives

On a cantonal level, business incentives may be granted for cantonal and communal income tax purposes in connection with new business activities in the canton. Business incentives may be obtained for creating a new presence which has particular economic interest for the canton. The new business activity additionally must not be in direct competition with existing local businesses. Lastly, and perhaps most importantly, business incentives are generally granted in connection with the creation of new local jobs. The number of jobs that must be created to benefit from business incentives is generally quite low (e.g., beginning at 10 to 20 jobs in most cantons). Business
incentives are obtained by negotiation with the competent cantonal authorities. Incentives may include up to a full or partial 10-year tax holiday on a cantonal/communal level as well as low-interest loans on new buildings and easy access to work permits.

Furthermore, as part of the implementation of the corporate tax reform that entered into force on January 1, 2020, Switzerland abolished its tax privileged regulations – in particular, the holding company, the mixed company, domiciliary company, principal company and finance branch regimes that have been considered harmful by the OECD. These regimes have been replaced by new, internationally accepted measures. The key substitute measures for corporate taxpayers are:

- Reduction of general tax rates, whereby the majority of the cantons now have an ETR (ie, the effective combined federal-cantonal-municipal rate) between 12 and 14 percent for all companies
- Introduction of a cantonal patent box system based on the modified nexus approach of the OECD, with tax relief for qualified income of up to 90 percent
- Introduction of an R&D super deduction at cantonal level of up to a maximum of 150 percent of the effective qualifying expenses and
- Increase of the asset base when a company or its activities and functions migrate to Switzerland.

The expiry of the special tax regulations is subject to transitional regulations, which should make it possible for companies who benefited from such regulations to increase their tax values from before 2020 through a special release mechanism of “hidden reserves” for 5 years after the expiry of January 1, 2020. This depends on the specific facts and circumstances of the companies.

Tax rulings

Tax rulings are available for almost every aspect of taxation, and Switzerland is not subject to EU state aid rules.

CONSOLIDATION

Switzerland does not have a tax consolidation system, and hence separate entity taxation applies for income tax purposes. The Swiss VAT Act provides for group taxation for VAT purposes.

PARTICIPATION EXEMPTION

Participation exemption is a proportional reduction from corporate income tax equal to the net participation income divided by taxable income. Net participation income is defined as the gross participation income from qualifying dividends or qualifying capital gains less related administration and financing costs and any depreciation of the participation that is linked to the dividend distribution or capital gain. In general, participation exemption results in a full exemption of participation income.

Qualifying dividends are dividends from investments representing at least 10 percent of the share capital or 10 percent of profits and reserves of another company or having a market value of at least CHF1 million. There is no requirement that the dividend-distributing subsidiary is liable to income tax in its jurisdiction.
Qualifying capital gains are generally entitled to participation exemption if the following conditions are cumulatively met: (i) the investment sold was owned by the company for a period of at least 1 year and (ii) it constitutes at least 10 percent of the share capital or 10 percent of profits and reserves of the underlying subsidiary.

Note that capital gains are only entitled to participation exemption provided the sales price exceeds the original investment costs. Therefore, previous depreciations on investments may be taxable.

**CAPITAL GAIN**

There are no special rules applicable other than participation exemption rules and special rules in certain cantons for real estate capital gains.

**DISTRIBUTIONS**

A federal 35-percent dividend withholding tax is levied at the source on the gross amount of dividend distributions made by Swiss companies. These withholding taxes can be reclaimed or be exempted at source depending on the applicable treaty.

**LOSS UTILIZATION**

Unused losses can be carried forward 7 years for corporate income tax purposes.

**TAX-FREE REORGANIZATIONS**

Provided certain prerequisites are met, reorganizations are possible on a tax-neutral basis, as long as the applicable tax accounting values of assets and liabilities remain the same and the assets remain taxable in Switzerland after reorganization.

**ANTI-DEFERRAL RULES**

Switzerland does not have anti-deferral rules such as controlled foreign corporation (CFC) rules. Note, however, that under recent Swiss court decisions, passive companies located in offshore jurisdictions have been treated as Swiss tax resident, resulting in taxation in Switzerland similar to CFC taxation.

**FOREIGN TAX CREDITS**

Switzerland primarily applies the tax exemption method in its tax treaties. On certain income streams (dividend, interest and license fees), source tax may be credited against the tax levied in Switzerland.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

Capital gain on Swiss immovable property is subject to a special cantonal real estate gains tax or to ordinary...
corporate income tax, depending on the system that is applied in the canton where the immovable property is located.

Moreover, about half of cantons levy a special wealth tax on real estate. This tax is due every year in addition to the general wealth tax. The tax is levied at the place where the property is situated and is assessed on the market or taxable value of the real estate without allowing for the deduction of debts. The applicable tax rates are between 0.02 and 0.30 percent.

**TRANSFER PRICING**

Arm’s-length principles generally apply. Switzerland uses the methods published in the OECD Transfer Pricing Guidelines and has no detailed transfer pricing legislation.

**WITHHOLDING TAX**

**Dividends, royalties, interest, rents, etc.**

Swiss withholding tax is a federal tax levied on certain types of investment income from Swiss sources, including dividends and interest payments. Royalties, management fees and interest payments on certain loans are in general not subject to withholding tax. The withholding tax is levied at a flat 35 percent rate, subject to reduction under any of the various income tax treaties Switzerland has concluded. Switzerland signed and ratified the Multilateral Instrument (MLI).

**Service fees**

Service fees are not subject to withholding tax.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

The tax on issued securities (also called stamp issuance duty) is 1 percent of the amount received in consideration for the participation rights, but not less than the nominal share capital with exemption for the first CHF1 million. This exemption is applicable for the establishment of corporations and for increases in capital up to CHF1 million. The tax base is equal to the amount paid in exchange for the remittance of the shares (ie, the nominal value and capital surplus). Issuance stamp tax generally is not due on share issues related to mergers, demergers, relocations to Switzerland or similar transactions.

Transfer stamp tax is levied on the transfer of ownership of certain securities which involve Swiss securities dealers. Swiss securities dealers include banks, fund managers and similar entities, but also ordinary companies that own taxable securities (eg, shares or bonds) with a book value of more than CHF10 million. The tax rate is 0.15 percent for Swiss securities and 0.30 percent for foreign securities. Various exemptions apply, and these exemptions must be checked on a case-by-case basis.

In most cantons, the transfer of real estate is subject to a conveyance tax whereas, on the federal level, no taxes of such kind are levied. As a general rule, conveyance tax is assessed on the purchase price or the taxable value of the real estate and is typically paid by the purchaser of the real estate.
EMPLOYMENT TAXES

All B-permit holders and foreign employees with no residence in Switzerland are taxed at source, and the employers must withhold the income tax. All other individuals must fill in a tax return and are subject to tax on their worldwide income if they have their permanent or temporary residence in Switzerland.

OTHER TAX CONSIDERATIONS

Not applicable.

KEY CONTACTS

Roderik Bouwman
Partner
DLA Piper Netherlands
roderik.bouwman@dlapiper.com
T: +31 (0)20 5419 894
View bio
RESIDENCE AND BASIS FOR TAXATION

A company – including a subsidiary of a foreign company – formed in Taiwan is treated as a Taiwan company.

Domestic

A Taiwan company is subject to Taiwan income tax on its worldwide income.

Foreign

A company with its head office outside Taiwan, including a foreign company with a branch office in Taiwan, is considered a foreign company for tax purposes, though the Taiwan branch itself is considered a domestic profit-seeking enterprise.

TAXABLE INCOME

Domestic

The taxable income of a domestic company is its worldwide net income, which is defined as gross annual income less costs and expenses, losses and taxes.

Foreign

A foreign company is subject to income tax only on its Taiwan-source income, which is either computed in the same manner as a Taiwan company or subject to withholding tax at a prescribed rate.

TAX RATES

Income tax is assessed at a rate of 20 percent, and the threshold for subjecting a Taiwan company to corporate income tax is TWD20,000 per annum.

TAX COMPLIANCE
A domestic company must file tax returns and pay any tax liabilities during the 5th month after the close of its fiscal year.

A domestic company must pay provisional income tax in an amount equal to 50 percent of the preceding year’s tax liability during the 9th month after the close of its fiscal year. However, if the company meets certain conditions, the company may opt to pay the provisional tax at an amount calculated on the basis of its operating income for the first 6 months of the current fiscal year.

Although Taiwan does not have a codified general anti-tax avoidance rule, Taiwan does employ the concept of substance over form, whereby the economic substance of a transaction is considered.

**ALTERNATIVE MINIMUM TAX**

According to the Taiwan Income Basic Tax Act, a domestic company or a foreign company with a fixed place of business/permanent establishment or business agent in Taiwan (PE) is subject to a separate alternative minimum tax (AMT) if it earns certain income that is tax exempt or enjoys certain tax incentives and the company’s basic income exceeds TWD500,000. The AMT rate is 12 percent. If the company’s regular income tax is greater than the AMT, no special action is required. If the AMT tax liability is greater than the regular income tax, the company is required to calculate and pay AMT.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

A taxpayer may apply to the tax authorities for advance tax rulings to clarify its tax issue or confirm its tax position.

**Tax incentives**

Taiwan offers certain tax incentives in order to promote economic development in certain industries, especially in R&D investments. Certain tax incentives are provided to investors if they are located in prescribed areas such as science parks, bonded zones and free-trade zones.

**CONSOLIDATION**

Consolidated returns may be filed by (i) a qualified financial holding company or (ii) a company which consummates a qualified merger, acquisition or spinoff transaction that holds at least 90 percent of the total issued shares of its Taiwan subsidiary for 12 consecutive months during a tax year.

**PARTICIPATION EXEMPTION**
Not applicable for this jurisdiction.

**CAPITAL GAIN**

Taiwan does not impose a separate capital gain tax (i.e., gains from the sale of securities and futures transactions are exempt from income tax). However, (a) a domestic company or a subsidiary of the foreign company – being considered a domestic company – is required to include any gains arising from securities and futures transactions in its AMT calculation in accordance with the Income Basic Tax Act and, (b) from January 1, 2021, a resident individual is required to include any gains arising from sale of the shares in a private company in their individual AMT calculation in accordance with the Income Basic Tax Act.

A 5-percent profit retention tax is imposed on undistributed profits.

**DISTRIBUTIONS**

For resident individuals, the gross dividend received may, at the election of such individual, either:

- Be included in such individual’s taxable income, whereby 8.5 percent of such dividend income will be treated as deductible amount (the maximum deductible amount is NT$80,000 for each household) or
- Be taxed separately on a flat rate of 28 percent and excluded from such individual’s taxable income.

For nonresident shareholders, dividends received are subject to 21-percent withholding tax, absent an available tax treaty for a reduced rate.

The dividends received by a domestic company from its investment in another domestic company are not included in the first-mentioned domestic company’s taxable income.

If a Taiwan company invests in foreign companies, dividends declared by such foreign companies must be included in the domestic company’s taxable income, but any foreign tax credits may be used.

**LOSS UTILIZATION**

Tax losses (for Taiwan companies and Taiwan branch offices of foreign companies) may be carried forward for 10 years if such company meets certain conditions. Losses may not be carried back.

**TAX-FREE REORGANIZATIONS**

Qualified M&A transactions may be afforded tax-free treatment according to the Business Mergers and Acquisitions Act.

**ANTI-DEFERRAL RULES**

On July 12, 2016, the Taiwan government amended the Income Tax Act and introduced the controlled foreign
company (CFC) and the criteria for determining a foreign company’s place of effective management (PEM) rules. However, the effective date of these new rules has not been announced by the Taiwan government.

FOREIGN TAX CREDITS

A foreign tax credit is available for income tax paid in other countries on income derived outside of Taiwan and may be used to offset the foreign tax paid against a Taiwan company’s tax liability.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

According to the Business Mergers and Acquisitions Act, stamp duty, deed tax, VAT and the Land Value Increment Tax are exempt under certain M&A transactions if they involve the sale and purchase of real property.

TRANSFER PRICING

Certain transactions between related parties (eg, where there is direct or indirect "substantive management control," material influence or control over a board of directors) must be conducted on arm's-length terms.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc

In general, Taiwan-source dividends are subject to withholding tax at 21 percent, while other profit distributions, interest income, rental income and royalties earned by foreign companies are subject to withholding tax at 20 percent. However, Taiwan has entered into tax treaties with 33 countries, resulting in reduced tax rates.

Service fees

Service fees are normally subject to a 20-percent withholding tax if considered Taiwan-source income, though apportionment of fees (ie, where only part of the service fees is Taiwan-source income) is possible. A company with a head office outside Taiwan and which is engaged in technical services in Taiwan for which the costs and expenses are difficult to calculate may apply for approval to treat 15 percent of its total service fees as income derived in Taiwan, which, if taxed at the 20-percent rate, would effectively reduce the tax rate to 3 percent.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Capital duty: A registration fee is charged on a company’s capital at a rate of TWD1 for every TWD4,000 capital.

Stamp duty: Stamp duty applies to various documents at different rates.

Securities transaction tax: 0.30 percent on gross proceeds from the sale of shares issued by Taiwan companies and 0.10 percent on gross proceeds from trading in corporate and financial bonds (though temporarily exempt) and other securities.
Luxury tax: The luxury tax is imposed on the sale of real property held for less than 2 years or import of passenger vehicles (exclusive of electric-powered vehicles), yachts, aircrafts, helicopters and light vehicles that cost more than TWD3 million.

**EMPLOYMENT TAXES**

An employer must withhold income tax from its payment of salaries to its employees. In addition, an employer is required to make partial payments of premiums for national health insurance for its employees, which include the regular premium plus a supplementary premium based on salaries and other payments to employees.

**OTHER TAX CONSIDERATIONS**

Effective as of May 1, 2017, a foreign enterprise, institution, group or organization with no PE in Taiwan, but that supplies electronic services to domestic individuals, with annual income derived from Taiwan that exceeds TWD480,000 shall be the taxpayer (the E-Services Provider) under the Taiwan Value-added and Non-value-added Business Tax Act, and shall apply by itself or appoint a Taiwan resident or an entity with a PE in Taiwan as its tax agent for taxation registration, filing bimonthly VAT returns and paying VAT.

On January 2, 2018, the Taiwan authority further introduced a ruling in regard to the income tax payable by the E-Services Provider, which applies retroactively from January 1, 2017. Under this ruling, the E-Services Provider is required to report its Taiwan-source income and file annual income tax returns and pay income tax, either by itself or through the Tax Agent, in regard to revenues derived from domestic individuals, while income tax for business-to-business transactions are withheld at source by the domestic business entities.

**KEY CONTACTS**

**Daniel Chan**  
Partner  
DLA Piper Hong Kong  
daniel.chan@dlapiper.com  
T: +852 2103 0821  
View bio

**Peng Tao**  
Partner  
DLA Piper  
peng.tao@dlapiper.com  
T: +1 650 833 2405  
View bio
TURKEY

RESIDENCE AND BASIS FOR TAXATION

A company is treated as a Turkey resident if its legal seat or place of management is in Turkey.

Domestic

A resident company is subject to corporate tax on its worldwide income and gains.

Foreign

A nonresident company is subject to tax on its Turkish-sourced income.

TAXABLE INCOME

Domestic

Taxable income includes all profits arising from relevant income with the exception of applicable exemptions.

Foreign

Taxable income of a nonresident company includes

- Fees professionally obtained in Turkey
- Profits derived by enterprises conducting commercial, agricultural and/or industrial activities which have an establishment or a permanent representative in Turkey
- Income derived from lease of real properties, movable properties and rights in Turkey
- Securities income and
- Other turnover (income) obtained from Turkey.
TAX RATES

Standard corporate tax rate is 20 percent. It is calculated based on the fiscal profits on an annual basis.

TAX COMPLIANCE

A tax year in Turkey may be a calendar year or a fiscal year. Corporate tax returns are due and must be filed in the 4th month (ie, between the 1st and the 25th day) following the end of a company’s accounting period. The tax should be paid by the end of a month in which the tax return is due. Subject to approval by the Ministry of Finance, companies may choose to use a special accounting period.

Corporations are subject to pay an advance corporate tax to be offset against their ultimate tax liability. Advance tax is paid at 20 percent based on a corporation’s quarterly profits, and the ultimate liability of a corporation is determined by the annual corporate income tax return. Corporations are required to submit their advance corporate tax returns by the 2nd month (ie, the 14th day of the month) after a relevant quarter which may be extended by the Ministry of Finance. Tax becomes payable in the same month (ie, the 17th day of the month).

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

It is possible for taxpayers to request an advance ruling on the tax treatment of specific transactions.

Tax incentives

There is a wide range of tax incentives for certain investments with incentive certificates. Reductions on corporate tax rates, governmental support for income tax for wages, exemptions on the value-added tax and customs duty as well as refund support on value-added tax are among those incentives. The said incentives may differ based on the relevant investments’ sector, scope and size.

CONSOLIDATION

Tax consolidation is not allowed under Turkish tax regime. Each company of a group must file a separate corporate tax return for itself.

PARTICIPATION EXEMPTION
A participation exemption is provided to dividends derived by resident companies from other Turkish companies. Dividends derived from nonresidents may also benefit from participation exemption. Such dividends are exempt from tax provided that:

- At least 10 percent of the nonresident company’s paid-in capital is owned by the resident company for a period of at least 1 year from the receiving date of the dividend without any interruptions
- The nonresident company is incorporated as a joint stock company or a limited liability company
- The nonresident company is subject to a corporate tax with at least a 15-percent rate (20 percent in cases where the principal activity of the taxpayer provides financing, including financial leasing, insurance or investment in marketable securities)
- The dividends are remitted to Turkey by the date the filing of the annual corporate tax return is due

**CAPITAL GAIN**

Capital gains derived by all companies are generally taxable as ordinary income. However, if gains arising from the sale of a depreciable fixed asset is re-invested in a new fixed asset, such capital gain is not subject to tax.

In case of a sale of shares of a resident company by a nonresident company, capital gains arising from such transaction are subject to corporate tax.

Capital gains derived from the disposal of shares are exempted from corporate tax at a rate of 75 percent if the term of ownership is at least 2 years and the capital gain is in a special fund under shareholder’s equity for 5 years following the sale.

**DISTRIBUTIONS**

The rate of the withholding tax applicable for international holding companies’ dividend distributions (based on the profits derived from their foreign participations) to nonresident companies are subject to a withholding tax rate of 15 percent. This rate may be subject to reduction under an applicable double taxation treaty.

**LOSS UTILIZATION**

Net operating losses can be carried forward for 5 years but cannot be carried back with the exception of the company’s liquidation.

**TAX-FREE REORGANIZATIONS**

Not applicable for this jurisdiction.

**ANTI-DEFERRAL RULES**
Under the Turkish Controlled Foreign Company (CFC) rules, taxes paid by a foreign affiliate (such as income tax and corporate tax) may be set off against the taxation of the nonresident company's earnings.

**FOREIGN TAX CREDITS**

Foreign tax credits are available for foreign taxes paid, up to the amount of the corporate tax in Turkey attributable to the foreign income. The credits which are not used may be carried forward for 3 years. The limit for a foreign tax credit is a corporate tax attributable to foreign income in Turkey.

**SPECIAL RULES APPLICABLE TO REAL PROPERTY**

The real property tax is calculated based on the relevant real property's value at different rates (e.g., 0.1 percent for lands and 0.2 percent for buildings). Square meter rates are determined based on location and are increased in large cities.

**TRANSFER PRICING**

Turkish tax regime generally adopts arm's-length principles for transactions realized between related entities.

**WITHolding Tax**

**Dividends, royalties, interest, rents, etc**

A 15-percent withholding tax applies to dividends paid to the nonresident companies.

The rate applicable to the interest on loans paid to an international institution or a foreign bank with the status of a financial entity is 0 percent. However, interests on loans from other nonresident entities are subject to an applicable rate of 10 percent.

A 20-percent withholding tax applies to royalties, paid to a nonresident.

The rates mentioned above may be subject to reduction under an applicable tax treaty.

**Service fees**

Payments for professional services (e.g., technical assistance, consulting, design or supervision) are subject to a 20-percent withholding tax. This rate may be subject to reduction under an applicable tax treaty.

**Capital Duty, Stamp Duty and Transfer Tax**

No capital duty. Stamp duty is payable at rates ranging from 0.189 percent to 0.948 percent based on the relevant document's type.

Transfers of real estate are subject to a real estate transfer tax calculated at a rate of 4 percent of the transfer
value. Such amount is split equally between the buyer and the seller.

**EMPLOYMENT TAXES**

Employers are obliged to withhold income tax at progressive income tax rates on salaries. The applicable rate is applied between 15 percent to 35 percent.

The general rate for the employers' social security contribution is 20.5 percent, while the social security contribution rate applicable for the employees is 14 percent. Employers and employees are also subject to unemployment benefit plan contributions based on the gross salary. Applicable rates for such contribution are 2 percent for employers and 1 percent for employees.

**OTHER TAX CONSIDERATIONS**

An environmental tax is applied on places of business at fixed rates that change every year based on the determined categories.

Bank and insurance charges are subject to transaction tax at a general applicable rate of 5 percent.

**KEY CONTACTS**

Maral Minasyan  
Kolcuolu Demirkan Koçakl  
Attorneys at Law  
mminasyan@kolcuoglu.av.tr
RESIDENCE AND BASIS FOR TAXATION

All companies incorporated in Ukraine are considered residents for corporate income tax purposes (i.e., the incorporation principle).

Foreign companies as well as their representative offices registered in Ukraine are treated as nonresidents for corporate income tax purposes.

**Domestic**

Residents are taxed on their worldwide income. Residents may also use some simplified tax regimes envisaging lower tax rates.

**Foreign**

Nonresidents are taxed on Ukraine-sourced income. Permanent establishments of nonresidents are taxed in part on profits attributable to their activities in Ukraine under local rules.

Double tax treaties may reduce or eliminate taxation provided relevant conditions envisaged therein are met.

TAXABLE INCOME

**Domestic**

Taxable income of a resident is defined as profit calculated under local GAAP or IFRS, whichever is applicable, subject to adjustments envisaged in the Tax Code.

Generally, all expenses supported by primary source documents may be deducted upon the computing of taxable income.

**Foreign**

Ukraine-sourced income of a nonresident generally consists of passive income paid by Ukrainian residents.
Where a nonresident has permanent establishment in Ukraine, profit attributable to such permanent establishment is calculated under one of the following methods:

- Under the same rules applicable to Ukrainian residents (ie, the direct method)
- As total revenues of permanent establishment multiplied by 30 percent (ie, the indirect or deemed profitability method)
- Under a separate balance sheet of nonresident approved by local Ukrainian tax authority (ie, the separate balance sheet method)

**TAX RATES**

Corporate income tax rate is 18 percent. Lower tax rates are applicable to income from insurance and gambling activities.

**TAX COMPLIANCE**

Quarterly tax returns must be submitted no later than the 40th calendar day following the end of reporting quarter. Yearly tax returns must be submitted no later than the 60th day following the end of reporting year.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

A 0-percent tax rate is applicable to small companies declaring gross annual income below UAH3 million and that pays wages to each employee which exceeds 2 minimal statutory wages, under the following conditions:

- A company is newly established
- Such company declares gross annual income below UAH3 million and has 5 to 20 employees on average for 3 consecutive years

**Tax rulings**

Tax rulings (ie, tax consultations) are generally of 2 types:

- Generalized
- Individual
Generalized tax consultations are issued by the Ministry of Finance and provide guidance on most problematic issues.

Taxpayers may also request an individual tax ruling applicable to their individual case.

Taxpayers who act in accordance with a generalized and/or individual tax ruling may not be imposed with sanctions. Tax consultations issued by tax authorities may be contested by a taxpayer in the court.

Tax incentives

There are tax incentives envisaged for certain businesses (eg, for companies established by organizations of people with disabilities and companies financed via international technical aid).

CONSOLIDATION

No consolidated tax returns are envisaged. Consolidated financial reporting is obligatory for certain groups.

PARTICIPATION EXEMPTION

Domestic dividends received from payers of Ukrainian corporate profit tax are exempt from taxation. Dividends received from nonresidents are included in the taxable income of Ukrainian companies.

CAPITAL GAIN

Capital gain is treated as a part of taxable income and is subject to standard 18-percent corporate income tax rate. The Tax Code provides for special adjustment of taxable profit in respect of capital gain.

DISTRIBUTIONS

Upon distribution of a dividend, a company may be required to pay advance corporate income tax on the dividend (ACIT) at a 18-percent tax rate. ACIT is paid only if certain conditions are met and may further be credited against corporate income tax due for future periods.

LOSS UTILIZATION

Declared losses may be carried forward without limitations.

TAX-FREE REORGANIZATIONS

A reorganization of a Ukrainian resident company is generally tax neutral. Tax attributes should also be generally transferable to successor entities within reorganizations.
ANTI-DEFERRAL RULES

CFC

Not applicable for this jurisdiction.

PFIC

Not applicable for this jurisdiction.

FOREIGN TAX CREDITS

Upon availability of a valid and legalized certificate confirming payment of taxes abroad, such taxes may be credited against taxes due in Ukraine; however, the credit may not exceed the amount of domestic tax due.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Residents and nonresidents pay property tax on real property they own and on leased land. Reporting and payment of property tax is separate for land and real estate.

Property tax on land is set by local authorities depending on the type of land and its monetary evaluation. Tax on leased land is paid in the form of rent.

Property tax on real estate is established by local authorities as a fixed rate per 1 square meter of real estate.

TRANSFER PRICING

Ukrainian rules are based on OECD guidelines. Arm's-length principles are generally applied under Ukrainian tax law to qualifying controlled transactions.

The following transactions may be qualified as controlled:

- With related nonresidents
- With nonresident commission agents
- With nonresidents registered in low-tax jurisdictions (the list of such jurisdictions is approved by the government)
- With nonresidents of certain legal organizational forms (e.g., pass-through entities such as a UK LLP or Danish KS) which do not pay corporate income tax or are not tax residents in the country of incorporation (the list of legal forms is approved by the government)

WITHHOLDING TAX
Dividends, royalties, interest, rents, etc

Dividends, royalties, interest and rents paid to a nonresident are subject to standard 15-percent withholding tax unless relief is granted by relevant double tax treaty. Other rates are envisaged for certain types of income such as insurance payments or freight.

Service fees

Generally, service fees payable to nonresidents are exempt from withholding tax. Exceptions are:

- Engineering fees, which are subject to a 15-percent withholding tax (avoided under most double tax treaties in force for Ukraine)
- Advertising fees, which are subject to a 20-percent withholding tax paid on top of income and at the expense of Ukrainian company (and which is not relieved under double tax treaties)

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

State duty and pension duty are applicable to certain transactions such as the sale of real estate, vehicles and some other transactions.

EMPLOYMENT TAXES

Employers act as tax agents in relation to their employees and pay the following taxes:

- 18 percent of personal income tax is withheld from paid income
- 1.5 percent of military duty is withheld from paid income
- 22 percent of unified social contribution is paid on top of income at the cost of employer (subject to minimum and maximum caps)

OTHER TAX CONSIDERATIONS

A simplified taxation system is available for Ukrainian companies upon certain conditions and allows for payment of a single tax at the rate of 5 percent applied on turnover or 3 percent (if the company is a VAT payer).
RESIDENCE AND BASIS FOR TAXATION

Companies incorporated in the UAE are considered tax residents. For the application of any of the UAE’s Double Tax Treaties, a company can obtain a Tax Residency Certificate, provided it meets the relevant conditions.

TAXABLE INCOME

There is currently no federal UAE corporate income taxation. The existing income tax decrees at Emirate level (the UAE consists of 7 Emirates, including Abu Dhabi and Dubai) are not applied in practice.

Currently, income taxes are only imposed at Emirate level on the following:

- Oil and gas producing companies and
- Branches of foreign banks.

Over the past years, there have been discussions to introduce corporate income tax at the UAE federal level, although this has not yet materialized in any proposed legislation.

TAX RATES

Oil and gas producing companies pay tax in the form of royalties as per specific government concession agreements, which are confidential.

Branches of foreign banks are subject to income tax at a rate of 20 percent.

TAX COMPLIANCE

Only oil and gas producing companies and branches of foreign banks are required to register with the tax authorities and file tax returns.
ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

The UAE has a large number of Emirate-instated Free Zones where the usual mainland foreign ownership restrictions do not apply. Entities registered in the Free Zones are not liable to pay tax at the Emirate level for a specific period. Free Zone entities may either be exempt from tax or subject to a 0-percent tax rate, depending on the regulations in the specific Free Zone.

CONSOLIDATION

Not applicable for this jurisdiction.

PARTICIPATION EXEMPTION

Not applicable for this jurisdiction.

CAPITAL GAIN

At present, there is no capital gains taxation in the UAE. For taxpaying entities, such as oil and gas-producing companies, capital gains are taxed as part of business profits.

DISTRIBUTIONS

No specific tax rules apply in relation to distributions by UAE companies.

LOSS UTILIZATION

Branches of foreign banks may carry forward losses for a limited number of years, depending on the Emirate of establishment. For other companies, loss utilization is not applicable in the UAE.

TAX-FREE REORGANIZATIONS

Not applicable for this jurisdiction.

ANTI-DEFERRAL RULES

Not applicable for this jurisdiction.
FOREIGN TAX CREDITS

Not applicable for this jurisdiction.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Not applicable for this jurisdiction.

TRANSFER PRICING

Not applicable for this jurisdiction.

WITHHOLDING TAX

Not applicable for this jurisdiction.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

A Real Estate Transfer Fee (RETF) is applicable to transfer of real property at rates which differ per Emirate. In Dubai, the total RETF is 4 percent and is equally shared between seller and buyer. The rates in most other Emirates are lower than in Dubai.

EMPLOYMENT TAXES

Social security

Social security is only applicable to UAE and other GCC nationals (i.e., UAE and GCC passport holders).

End of service benefits

According to the UAE labor law, all employees who complete a period of continuous service that is longer than 1 year are entitled to a gratuity computed and accrued by employers according to either Emirate- or Free Zone-specific regulations.

OTHER TAX CONSIDERATIONS

Value Added Tax

The UAE introduced value added tax (VAT) on January 1, 2018. The VAT regime is loosely based on the EU VAT system with a number of notable differences. The UAE VAT applies to most supplies of goods and services, including the import of goods and services. The standard VAT rate is 5 percent. For specific activities, a zero rate applies (such as on exports), whereas other activities may be exempt (such as financial services).
Customs Duty

The UAE is a member of the Gulf Cooperation Council’s (GCC) Customs Union, which is governed by the GCC Customs Law. The GCC Customs Union is based on the principle of a single entry point upon which all customs duty on foreign imported goods is collected. Under the GCC Customs Law, customs duties (if any) are levied over the customs value of the foreign imports (e.g., the Cost, Insurance and Freight, or CIF, value).

KEY CONTACTS

Ton van Doremalen  
Partner and Head of Tax, Middle East  
DLA Piper Dubai  
ton.vandoremalen@dlapiper.com  
T: +971 4438 6127  
View bio
RESIDENCE AND BASIS FOR TAXATION

A company will be treated as a UK resident if it is incorporated in the UK or centrally managed and controlled (generally at the board level) in the UK.

Domestic

A UK resident company is subject to UK corporation tax on its worldwide income and gains (subject to relief for any tax paid on the same income or gains in other jurisdictions). The company may elect to leave out of account all trading profits and losses arising from branches outside the UK.

A UK resident company may be subject to the UK’s diverted profits tax where it has entered into arrangements with a related person and that person or the transactions lack economic substance, and the arrangements result in a reduction in the UK resident company’s taxable profits.

Foreign

A non-UK-resident company is not subject to UK tax except on:

- Income from a business carried on through a UK permanent establishment or from a trade of dealing in or developing UK land (irrespective of whether there is a UK permanent establishment)
- Income from intangible property that is referable to sales of goods, services or other property in the UK, where the income is receivable in a low or no tax jurisdiction (under the offshore receipts in respect of intangible property (“ORIP”) rules)
- Other UK source income, but only to the extent of any withholding tax borne by that income, and
- Capital gains arising on disposals of interests in UK land and certain disposals of assets (wherever situated) that derive at least 75 percent of their value from UK land (see Capital gain)

A non-UK resident company may be subject to the UK’s diverted profits tax where either:

- It has a UK permanent establishment that has entered into arrangements with a related person and that
person or the transactions lack economic substance, and the arrangements result in a reduction in the taxable profits of the permanent establishment, or

- The company has entered into arrangements with a person who is carrying on activity in the UK and the arrangements are designed to ensure that the company does not have a permanent establishment in the UK.

A new digital services tax was introduced from April 1, 2020. It applies to businesses that provide social media platforms, internet search engines and online marketplaces, and any online advertising businesses that derive significant benefit from the foregoing businesses. Businesses are within the digital services tax when the group’s worldwide revenues from in-scope digital activities are GBP500 million or more, and at least GBP25 million of these revenues are attributable to UK users.

**TAXABLE INCOME**

**Domestic**

Taxable income of a resident company is equal to all gross income and gains less applicable deductions.

**Foreign**

Taxable income of a non-resident company is equal to the gross income of the business carried on through the UK permanent establishment less any deductions applicable to that UK business.

Separate rules apply to determine the amount of taxable income under the diverted profits tax and ORIP rules. The digital services tax is calculated by reference to revenue, rather than profit.

**TAX RATES**

The standard corporation tax rate is 19 percent.

Where the diverted profits tax applies, the applicable tax rate is 25 percent, and income subject to the ORIP rules is taxed at 20 percent.

The digital services tax rate is 2 percent of group revenue derived from UK users (in excess of a de minimis revenue of GBP25 million), although there is an alternative ‘safe harbour’ calculation for groups with low operating margins.

**TAX COMPLIANCE**

Corporation tax returns are due within 12 months of the end of a company’s accounting period, and the tax should be paid within 9 months of the end of that accounting period. UK companies can choose the date which marks the end of their accounting period, December 31 and March 31 are common, but any date can be chosen.

Larger companies are required to make quarterly payments in respect of corporation tax. Broadly speaking:
Companies with annual profits of GBP1.5 million or more (calculated on a group basis) are required to pay corporation tax in the 7th and 10th months of the current accounting period and the 1st and 4th months after the end of the accounting period, and

Companies with annual profits of GBP20 million or more (calculated on a group basis) must pay corporation tax in the 3rd, 6th, 9th and 12th months of the current accounting period.

Separate rules apply to the payment of the diverted profits tax and the digital services tax and to tax due under the ORIP rules.

**ALTERNATIVE MINIMUM TAX**

Not applicable for this jurisdiction.

**TAX HOLIDAYS, RULINGS AND INCENTIVES**

**Tax holidays**

Not applicable for this jurisdiction.

**Tax rulings**

No broad-based rulings are available. On certain issues, taxpayers can request a private letter ruling that applies only to the specific issue.

**Tax incentives**

There are tax incentives for specific activities and behaviors, including R&D credits and enhanced deductions for expenditure on certain types of environmentally-friendly installations or for investment in economically deprived parts of the UK. The patent box regime offers a reduced effective 10 percent rate of corporation tax for income from certain IP which is developed or managed in the UK. There are capital allowances at different rates on various items of machinery and plant and a 3 percent allowance on building costs involved in constructing new commercial buildings.

**CONSOLIDATION**

Eligible corporations may enter into a "group payment arrangement," whereby one company makes itself responsible for administering the corporation tax affairs of all members of the group. However, this is an administrative arrangement only, and all UK companies are required to file separate corporation tax returns, calculate their respective liabilities separately and remain liable for their own corporation tax.

**PARTICIPATION EXEMPTION**

Almost all dividends received from foreign subsidiaries are exempt from corporation tax except where anti-avoidance legislation applies. Capital gains recognized on the sale of shares in foreign or UK subsidiaries are
exempt from tax provided that:

- The subsidiary is a trading company (i.e., one whose income is substantially derived from activities other than passive investment) or the holding company of either a trading group or a trading sub-group, and

- The selling company has held at least 10 percent of the shares in the subsidiary for at least 12 months in the last 6 years.

**CAPITAL GAIN**

Capital gains realized by a company are taxed at the same rate as trading income. Capital losses may reduce capital gains but not trading income. Certain types of profits and losses — those from debt and intellectual property — are always treated as income under special regimes which reflect the accounting treatment of those types of assets.

Capital gains realized by non-resident companies are not taxed in the UK, even if they arise on the disposal of UK assets, unless:

- The asset is used for the purpose of a trade carried on by the company through a UK permanent establishment, or

- The asset comprises an interest in UK land or comprises certain assets (wherever situated) that derive at least 75 percent of their value from UK land.

**DISTRIBUTIONS**

Distributions paid by a UK company are generally treated as dividends to shareholders. UK company law forbids distributions which exceed accumulated realized profits and restricts a company's ability to repay capital, which (in relation to public companies) requires a court order.

**LOSS UTILIZATION**

Trading losses can be carried forward indefinitely and can be carried back 1 year (or in certain limited circumstances up to 3 years). Trading losses can also be surrendered between group companies (provided, in the case of losses arising prior to April 2017, that they are utilized in the year in which they arose). However, the use of carried forward trading losses is limited to the first GBP5 million of taxable profit (per group) plus 50 percent of profits in excess of GBP5 million.

**TAX-FREE REORGANIZATIONS**

Many forms of group reorganization can be achieved on a tax-free basis, due to a combination of reliefs, principally an automatic deferral of corporation tax on transfers of capital assets (including shares) between 2 UK resident group companies, and relief where shares are transferred in consideration of an issue to the transferor of shares or loan notes in the transferee.
ANTI-DEFERRAL RULES

Under the UK controlled foreign company (CFC) rules, a UK resident company may be taxed on the income of its foreign subsidiary. The scope of these rules is intended to be limited to situations where UK-source income has been artificially diverted into an overseas, low tax jurisdiction, particularly tax havens.

FOREIGN TAX CREDITS

Subject to limitations, foreign tax credits are available for foreign taxes paid. In the relatively rare situations where dividends received from overseas subsidiaries are not completely exempt from UK corporation tax, the amount of tax payable on the dividend will be subject to a credit for foreign tax paid or withheld by the subsidiaries (subject to a cap to combat certain avoidance structures).

SPECIAL RULES APPLICABLE TO REAL PROPERTY

An additional annual tax charge (the annual tax on enveloped dwellings or ATED) is made on companies which own or control residential property of more than GBP500,000 in value. Various exemptions apply to companies which develop, lease or trade property or use the property for other business purposes, which should have the effect of restricting the charge to companies which are used simply to own the private homes of high net worth individuals. The amount of the charge varies from GBP3,700 to GBP236,250 according to the value band into which the property falls.

TRANSFER PRICING

Arm’s-length principles generally are applied under UK law to transactions between related entities. The UK rules generally follow OECD principles.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc

There are no withholding taxes on dividends paid by a UK company to any shareholder.

A 20 percent withholding tax applies to royalties, yearly interest, certain qualifying annual payments and rents paid by a UK letting agent or tenant to a non-resident company, subject to reduction under an applicable income tax treaty and, in the case of rents, the non-resident landlord scheme.

It is sometimes possible to structure loan arrangements so that payments equivalent to interest fall outside the definition of yearly interest (such as the use of discounted bonds). Interest payable on a loan instrument listed on a recognized stock exchange is not subject to any withholding.

Service fees
Certain payments for construction services provided in the UK are subject to a form of withholding tax at either 30 percent or 20 percent unless the party providing the service is registered for gross payment.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

No capital duty. Stamp duty is payable at 0.50 percent on transfers of shares, but there is an exemption for most transactions within groups, and for transfers of shares in companies which are listed on the London Stock Exchange’s Alternative Investment Market (AIM).

Transfers of real estate within the UK are subject to a transfer tax. However, the specific tax and the applicable rate depends upon which part of the country the real estate is situated in.

**England and Northern Ireland (SDLT)** – if the property is situated in England or Northern Ireland, rates of up to 5 percent apply on the transfer of non-residential property. Higher graduated rates apply to the transfer of residential property of up to 12 percent, where the value of the property exceeds GBP1,500,000 and a punitive 15 percent rate can apply to certain acquisitions of residential property by corporate entities. Higher rates of SDLT also apply to purchases of additional residential properties and purchases of residential properties by companies (3 percent above the normal graduated rates of SDLT). A further 2 percent surcharge on the purchase of residential properties by non-resident buyers will apply from April 1, 2021.

**Scotland (LBTT)** – if the property is situated in Scotland, rates of up to 5 percent apply for non-residential property and higher graduated rates apply to the transfer of residential property of up to 12 percent, where the value of the property exceeds GBP750,000. A further 4 percent above the normal LBTT rate applies to purchases of additional residential properties in Scotland.

**Wales (LTT)** – if the property is situated in Wales, rates of up to 6 percent apply for non-residential property and higher graduated rates apply to the transfer of residential property of up to 12 percent, where the value of the property exceeds GBP1,500,000. A further 4 percent above the normal LTT rate applies to purchases of additional residential properties in Wales.

**EMPLOYMENT TAXES**

Employers must withhold income tax (ie, pay as you earn or PAYE) and a social security tax (ie, primary national insurance contributions). Employers must also pay secondary national insurance contributions. Secondary contributions are deductible by an employer for UK corporation tax purposes, but it is not generally permitted to recover them from the employee. There are no withholding obligations at a local level in the UK.

**OTHER TAX CONSIDERATIONS**

VAT applies generally at 20 percent to supplies of goods and services taking place in the UK, subject to a reduced rate of 5 percent for specified goods and services, and exemptions and 0-rating of certain goods and services.
## KEY CONTACTS

### Mark Burgess
Partner  
DLA Piper UK LLP  
mark.burgess@dlapiper.com  
T: +44 (0)121 262 5972  
View bio

### Ben Brown
Partner  
DLA Piper UK LLP  
ben.brown@dlapiper.com  
T: +44 (0)20 7796 6204  
View bio

### Matt Davies
Senior Associate  
DLA Piper UK LLP  
matt.davies@dlapiper.com  
T: +44 (0)207 796 6423
RESIDENCE AND BASIS FOR TAXATION

A corporation formed in a US jurisdiction will be treated as a domestic corporation.

Domestic

A domestic corporation is subject to a modified territorial tax regime on US-source income and certain earnings related to foreign entities. For tax years beginning in 2018, a domestic corporation is generally not subject to tax on income of its foreign subsidiaries unless the global intangible low-taxed income (GILTI) or another anti-deferral provision applies (i.e., the CFC or PFIC rules).

Foreign

Foreign corporations generally are not subject to US tax except on

- Income effectively connected with the conduct of a US trade or business and
- Certain FDAP (fixed or determinable annual or periodical gains, profits and income, which is generally passive) income from US sources.

Tax treaties can reduce or eliminate these taxes.

TAXABLE INCOME

Domestic

Taxable income of a domestic corporation is equal to all gross income less applicable deductions.

Foreign

Effectively connected income is subject to US tax at regular tax rates on a net income basis. In addition, a branch profits tax at a rate of 30 percent may apply to foreign corporations operating through a branch in the US. Gross FDAP income is taxed at a flat 30-percent rate and cannot be reduced by deductions. Tax treaties can reduce or eliminate these taxes.
TAX RATES

Flat federal corporate income tax rate of 21 percent. State and local taxes also may apply.

TAX COMPLIANCE

Domestic corporate income tax returns are due on the 15th day of the fourth month after the end of the tax year. A taxpayer may also file for a 6-month extension of the due date.

ALTERNATIVE MINIMUM TAX

The corporate alternative minimum tax is repealed for tax years beginning after 2017.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

An industry issue resolution may be requested to provide generally applicable guidance on frequently disputed or burdensome business tax issues affecting a significant number of taxpayers. Pre-filing agreements may be requested by a taxpayer for a transaction already executed, prior to filing the applicable year’s tax return. Advance pricing agreements may be available to address transfer pricing on future transactions between related parties. A taxpayer may also request a private letter ruling for guidance on specific issues as to that specific taxpayer.

Tax incentives

Tax incentives exist for specific activities and include R&D credits and deductions for certain US production activities. US corporate taxpayers earning foreign-derived intangible income (FDII) may qualify for a reduced effective tax rate on such income. Property acquired and placed in service may qualify for 100-percent bonus depreciation deduction in the year of acquisition.

CONSOLIDATION

Eligible corporations that are affiliated (generally based on at least 80-percent stock ownership) may elect to file corporate income tax returns on a consolidated basis.

PARTICIPATION EXEMPTION

Dividends received from foreign corporations may qualify for a 100-percent participation exemption, subject to ownership and holding period requirements. Dividends received from domestic corporations may qualify for a
dividends-received deduction, subject to ownership requirements.

**CAPITAL GAIN**

Long-term capital gain of non-corporate taxpayers may be eligible for reduced tax rates. Capital gain recognized by a corporation is taxed at the same rate as ordinary income. Capital loss may reduce capital gain, but not ordinary income.

**DISTRIBUTIONS**

Distributions paid by a corporation are treated as dividends to shareholders to the extent of the current and accumulated earnings and profits (E&P) of the payer corporation. A distribution in excess of current and accumulated E&P is treated as a return of capital to the extent of a shareholder’s tax basis and thereafter is treated as capital gain.

**LOSS UTILIZATION**

Generally, net operating losses arising in tax years beginning before 2018 may offset 100 percent of taxable income, and may be carried back 2 years or forward 20 years. Net operating losses arising in tax years beginning 2018 or later may offset up to 80 percent of taxable income in the year applied, with excess losses carried forward indefinitely. Special rules apply to net operating losses under the CARES Act.

**TAX-FREE REORGANIZATIONS**

Qualifying corporate formations, combinations and divisions may be tax-free to a participating corporation and its shareholders, except to the extent of any non-qualifying property received (i.e., “boot”). Special rules apply to cross-border reorganizations.

**ANTI-DEFERRAL RULES**

**CFC**

Under the controlled foreign corporation (CFC) rules, a domestic corporation may be subject to tax on a current basis on Subpart F income of a foreign subsidiary. A domestic corporation may also be subject to tax on a current basis on the GILTI income of a foreign subsidiary.

**PFIC**

Under the passive foreign investment company (PFIC) rules, a foreign corporation may be treated as a PFIC if the percentage of its gross income or assets that are treated as passive exceeds certain thresholds. A shareholder of a PFIC may be subject to current US tax and other unfavorable tax consequences on gain from the sale of PFIC stock and on certain distributions from a PFIC.
FOREIGN TAX CREDITS

Subject to limitations, foreign tax credits may be available for foreign taxes paid. An "indirect" foreign tax credit may be available to domestic corporations for taxes paid by on Subpart F income or GILTI income or distributions of previously taxed income.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Under the Foreign Investment in Real Property Act (FIRPTA), any gain recognized by a foreign person on a disposition of stock of a domestic corporation that is treated as a US Real Property Holding Corporation may be taxable as effectively connected income, taxable on a net income basis at regular US income tax rates.

TRANSFER PRICING

Arm’s-length principles generally are applied under US law to transactions between related entities. The US rules are similar in many respects to the OECD guidelines, with certain material differences.

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc.

A 30-percent withholding tax applies to dividends, royalties, interest, rents and other FDAP income paid by a domestic corporation to a foreign person, subject to reduction or elimination by an applicable income tax treaty.

Service fees

Withholding tax may apply to service fees paid to a foreign person if the services are performed in the US.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

There is no capital duty. Stamp duties and transfer taxes may be imposed at the state or local level.

EMPLOYMENT TAXES

Employers must withhold federal income tax. Employers also must pay social security tax, unemployment tax and Medicare tax in respect of compensation paid to employees. These taxes are deductible by an employer for US income tax purposes. Other withholding obligations and taxes may apply at the state or local level.

OTHER TAX CONSIDERATIONS

Not applicable for this jurisdiction.
KEY CONTACTS

Anil Kalia
Partner
DLA Piper LLP (US)
ani.kalia@dlapiper.com
T: +1 650 833 2026
View bio

Sang Kim
Co-Chair, Global Tax Practice
DLA Piper LLP (US)
sang.kim@dlapiper.com
T: +1 650 833 2072
View bio
ZIMBABWE

RESIDENCE AND BASIS FOR TAXATION

In Zimbabwe, taxation is source-based and both domestic and foreign taxpayers only need to account for income earned from a Zimbabwean source. Income tax is administered in terms of the Income Tax Act [Chapter 23:06].

TAXABLE INCOME

Taxable income is calculated, for both local and foreign entities, on all gross income earned from a Zimbabwean source, except for exempt income, less allowable deductions.

TAX RATES

Tax rates differ based on the entity being taxed and are subject to change at the beginning of each tax year.

TAX COMPLIANCE

In Zimbabwe, the tax year follows the calendar year and tax returns are normally due by the 30th of April of the subsequent year after the relevant year of assessment. For example, the return for the 2018 year of assessment was due on April 30, 2019. There are provisions in the Income Tax Act [Chapter 23:06] which allow for an individual taxpayer’s financial year to be amended.

ALTERNATIVE MINIMUM TAX

Presumptive tax is payable as an alternative to normal corporate tax but this option is only available to informal traders and certain categories of self-employed professionals. It is expressed as a fixed sum for each category of informal trader or self-employed professional.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays
Tax holidays are normally made available as part of a broad range of tax incentives. These tax incentives are normally provided to investors, particularly those with a qualifying degree of export orientation, or those who engage in Public Private Partnerships with the Government of Zimbabwe.

**Tax rulings**

It is possible to obtain advance rulings from the Zimbabwe Revenue Authority (ZIMRA) on the tax treatment of a contemplated transaction or receipt of income.

**Tax incentives**

Tax incentives exist for certain categories of corporate entities through initiatives such as having a project certified as having National Project Status and through certifying of certain areas as Special Economic Zones.

**CONSOLIDATION**

There are no provisions in Zimbabwean law for the filing of corporate tax returns on a consolidated basis.

**PARTICIPATION EXEMPTION**

Dividends remitted to non-resident shareholders from a local company are subject to withholding tax on dividends, except for any amount redistributed by the operator of an approved BOT or BOOT project, and dividends earned by a resident shareholder from a local company are subject to dividends tax.

**CAPITAL GAIN**

Capital gains tax is administered separately from income tax in terms of a separate piece of legislation, namely the Capital Gains Tax [Chapter 23:01] (the CGT Act). Capital Gains Tax is payable on the disposal of a specified asset as defined in the CGT Act.

**DISTRIBUTIONS**

Interest paid on loans in excess of the stipulated debt to equity (gearing) ratio of 3-to-1 is regarded as a dividend distribution and the portion of the interest relating to such excess shall be subject to non-resident and resident shareholders’ tax, as the case may be.

**LOSS UTILIZATION**

Any assessed loss may be carried forward for a maximum of 6 years from the year of assessment in which the assessed loss was first incurred. The only exemption to this general rule is assessed losses incurred from mining operations, which may be carried forward for an indefinite period.
TAX-FREE REORGANIZATIONS

Companies pay no capital gains tax when transferring capital assets between companies under the same control.

ANTI-DEFERRAL RULES

Not applicable for this jurisdiction.

FOREIGN TAX CREDITS

Tax credits for foreign tax paid may be available in terms of a double taxation agreement (DTAs).

Zimbabwe has entered into comprehensive DTAs with the following countries: Botswana, Bulgaria, Canada, France, Germany, Malaysia, Mauritius, Namibia, Netherlands, Norway, Poland, South Africa, Sweden, the UK and China.

Zimbabwe has pending DTAs with Indonesia, Namibia, Singapore, the Seychelles, Switzerland, Tanzania, Thailand, Tunisia, Yugoslavia, Zambia, the Democratic Republic of Congo, Iran, and Serbia and Montenegro.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Receipts and accruals of a licensed investor from the sale of a property forming the whole or part of the investment to which their investment license relates are exempt from payment of Capital Gains Tax. A licensed investor is a foreign investor who has obtained a licence from the Zimbabwe Investment and Development Agency to invest in Zimbabwe.

TRANSFER PRICING

The arm’s-length principle is applied under Zimbabwean law to transactions between related entities. The Zimbabwean rules are similar in many respects to the OECD guidelines, with certain material differences, although the OECD guidelines are used to interpret Zimbabwean law in regard to transfer pricing.

WITHHOLDING TAX

A withholding tax on dividends is payable at a rate of 15 percent in respect of unlisted securities and 10 percent in respect of listed securities; however, the existence of a DTA may reduce the rate to 5 percent where the shareholder receiving the dividend holds 25 percent shareholding in the relevant company paying the dividend, and 10 percent in all other cases.

Zimbabwe has entered into comprehensive DTAs with the following countries: Botswana, Bulgaria, Canada, France, Germany, Malaysia, Mauritius, Namibia, Netherlands, Norway, Poland, South Africa, Sweden, the UK and China.

Zimbabwe has pending DTAs with Indonesia, Namibia, Singapore, the Seychelles, Switzerland, Tanzania, Thailand,

www.dlapiperintelligence.com/goingglobal/
Tunisia, Yugoslavia, Zambia, the Democratic Republic of Congo, Iran, and Serbia and Montenegro.

Non-resident withholding tax on payments made by branch office to foreign head office in respect of head office charges is levied at a rate of 15 percent.

Withholding tax on interest is levied on residents at the rate of 5 percent (for a fixed-term deposit with a tenure of at least 90 days) or 15 percent. Non-resident investors, however, are currently exempt from withholding tax on interest.

Non-resident withholding tax on royalties is levied at the rate of 15 percent.

Non-resident withholding tax on management fees is levied at the rate of 15 percent. Non-resident withholding tax on remittances is levied at the rate of 15 percent.

**CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX**

Capital Gains Tax is tax payable upon the sale or disposal of a capital/specifed asset.

Land and building transactions are subject to stamp duty payable by the purchaser at the standard rate ranging between 1 percent and 4 percent.

An intermediated money transfer tax of 2 percent is payable on every electronic transaction in excess of ZWL400. Where a transaction exceeds the sum of ZWL40 million, a flat rate of ZWL80,000 is levied.

**EMPLOYMENT TAXES**

Employers are obliged to withhold employment tax from their employees’ income according to a tax table of graduated tax rates. The tax is known as Pay As You Earn (PAYE). The tax rate ranges from 0 percent to 40 percent depending on employment income earned by the individual.

In addition to PAYE, employers are also obliged to withhold an AIDS levy at the rate of 3 percent of the taxable income from their employees’ employment income.

**OTHER TAX CONSIDERATIONS**

Value-added tax (VAT) is a tax levied on the supply of goods and services by persons/entities in Zimbabwe once the supplier has reached a certain revenue threshold. A supplier of taxable supplies is obliged to charge VAT at the prescribed rate (which currently is 14.5 percent of the cost of the supply) and pay over this tax to ZIMRA as output tax. Presently, where the value taxable supplies made by a taxpayer have reached ZWL1 million or more in the previous 12 months, or where the taxpayer believes that the value of their taxable supplies will be ZWL1 million or more in the next 12 months, then the taxpayer must register to be a VAT operator with ZIMRA.
KEY CONTACTS

Jabulani Nhongo
Manokore Attorneys
jnhongo@manokore.com

Zinzi Mlambo
Manokore Attorneys
zmlambo@manokore.com

Tatenda Tendayi
Manokore Attorneys
ttendayi@manokore.com
Disclaimer

DLA Piper is a global law firm operating through various separate and distinct legal entities. Further details of these entities can be found at www.dlapiper.com.

This publication is intended as a general overview and discussion of the subjects dealt with, and does not create a lawyer-client relationship. It is not intended to be, and should not be used as, a substitute for taking legal advice in any specific situation. DLA Piper will accept no responsibility for any actions taken or not taken on the basis of this publication.

This may qualify as 'Lawyer Advertising' requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

Copyright © 2022 DLA Piper. All rights reserved.