Certain services provided on credit between foreign and Argentine entities must be reported to the AFIP through an electronic portal. This reporting requirement applies if the amount of credit is at least US$100,000 in total or at least US$10,000 per instalment. Services subject to this requirement include those involving:

- patents and trademarks
- royalties
- copyrights
- business and technical services
- payments under commercial guarantees for exports of goods and services, or
- the right to exploit foreign films.

The Monitoring and Tracking of Foreign Trade Operations Unit (Unidad de Seguimiento y Trazibilidad de las Operaciones de Comercio Exterior) monitors and tracks imports and exports. This body has wide ranging powers including the ability to determine whether transactions between related parties follow transfer pricing standards.

(c) Money laundering

Argentina systematically combats money laundering. Its legislation criminalises money laundering as an offence in itself. A number of communications issued by the Central Bank aim at preventing and detecting money laundering activities in the financial sector. Argentina is a member of the Financial Action Task Force (FATF), but remains on the FATF's grey list for failure to comply with its recommendations. Argentina has a Financial Intelligence Unit (FIU) (Unidad de Información Financiera (UIF)) and is a member of the Egmont group, which consists of 108 FIUs from across the world.

Argentina sets information requirements for a wide range of entities regarding suspected transactions. Suspected transactions are transactions that, in accordance with the normal way of carrying on business and/or individual experience, are unusual or without economic or legal justification, or have unjustified complexity, regardless of their isolation or frequency. These entities include:

- financial entities and pension fund administrators
- entities authorised to operate in foreign currency exchange operations
- persons who carry on activities related to gambling
- stock agents and brokers
- the Public Commerce Register, Control Organisms, Real Estate and Automobile Registers
- persons who carry out activities related to purchase and sale of works of art, antiques and other luxury objects and the import, export and manufacture of precious metal jewellery
- insurance companies
- the central bank
- public notaries.

Argentina imposes prison terms for money laundering, ranging from 3 to 10 years, plus fines ranging from 2 to 6 times the amount of the operation.

ARG ¶1-220 INTERCOMPANY PRICING

(a) Intercompany pricing

Argentine income tax law regulates pricing in transactions between related parties. Parties are related if an Argentine entity or branch of a foreign entity conducts transactions with an entity or person domiciled abroad and both are under the control of the same person or entity or, due to equity holdings or financial position, have power to make decisions for or direct such company. Such transactions must comply with arm's length pricing principles. Control exists when a person or entity owns more than 51% of the capital, or controls enough of the voting shares to prevail at a shareholders' meeting. Indirect control over the decisions of the foreign company is also taken into account, ie main client, main supplier, etc. Provisions control tax avoidance in the case of underpriced exports and overpriced imports. This means that the prices charged between related parties must adhere to practices of independent parties. According to the income tax law, the transfer pricing methods that a taxpayer could apply are described as follows:

- the resale price method
- the comparable pricing among independent parties method
- the cost plus method
- the profit split method
- the transactional net margin method, and
- market price, in the case of goods with international prices in transactions with an international intermediary, under certain conditions.

If prices between related parties do not conform to the most appropriate of these methods given the situation, the Argentine tax authorities will make conforming price adjustments. Transactions between local enterprises and individuals or legal entities domiciled, formed or located in low or no tax countries specified in Argentine law are deemed not to be carried out in accordance with normal practices or normal market prices among independent parties. Low tax countries are considered to be non-independent parties. As such, transfer pricing methods are applicable, although there is no relationship between the parties involved.

The Argentine transfer pricing regulations adopt similar principles to those of the OECD transfer pricing guidelines.

(b) Advance pricing agreements (APAs)

Taxpayers may apply to the tax authority for an APA on the application of transfer pricing methods in future transactions with related parties.

(c) Documentation and reporting

Taxpayers must submit transfer pricing documentation on a periodical basis. There are a number of informative returns.

Form F.741 must be filed annually for cross-border transactions of commodities with unrelated parties that are not established in non-cooperative jurisdictions.

Form F.2668 covers transactions with related parties established in foreign countries or in non-cooperative jurisdictions for the financial year. Form F.2668 must be accompanied by form F.4501, which is designed to include any attachments, such as a transfer pricing study or certain financial statements. Form F.4501 must contain the signatures of:

- the taxpayer
- a certified public accountant (CPA), and
- the CPA's professional body.

The obligation to submit forms F.2668 and F.4501 is only triggered when the value of separate transactions exceeds 300,000 pesos or when the total value of all related party transactions exceeds 3 million pesos. When these thresholds are exceeded, all related party transactions need to be disclosed, including amounts, the period of the transaction, goods sold or services rendered, and payment terms.

Imports and exports of non-commodities with unrelated parties must be included on form F.2668. The obligation to submit this form is only triggered when the total value of these transactions exceeds 10 million pesos.

The transfer pricing documentation must be submitted electronically. The deadline for submission of these forms is generally the eighth month following the financial year-end; the exact date depends on the last digit of the tax identification number.

Details of intercompany transactions and related parties must also be recorded and submitted monthly on Form 968.

Country-by-country reporting requirements

In accordance with the revised OECD guidelines, Argentine resident parent companies of multinational groups with an aggregated turnover of more than €750 million or equivalent in local currency are required to prepare and file country-by-country (CbC) reports detailing their cross-border transactions. Argentine resident non-parent companies of such groups may be required to prepare and file CbC reports under certain circumstances. Submission of CbC reports is due one year after the close of the relevant tax year (the group's reporting period for the purposes of consolidated financial statements, rather than the individual group companies' tax or accounting periods).

(d) Tax audits

International transfer pricing and profit shifting is policed in Argentina as a part of the tax authority (AFIP) program. The Monitoring and Tracking of Foreign Trade Operations Unit also has the power to determine whether transactions between related parties follow transfer pricing standards (see ARG ¶1-210(b)).

ARG ¶1-230 MIGRATION OF COMPANIES

Argentina does not impose an exit tax on Argentine resident companies that change their residence. If a taxpayer ceases to be a tax resident in Argentina, no CGT liability arises. From the time a taxpayer is no longer a resident, it is taxed only on its Argentine assets and income.

ARG ¶1-240 CORPORATE TAX FILING, PAYMENT & PENALTIES

(a) Argentine tax year

The calendar year is the standard tax year in Argentina. Corporations that maintain proper accounting records have to compute their taxes on the net income of their financial year.

Corporate taxpayers must file returns within 5 months after the end of their fiscal year.

(b) Prepayments

Companies that owe corporate income tax and that also have taxable income during the previous tax year must make advance payments against their tax liabilities for the current year.

Taxpayers must make advance payments in 10 instalments. These instalments are calculated according to a percentage of the previous year's income tax obligation. This percentage is 25% of the tax determined for the previous fiscal year for the first instalment and 8.33% of the tax determined for the previous fiscal year in the following 9 instalments. These amounts are due by the 13th to the 17th day of each month, starting with the 6th month after the end of the previous tax year.

▶ Example

In June 2022, taxpayers must pay the first instalment on account of the income tax to be determined for 2022. They pay the last instalment in March 2023. May 2023 is the due date for the full payment of the tax determined for 2022 according to the income tax return. At that point, the taxpayer pays the difference between the tax that comes from the tax return and the 10 instalments.

(c) Adjustment of advance payments

If a company paying corporate income tax and/or the presumptive minimum income tax estimates that its advance payments will amount to more than its eventual tax liability for the year, it may compute the amount actually payable and submit this together with a sworn statement.

If, at the end of the tax year, the company owes additional tax, the company must pay the balance, together with interest.

(d) Withholding taxes

In many cases, income is subject to withholding tax by the person who makes the payment. Tax withheld and advance payments reduce the tax liabilities which arise with the final tax statement. Any tax withheld which exceeds the tax payable under the final tax statement may be offset against other federal tax liabilities or refunded by the tax authority (AFIP) with interest.

Payments made abroad are subject to withholding taxes. When a resident pays for services supplied by a non-resident, they must withhold the tax. This serves as a definite payment for the non-resident. Non-residents do not file tax returns as they pay the tax through withholdings (see ARG ¶1-020).

Payments in foreign currency to individuals are generally subject to a surcharge (see ARG ¶1-210(b)).

(e) Final tax statement

Companies must file an annual sworn tax statement (return) providing details of their profits or losses and assessable property.

At this time, taxpayers must pay the tax payable shown on the tax statement minus:

- the tax paid in advance (prepayments, withholdings), and
- the credit for foreign taxes.

They must remit this amount by the 7th to the 11th day of the 5th month following the end of the tax year. In certain cases, the AFIP allows the final tax payment to be paid in instalments.

(f) Interest

Taxpayers who fail to make advance payments and pay withholding taxes or other tax liabilities by the due date must pay interest charges calculated from the due date until the payment date.

The interest rate charged on underpayments is 3.72% per month from 1 April 2022 (3.35% from 1 January 2021 to 31 March 2022; 3.02% from 1 October 2020 to 31 December 2020; 2.76% from 1 July 2020 to 30 September 2020; 2.5% from 1 April 2020 to 30 June 2020).

(g) Tax amnesty

Scheme from 2016

On 10 February 2016, Argentina enacted legislation that allows taxpayers to enter into payment instalment plans for the payment of overdue tax debts and fines.

Instalment plans range from 6 to 24 months and are subject to interest rates of between 1.88% and 2.61% per month, depending on the debt and turnover of the taxpayer. Monthly payments must generally exceed 1,000 pesos.

Certain payments are excluded from the scheme, including withholding tax, advance payments of tax and VAT due on imports of services.

Scheme from 2009

Argentine legislation enacted in December 2008 provides taxpayers with an alternative scheme for paying overdue tax debts and fines, as well as the ability to regularise the tax status of previously unreported assets.

Overdue tax debts or fines

The scheme may be applied to overdue tax debts or fines incurred on or before 31 December 2007, with no limitation on the amount owed.

Interested debtors could choose to be included in this scheme, but had to do so between 1 March 2009 and 31 August 2009.

Under the scheme, payments are made in 120 monthly instalments. The maximum term is 10 years.

If the debtor chose to be included in the scheme within the first 2 months (ie before 1 May 2009), it is exempt from paying up to 70% of the interest owed on the debt.

If the debtor adheres to the payment plan, the criminal proceedings against the debtor are stayed and the term of the statute of limitations is suspended. If the debtor defaults on payments within the prescribed term of the plan, the criminal proceedings restart. The criminal action is extinguished on full payment of the debt.

Unreported assets

The law also provides for the regularisation of the tax status of foreign currency and assets not previously reported to the tax authorities.

The cost of asset regularisation is determined as a percentage of the value of the asset and is based on the final destination to be allocated to the asset after its regularisation, namely:

- permanently in a foreign country: 8%
- returning the asset to Argentina: 6%

- subscription of public securities: 3% or 5%
- construction, financing of public works and productive investment: 1%.

The regularisation implies the forgiveness of those taxes for which payments were omitted in previous fiscal years, as well as those fines that may be generated with regard to the previously unreported assets as far as criminal taxation matters are concerned. However, such forgiveness is not applied to potential exchange and customs infringements.

ARG ¶1-250 ADVANCE RULINGS

When a taxpayer wishes to change their year end for Argentine tax purposes, advance approval is required from the General Tax Directorate (Direccion General Impositiva) of the Argentine tax authority (AFIP). Otherwise, there is no requirement to obtain a ruling before carrying out major or significant transactions.

Taxpayers may request a written opinion on the tax treatment of certain transactions. In order for the tax authority to accept the request, the taxpayer must enter the request before the date of the taxable event occurs or before the due date for the tax filing for the period in which the taxable event occurs. A general ruling sets forth a formal procedure to receive such opinions from the tax authority. It makes these opinions binding for both the tax authority and the party making the request. As per regulations, the tax authority should issue a ruling within a 90-day period from the acceptance of the request.

ARG ¶1-260 TAX AUDIT

(a) Self-assessment

Argentina's corporate income tax system operates by self-assessment. Taxpayers must submit tax returns annually.

(b) Audits

If a taxpayer does not file an annual return or files a return and incorrectly states the amount of tax due, the Argentine tax authority (AFIP) will make an assessment based on the taxpayer's available books and records or a presumed tax base. Additionally, the tax authorities audit taxpayers' accounts periodically and inspect the accounts and other commercial documentation that they consider relevant. In anticipation of a tax audit, taxpayers must retain supporting documentation of all operations and transactions for a period of 10 years. Audits may cover all issues in an entire tax year or only a specific issue. The tax authorities may also require additional information from third parties who have carried out commercial transactions with the business in question.

The statute of limitations for tax audits is 5 years. For social security taxes, the statute of limitations extends to 10 years. The statute of limitations also is extended to 10 years if the taxpayer is not registered; however, it is not increased in cases of fraud. The statute of limitations begins on 1 January in the year that follows the year of the due date for the tax return. For example, for income tax determined for 2021, if the due date for the tax return is in May 2022, then the 5-year term begins on 1 January 2023. The statute of limitations begins to run even if the taxpayer fails to file a return.

The tax authority may impose fines and temporary suspensions (precautionary closing) of a company's activities during the 5-year period beginning on 1 January of the year following the year in which the non-compliance occurs.

operations must be registered with corresponding authorities when applicable (ie technical assistance agreement with the National Industrial Property Institute (Instituto Nacional de la Propiedad Industrial or INPI)). Furthermore, corresponding income tax withholding must have occurred.

Tax is withheld on fees and other remuneration to be paid abroad for services rendered in Argentina. These rates may be reduced by a tax treaty.

(b) Cash transfers

Cash transfers may be subject to withholding tax if they arise from taxable foreign income (see ARG ¶2-050(a)).

(c) Acquiring a local business

Depreciation allowances are summarised in ARG ¶1-100.

Losses incurred by the vendor of an Argentine company may be transferred to the purchaser only when the former activities or operations of the company are maintained.

(d) Acquiring a local subsidiary

When a purchaser acquires an Argentine company, the Argentine company's tax debts remain enforceable for the acquired company.

The value of the assets is not increased to equal the purchase price of the shares.

The losses of previous tax years may offset profits for the following 5 tax years following the year in which the losses were incurred (see ARG ¶1-080(a)).

(e) Local holding company

Offset of profits and losses is not allowed between companies within a group of Argentine companies. Accordingly, an Argentine holding company could not offset interest paid on loans taken out to acquire an Argentine subsidiary against the profits of those Argentine subsidiaries.

The disposal by an Argentine holding company of shares in its subsidiary is taxable in Argentina.

(f) Local financial entity

The Argentine withholding tax on interest is 15.05% when the lender is a financial entity resident in countries where there is the supervision of central banks, or in the case of acquisitions of fixed assets.

In all other cases, the withholding tax rate is 35%. The tax rate may be reduced when the transactions are made with countries that have signed tax treaties with Argentina.

(g) Local licensing company

Companies must register all contracts and other agreements for the transfer of technology with INPI. When the corresponding royalties are paid, tax must be withheld on a percentage of the gross revenue.

Many of Argentina's tax treaties provide reduced withholding tax rates on royalties derived from the licensing of trademarks, patents, plans, designs and secret processes.

(h) Trading company

Argentine arm's length pricing rules apply to pricing arrangements where goods are acquired or sold for excessive consideration or for less than proper consideration.

Where excessive payments are made to a foreign company, the tax authorities may tax the excess at the corporate tax rates of 25% to 35%.

(i) Foreign tax credits/double tax relief

The income earned abroad by Argentine residents and companies is subject to tax in Argentina. Foreign tax credits are available but only to the extent of the Argentine tax payable on the foreign income.

ARG ¶2-030 ARGENTINE BRANCH

In order to conduct business through a branch in Argentina, a foreign company must:

- prove its existence according to the laws of its home country
- create a domicile in Argentina and register in Argentina
- demonstrate its decision to have a branch in Argentina and appoint a branch legal representative, and
- submit an annual report to Argentina's General Inspectorate of Justice (Inspección General de Justicia) detailing the ultimate beneficial owner/s of the company.

To prove its existence according to the laws of its home country, a foreign company must file with the General Inspectorate of Justice (which is Argentina's corporations control authority) a copy of the minutes of the meeting of the board of directors held in the home country which recorded the decision to establish a branch in Argentina, duly apostilled, together with the designation of a legal representative residing in Argentina and a designated address.

A branch is considered a separate entity from its home office for tax purposes. A branch is subject to tax in Argentina on its worldwide income. The tax rate applicable to branches is the same as the tax rate that applies to Argentine companies (25%).

A registered branch of a non-resident corporation must appoint a legal representative to perform all acts its head office is authorised to perform. The legal representative is also responsible for the administration and representation of the branch and replaces the figure of a corporation board of directors' president. Legal representatives must be individuals that are residents of Argentina. There is no requirement that a fiscal representative must have a permit once the branch correctly registers in Argentina.

An Argentine branch's taxable trading profits are calculated on the same basis as those of an Argentine incorporated company. The branch must keep separate accounting records in Argentina that show its own profits. Failure to do so may result in the treatment of income of the foreign company as sourced in the Argentine branch.

A foreign company with a branch in Argentina which receives other Argentine source income is subject to corporate profits tax on that income (see ARG ¶2-050).

ARG ¶2-040 ARGENTINE ADMINISTRATION OR LIAISON OFFICE

(a) Administrative or liaison activities

All income from administrative or liaison activities carried out in Argentina represents taxable income subject to Argentine corporate income tax. When the amount of Argentine source income cannot be ascertained precisely, the tax authority (AFIP) may determine the taxable earnings by reference to indices or estimates of income earned by other businesses in the same field of activity.

Country	*Dividends* %	*Interest* %	*Royalties* %
Chile	7[22]	4/12/15[28]	3/10/15[29]
Denmark	7[22]	0/12[10]	3/5/10/15[6]
Finland	7[22]	0/15[11]	3/5/10/15[6]
France	7[22]	15.05/20[12]	17.5/18[13]
Germany	7[22]	0/10/15[14]	15/17.5/21/31.5[15]
Italy	7[22]	0/15.05/20[16]	10/17.5/18[17]
Mexico	7[22]	0/12[24]	10/15[30]
Netherlands	7[22]	0/12[18]	3/5/10/15[6]
Norway	7[22]	0/12.5[9]	3/5/10/15[6]
Qatar	5/7[32]	0/12[19]	10
Russia	7[22]	0/15[19]	15
Spain	7[22]	0/12[25]	3/5/10/15[6]
Sweden	7[22]	0/12[20]	3/5/10/15[6]
Switzerland	7[22]	0/12[26]	3/5/10/15[27]
United Arab Emirates	7[22]	12	10
United Kingdom	7[22]	0/12[21]	3/5/10/15[6]

Footnotes:

1 The 15.05% rate applies to interest paid (a) by a financial institution, (b) to a bank or financial institution located in a non-tax haven jurisdiction, (c) in respect of certain bonds registered in countries that have concluded an investment protection agreement with Argentina, or (d) where the transaction involves the financing by a seller of depreciable moveable property.

2 The 12.25% rate applies to copyright royalties; the 17.5% rate applies to film royalties; the 21% rate applies to technical assistance fees; the 28% rate applies to patent royalties.

3 The lower rate applies to interest paid in respect of investment of official reserve assets by a government organisation or the central bank.

4 The lower rate applies to royalties from the use of copyrights, industrial or scientific equipment, or scientific, technical, or industrial information.

5 The lower rate applies to interest paid to a government organisation or the central bank, or in respect of (a) commercial debt-claims resulting from deferred payments for machinery or equipment, (b) a loan or credit guaranteed or insured by a financial institution or public entity to promote exports, or (c) a bank loan (not represented by bearer instruments) lasting for at least three years.

6 The 3% rate applies to news royalties; the 5% rate applies to copyright royalties (excluding films and recordings); the 15% rate applies to film royalties; otherwise the 10% rate applies.

7 The non-treaty rates apply because there is no reduction under the treaty.

8 The 0% rate applies to interest paid to a government organisation, or in respect of government bonds or debentures.

9 The lower rate applies to interest paid in respect of (a) government bonds or debentures, (b) sales on credit, or (c) a loan or credit guaranteed or insured by specified institutions.

10 The lower rate applies to interest paid (a) to a government organisation or the central bank, (b) in respect of a loan lasting at least three years guaranteed by a government organisation or paid to a bank or financial institution, or (c) in respect of sales on credit of merchandise or equipment.

11 The lower rate applies to interest paid (a) to a government organisation or the central bank, (b) in respect of a loan guaranteed by a government organisation, or (c) in respect of sales on credit of machinery or equipment.

12 The lower non-treaty rate applies to interest paid in respect of a loan or credit guaranteed or insured by a government organisation or the central bank, or between government organisations.

13 The lower non-treaty rate applies to film royalties.

14 The 0% rate applies to interest paid to a government organisation or the central bank; the 10% rate applies to interest paid in respect of (a) sales on credit of equipment, (b) a bank loan, or (c) financing public works.

15 The 15% rate applies to royalties from the use of any copyright, patent, trademark, design or model, plan, secret formula or process, or information concerning industrial, commercial or scientific operations; otherwise the non-treaty rates apply.

16 The 0% rate applies to interest paid to or by a government organisation, or in respect of a loan agreed by both governments; the 15.05% non-treaty rate applies if the payer satisfies the condition in footnote 1.

17 The 10% rate applies to copyright royalties; the 17.5% non-treaty rate applies to film royalties.

18 The lower rate applies to interest paid (a) to or by, or in respect of a loan lasting at least three years guaranteed or insured by, a government organisation or the central bank, or (b) in respect of sales on credit of machinery or equipment.

19 The lower rate applies to interest paid to a government organisation or the central bank.

20 The lower rate applies to interest paid (a) to or by, or in respect of a loan guaranteed by, a government organisation or the central bank, or (b) in respect of sales on credit of machinery or equipment; the higher rate is lower than the 12.5% treaty rate due to the activation of a most favoured nation (MFN) clause.

21 The lower rate applies to interest paid (a) by, or in respect of a loan or credit guaranteed or insured by, a government organisation, (b) in respect of a bank loan lasting at least five years, or (c) in respect of sales on credit of equipment.

22 The non-treaty rate applies rather than the higher rate specified in the treaty.

23 The non-treaty rate applies because there is no reduction under the treaty.

24 The lower rate applies to interest paid to or by a government organisation or the central bank.

25 The lower rate applies to interest paid (a) to or by a government organisation, (b) in respect of funding agreed for at least five years between the governments of both contracting states, or (c) in respect of sales on credit of equipment.

26 The lower rate applies to interest paid (a) to a government organisation in respect of a bond or debenture, (b) in respect of a loan or credit financed, guaranteed or insured by a government organisation or the central bank, (c) in respect of sales on credit of industrial equipment or machinery, or (d) on a bank loan granted for more than three years.

27 The 3% rate applies to news royalties; the 5% rate applies to copyright royalties (excluding films and recordings); the 15% rate applies to broadcasting royalties or information concerning commercial operations.

28 The 4% rate applies to interest paid in respect of sales on credit of industrial equipment or machinery; the 12% rate applies to interest paid in respect of loans granted by banks or insurance companies or bonds and securities that are regularly traded on a recognised securities market.

29 The 3% rate applies to news royalties; the 10% rate applies to copyright royalties (excluding films and recordings) and to royalties paid for the use of any patent, design or secret formula, or industrial, commercial or scientific equipment or information.

event ticket sales, and sales in the publishing sector. Exports are exempt from VAT (zero-rated). Austrian branches and non-resident companies without a branch in Austria are subject to VAT if services are performed in Austria.

Passenger vehicles and vans are subject to a standard petrol usage tax at a maximum of 16% of the invoiced price in addition to VAT. The tax rate is determined according to the average petrol usage.

Transactions of real estate, certain rent turnovers and transactions of credit card taxable events are exempt from VAT, although the taxpayer may elect to make them taxable events under certain circumstances.

(f) Records and invoices

A taxpayer must generally retain VAT records for 7 years. If related to real estate, such records must be retained for 12 years. Taxpayers may maintain accounting records outside of Austria. Certain VAT exemptions do not apply unless the taxpayer keeps its VAT records within Austria. Records may be kept solely in electronic form.

An invoice for domestic or export transactions where the total amount (before VAT) is at least €400 must include:

- the date of issue of the invoice
- a sequential invoice number issued to identify the invoice
- the VAT identification number of the supplier
- the full name and address of the supplier
- the full name and address of the customer, and the VAT identification number of the customer when the amount of the invoice exceeds €10,000
- the quantity and nature of goods supplied or the nature of the services rendered
- the date of the supply or the date when the services were rendered
- the consideration received for the supply or the services rendered and the applicable tax rate
- the application of tax exemptions (if any), and
- the amount of tax in euros. Foreign currency may be converted to euros using either the official average exchange rate or the latest exchange rate published by the European Central Bank.

An invoice for intra-community transactions must include the VAT identification number of the taxable person. The tax exemption has to be stated as well. Electronic invoices are accepted under certain conditions. Foreign languages are allowed for invoicing.

(g) VAT registration

Resident businesses, permanent establishments (PEs) and non-resident businesses must register for a general tax number with the local Austrian tax office responsible for the area in which the principal business is established. When a business registers for a general tax number, the Austrian tax authorities will also issue a VAT identification number to the business, upon request. The format of the VAT identification number for resident businesses, PEs and non-resident businesses is ATUXXXXXXXX. In general, every entity earning revenue subject to VAT must state a VAT identification number on their invoices.

Small businesses with annual turnovers below €7,500 are not required to make a tax declaration if no taxes are due. Such businesses are not allowed to show VAT on their invoices. VAT is still payable, but cannot be deducted by the recipient.

(h) VAT returns and payments

Taxpayers must file advance VAT returns monthly or quarterly. Companies with a prior-year annual turnover of less than €100,000 may file advance VAT returns quarterly. The final VAT return for the tax year is filed annually. Electronic filing is required. Penalties for late filing are up to 10% of the assessed tax.

The amount of VAT payable for a specific tax period must be paid by the same date as the required VAT return filing date (15th of the second following month). Bank transfer is the usual form of payment of VAT due. Additionally, a taxpayer can use a credit on the tax account as well as credits on other tax accounts. Penalties are assessed for late tax payments and non-payment of tax, starting at 2% of the outstanding amount.

Prepayments are subject to VAT in the period the prepayment note is paid, without regard to whether the supply or service has already been rendered.

Taxpayers directly affected by the coronavirus (COVID-19) pandemic may apply to the tax authority for a reduction or waiver of penalties and interest in respect of late payments.

(i) Deduction of input VAT

A taxpayer recipient of goods or services may deduct input VAT on receipt of the supply or service and an invoice from the supplier. Input tax on prepayment notes is deductible on payment. Specific rules apply to import VAT.

Generally, input VAT in connection with VAT tax-exempt turnover is not deductible. If the supply of goods or services is exempt from VAT, the recipient may not deduct the related input VAT.

(j) VAT refunds

Companies without a domicile or PE in Austria may request VAT refunds if they have not had any revenue subject to VAT in Austria. If they have revenue subject to VAT in Austria, they must register for VAT, unless the reverse charge rules apply.

Such companies without VAT registration in Austria may request an input VAT refund within the first 6 months after the end of the calendar year in which the tax was incurred. Such requests must be made to the Graz-Stadt regional tax office using the official VAT refund file. This file must state the sum of VAT refund claimed and contain the original bills and receipts, as well as the application and the home country VAT registration certificate.

A taxpayer must file a request for a VAT refund no later than 30 June of the following year (receipt in the tax office) in which the tax was incurred. In order to obtain a VAT refund, it is not necessary to appoint a fiscal representative.

Requests for a refund are made via a standardised online form which is offered by the tax authorities of the country of residence. Original bills and receipts do not need to be presented. The taxpayer must file a request for a VAT refund no later than 30 September of the following year.

VAT refunds for non-residents are handled via a special procedure.

(k) Reverse charge rules

Austrian VAT law contains reverse charge rules. The reverse charge rule for transnational issues applies to supplies of goods that are installed as well as to services. Under the reverse charge rule, tax liability is transferred from the supplier to

developments, such as country-by-country (CbC) reporting requirements. There are no material deviations from the OECD standards or previous Austrian practice. All transfer pricing methods described in the OECD guidelines are allowed; however, the direct method should preferably be used where possible. There is no specific deadline for the completion of the preparation of documentation. Transfer pricing documentation must be submitted to the tax authorities on request. Related party transactions must be disclosed only if the tax authorities ask for the disclosure.

According to Austrian income tax law, a company is considered to be affiliated if:

- it has the same owner
- the Austrian company is a partner in a foreign partnership or vice versa
- the Austrian company owns more than 25% of the shares of the foreign corporation or vice versa, or
- both companies are managed by the same persons.

(b) Disclosure to authorities

Austrian parent companies are required to cooperate with the Austrian tax authorities to a greater extent than usual where foreign subsidiaries are concerned and must provide disclosure when requested by the tax authorities during an assessment or tax audit.

(c) Formal documentation requirements

Austrian companies are required to file CbC reports in line with OECD guidelines. Additionally, Austrian companies belonging to a multinational group with turnover exceeding €50 million in the previous 2 fiscal years are required to prepare master file and local file documentation. These files need to be submitted within 30 days from a request for them by the Austrian tax authorities.

(d) Advanced pricing agreements procedure

Austria does not have an advanced pricing agreements procedure. The Austrian tax authorities only give an opinion on questions of (interpretation of) law, if asked to do so, but never on questions of fact, as would be the case for advance pricing agreements.

AUT ¶1-230 MIGRATION OF COMPANIES

(a) General rule

There are only a few provisions designed to discourage Austrian branches or companies from transferring their business or their residence out of Austria. The prior consent of the Austrian tax authorities for such a transfer is not required.

(b) Deemed sale

The transfer of an Austrian business abroad is deemed to be a sale of the enterprise as a going concern on the basis of market values. Taxes become payable accordingly.

(c) Deferred assessment of tax

The deferral of the assessment of tax is not permitted. Instead, a company may opt to pay exit tax in instalments over a period of five years (seven years before 1 January 2019) in the case of fixed assets and two years in the case of current assets.

AUT ¶1-240 CORPORATE TAX FILING, PAYMENT & PENALTIES

(a) Filing Austrian corporate tax returns

A company must file corporate tax returns within 6 months of the end of the calendar year. Electronic filing is obligatory unless it is technically impractical. When a return is not filed electronically, it has to be filed within 4 months of the end of the calendar year. A corporation that is represented by a tax advisor may defer filing for up to 15 months.

Taxes are generally due for payment one month after the tax assessment is made.

(b) Austrian tax assessments and interest on late assessments

Tax assessment is usually made within a few days of filing. An assessment can be subject to further investigation by the Austrian tax authorities.

Corporate tax assessed later than 1 October of the following year is subject to interest if the chargeable interest exceeds €50. This rule also applies to tax credits (ie interest paid to the taxpayer by the tax authorities for tax credits). Late income and corporate income tax payments are subject to a tax rate of 2% above the basic interest rate. The basic interest rate is the interest rate the European Central Bank uses for its main financing operations.

Taxpayers can make a prepayment of tax to avoid interest charges, even if they file their tax return at a later point of time.

Taxpayers directly affected by the coronavirus (COVID-19) pandemic may apply to the tax authority for a reduction or waiver of penalties and interest in respect of late payments.

In addition, late payment interest was waived between 15 March 2020 and 30 June 2021. Late payments received after 30 June 2021 are subject to interest at 2% above the basic interest rate from 1 July 2021 to 30 June 2024.

(c) Austrian advance tax payments

Advance payments of Austrian tax are due in quarterly instalments on 15 February, 15 May, 15 August and 15 November. Advance payments are generally based on the previous year's tax assessment, increased by 4%. Prepayments based on a year prior to the immediately preceding year are increased by an additional 5% for each consecutive year.

(d) Austrian withholding taxes

Withholding taxes on dividends are due one week after the distribution of profits. A company must pay other withholding taxes to the tax authorities within 15 days of the respective month end.

(e) Austrian penalties

Interest on overdue payments is charged at 4%. The tax authorities can levy a delay penalty of up to 10% if a taxpayer does not meet the deadlines for filing tax returns. Taxpayers directly affected by the COVID-19 pandemic may apply to the tax authority for a reduction or waiver of penalties and interest in respect of late payments.

AUT ¶1-250 ADVANCE RULINGS

(a) General rule

The Austrian tax authorities do not generally issue legally binding advance rulings. However, it is possible to request a binding advance ruling on issues relating to reorganisations, tax groups, VAT, transfer pricing, international tax matters and the existence of abuse. There is no specific time frame for requesting advance rulings, but

(b) Interest

Residents and non-residents

Interest is normally regarded as sourced in Austria if the debtor is domiciled or resident in Austria or has its place of management in Austria. A number of special provisions exist which should be considered in any given situation.

A deeming provision operates to give an Austrian source to interest on money secured by a mortgage over Austrian property.

(c) Rent

Residents and non-residents

Real property rentals are treated as sourced where the property is located.

(d) Royalties

Residents and non-residents

Royalties are generally treated as sourced where the property rights giving rise to the royalty entitlement are located.

(e) Dividends

Residents and non-residents

The source of dividend income is treated as the place where the company earned the profits applied to payment of that dividend. This is usually the place where the business of the company is conducted.

(f) Pension and superannuation payouts

Residents and non-residents

Pension payouts are treated as sourced where the fund making the payment is located.

(g) Capital gains

Residents and non-residents

Capital gains are sourced in Austria if they are derived from property or property rights located in Austria.

AUT ¶3-050 UNILATERAL AND TREATY TAX CREDITS

(a) Unilateral tax credit system

Residents

Unilateral foreign tax credit relief is available to Austrian resident individuals. It is possible to apply for such tax credit relief where no double tax treaty exists.

(1) ***Calculation of credit.*** Resident taxpayers are entitled to tax credits for income taxes deducted from their foreign sourced profits. The gross foreign income is assessable but the Austrian tax payable on that income is calculated by applying the taxpayer's average tax rate to the taxpayer's net foreign income. The maximum credit cannot exceed the Austrian tax payable on the net foreign income.

(2) ***Treatment of excess credits.*** The excess of foreign taxes over credits applied in Austria cannot be carried forward or back.

(3) ***Tax planning for foreign income and credits.*** Tax planning in relation to foreign tax credits usually revolves around endeavouring to ensure that the foreign tax paid on particular income does not exceed the average Austrian rate payable on that net foreign income and endeavouring to structure affairs such that foreign tax credits can be fully utilised in the current year.

(4) ***Typical treaty tax credit rules.*** All of Austria's double tax agreements contain foreign tax credit provisions broadly similar to those suggested in the OECD Model Treaty. In the event of conflict the treaty provisions prevail.

(b) Utilising tax treaty relief

Non-residents

(1) ***Status and content of tax treaties.*** Austria has a comprehensive network of double tax agreements. In general terms these follow the OECD Model Treaty although significant individual variations can be found. Austria's tax treaties override all domestic tax legislation.

(2) ***Typical residence tie-breaker article.*** The precise wording of the individual residence tie-breaker article adopted in Austria's tax treaties varies with the age of the treaty concerned and may be significantly different from the wording suggested in the current OECD Model Treaty.

AUT ¶3-060 MAIN DEDUCTIONS AND RELIEFS

(a) Basic Austrian deductibility principles

Residents

As a matter of general principle, a deduction is available for all losses and expenses to the extent that they are incurred in gaining or producing assessable income, or are necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income. However, losses and outgoings of a capital, private or domestic nature are expressly precluded from deductibility, as are outgoings incurred in relation to the gaining of exempt income.

Business losses incurred in one year can be carried forward without restriction (applicable to losses from 1991 onwards; losses from 1989 and 1990 must be split equally over 5 years starting in 1998) but cannot be carried back to prior years. For 1996 and 1997, loss carryover from previous periods was suspended. No loss carry-forward is available to individuals.

From 1 January 2000, a general loss compensation ban for losses resulting from shareholdings in ''loss'' companies against profits resulting from other sources of income was imposed. From that date such losses were permitted to be carried forward and compensated against profits resulting from each such shareholding in following years. Losses may be carried forward and set off against up to 100% of taxable profits. From 1 January 2012, the use of losses realised outside Austria is permitted only insofar as such losses would be allowable under the rules of the jurisdiction in which the loss arose.

Certain categories of special expenses are deductible. These include:

- pension contributions to Austrian pension funds
- life insurance premiums (however, when based on a contract concluded after 31 May 1996, only annuity payment contracts are allowed for special expenses)
- accident insurance premiums
- private medical insurance premiums
- certain expenditure on construction of a private residence (see (c)(1) below)
- certain donations to charitable institutions
- expenditure on tax advice
- the purchase of new shares in manufacturing companies (see (d)(2) below)

Employees are entitled to a tax credit of €400 for travel from home to work, which includes an additional employee tax credit. The tax credit may only be deducted as long as it does not exceed the tax on employment income. Different rules apply where the workplace is over 20 km from the employee's home.

Where bonuses are paid in addition to the 12 monthly salary payments (as is customary, eg for holiday pay or a Christmas bonus), the first €620 paid over and above the normal annual salary is completely tax free.

For bonuses from 1 January 2013, the following tax rates apply:

Bonus amount (€)	*Rate* (%)
Up to 620	0
621–25,000	6
25,001–50,000	27
50,001–83,333	35.75
Over 83,333	50

Special payments made in connection with the termination of employment, such as so-called ''golden handshakes'' at early retirement, are taxed at a fixed rate of 6% to the extent that the payments do not exceed 9 times the social security income ceiling for contributions. This ceiling is set at €5,670 per month in 2022 (€5,550 per month in 2021).

Additionally, voluntary severance payments are only subject to a flat tax rate of 6% if employment status was established before 1 January 2003.

Up to the amount of	*For an employment period of*
2/12 of the current employment income received during the last 12 months	3 years
3/12 of the current employment income received during the last 12 months	5 years
4/12 of the current employment income received during the last 12 months	10 years
6/12 of the current employment income received during the last 12 months	15 years
9/12 of the current employment income received during the last 12 months	20 years
12/12 of the current employment income received during the last 12 months	25 years

Severance payments made by a precautionary employee fund (Mitarbeitervorsorgekasse) to an employee are taxed at a rate of 6%.

(2) ***Business income:***

(i) *Research and development.* A premium (grant) of 14% of expenditure on eligible in-house and outsourced R&D is available. This is in addition to 100% deductibility for R&D costs. The premium is not dependent on the profitability of the company and may be paid in cash where necessary. The premium due is normally deducted from any tax liability, with any shortfall being payable to the taxpayer.

There is no limit on in-house R&D costs eligible for the payment. Eligible outsourced R&D costs are limited to €1 million (the maximum 14% payment is therefore €140,000).

Claims require prior authorisation as to eligibility and may not be claimed before the end of the year in which the expenditure is incurred or after the tax assessment date.

(ii) *Education.* An education allowance is granted up to 20% of the education costs of employees. A bonus of 6% of the expenses of education which are not already used as the basis for the tax exemption is available. The education allowance also applies to internal educational costs. In this case, the allowance amounts to 20%, but is limited to €2,000 for each event or each day.

(iii) *Allowance for investments.* For individuals and partnerships, a basic allowance of 13%, up to a maximum of €3,900, is available for any investments.

A specific allowance for profits from certain investments is also available for individuals and partnerships. Tax rates on profit allowances from 2013 to 2022 are as follows:

Profits (€)	*Rate* (%)
Up to 175,000	13
175,001–350,000	7
350,001–580,000	4.5
Over 580,000	0

The following conditions also apply:

– the allowance applies to business or self-employment income or income from farming and forestry activities that account for profits on a cash basis

– the investment is made in new tangible limited-life assets as well as specified securities

– there is a minimum utilisation/holding period of 4 years in respect of the investment made

– eligible business establishments must be located in Austria or another country within the EU.

Buildings, cars, aircraft, low-cost as well as used assets and assets which already benefit from R&D allowances are not eligible for the profit allowance. If the minimum period of 4 years is not satisfied, investment expenses will be subsequently taxed.

It should be noted that this allowance is available in respect of self-employment income, where previously only business and farming income benefited from such allowances.

(iv) *Extended loss carry-forward.* Cash basis accounting businesses are generally allowed to carry losses forward from the previous 3 years. Losses derived before this 3-year-period are lost.

(v) *Assumed expenses.* Individuals with small businesses who calculate their profit on a cash basis have the right to assume their expenses with 6% of business proceeds when profits are generated from:

These percentages apply up to a ceiling of €5,670 per month for 2022 (€5,550 per month for 2021). This ceiling is also used for the extra 2 months' wages or salary (for holidays and Christmas) which Austrian employees earn. Social security contributions are deductible from taxable income for income tax purposes.

Developments

The Austrian Government has proposed reducing the health insurance contributions. Specific details of the proposal have not yet been announced.

In addition to the social security element, the system also collects a compulsory Chamber of Labour (trade union) contribution of 0.5% and a housing construction contribution of 1%, but these are not due on the customary salary bonuses (the rates are included in some additional contributions, as shown above) — see AUT ¶3-060(b)(1).

Contributions for social insurances cease to apply for older employees when they reach a certain age:

Type of insurance	*Male employees*	*Female employees*
Unemployment insurance	56 years	56 years
Insurance in case of employer's insolvency	60 years	56.5 years
Accident insurance	60 years	60 years

Non-residents

Non-residents are basically treated in the same way as residents with respect to social security.

Foreigners receive the statutory pension only if they are resident in Austria, there is a social insurance agreement with their home country, or their stay abroad has been approved.

At present there are such agreements with:

Albania
Australia
Belgium
Bosnia-Herzegovina
Bulgaria
Canada
Chile
Croatia
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
India
Ireland
Israel
Italy
Latvia
Liechtenstein
Lithuania
Luxembourg
Macedonia
Malta
Moldova
Montenegro
Netherlands
Norway
Philippines
Poland
Portugal
Romania
Serbia
Slovakia
Slovenia
South Korea
Spain
Sweden
Switzerland
Tunisia
Turkey
United Kingdom
United States

Partial agreements have been concluded with the Philippines and Switzerland.

For personnel movements within the EU, EC regulations apply.

AUT ¶3-120 SALARY PACKAGING

(a) Austrian tax treatment of fringe benefits

Residents and non-residents

(1) ***Liability to tax***. Virtually all cash allowances paid to employees and all non-cash benefits provided by employers (with certain exceptions) are treated as part of the employees' salary and are hence subject to the deduction of tax at source. Employees are entitled to claim a deduction for expenditure incurred in producing their salary income. It should be noted that entertaining costs are non-deductible.

By contrast, expenses incurred by employees which are reimbursed by their employer are not subject to tax in the hands of employees.

Other items excluded from the tax base include:

(i) social security benefits

(ii) family allowances

(iii) company provided recreational and cultural facilities, ''Kindergarten'', etc

(iv) an amount of up to €1,000 pa paid by an employer to the employee for childcare, where the child is not older than 10 years

(v) participation in company organised events (outings, celebrations, cultural performances) up to €365 per person pa

(vi) amounts expended by the company to secure the employees' future (up to €300 per person pa)

(vii) voluntary social benefits provided to all or some of the employees

(viii) free meals and drinks provided by the employer

(ix) transportation to and from work

(x) shares in the employer's company up to the amount of €3,000 pa, under special conditions, and

(xi) voluntary benefits for the clearance of natural disasters, especially floods, landslides and avalanches.

(2) ***Benefit valuation***. As a general rule fringe benefits have a taxable value equal to their cost to the employer. However, a range of more specific valuation rules exists to deal with the valuation of particular benefits such as vehicles and loans.

(b) Specific treatment of common benefits

Residents and non-residents

(1) ***Cars***. Employer provided motor vehicles are subject to income tax. Complex valuation rules apply but the after-tax cost of maintaining a vehicle is nearly always less if the vehicle is provided by the employer than if the employee maintains their own vehicle from after-tax earnings.

(2) ***Telephone***. The payment or reimbursement of telephone expenses is subject to income tax except to the extent that the employee can substantiate the business use of the telephone.

2020. Company forms that no longer exist as a result of the Companies and Associations Code have until 1 January 2024 to convert to a form available under the current code.

(b) Limited liability companies

Under Belgian law there are 2 different types of limited liability companies:

- Besloten Vennootschap/Société à Responsabilité Limitée (BV/SRL)
- Naamloze Vennootschap/Société Anonyme (NV/SA).

A limited liability company is formed by one or more persons (either individuals or legal entities), for the purpose of conducting a business venture and dividing the profits among the investors. These entities are the most common forms of business structure in Belgium. Of these, the BV/SRL is the most common form of business structure used by resident businesses. Both company types may be listed on a stock exchange. However, the NV/SA is the standard form for listed entities.

Information on the basics of creating a company in Belgium can be found on the official government website: business.belgium.be/en/setting_up_your_business.

Incorporation

Incorporation of a limited liability company occurs through a deed, sworn before a notary public, which includes the articles of association and a detailed financial plan.

The articles of association of a BV/SRL may contain a clause limiting the transferability of its shares. An NV/SA must be registered in the name of the shareholder in a shareholders register.

There is no minimum share capital requirement for the BV/SRL. However, the company must have sufficient funds to meet the company's objectives. The minimum share capital requirement for an NV/SA is €61,500.

Taxation overview

The profits of a company are taxed twice, once at the level of the company itself and once in the hands of its shareholders when profits are distributed. This double taxation may be mitigated under certain conditions for both corporate and individual shareholders. The most important measure in this respect is the participation exemption, which may apply to corporate shareholders.

By distributing part of its income as salary to shareholder-employees, a company may reduce its taxable income. To the extent this salary and the related social charges are reasonable, taking into account the activities performed by the shareholder-employee, the salary is deductible for corporate income tax purposes.

Taxpayers must submit income tax returns to the tax authorities together with copies of the annual accounts, mandatory special documents and explanatory details or disclosures which are mainly related to income and expenses. Corporate income tax returns must be prepared and filed electronically.

Online filing is done via Biztax. Once filed, Biztax can automatically calculate the tax due. For filing deadlines, see BEL ¶1-240(a).

(c) Partnerships

Ordinary partnerships

An ordinary partnership (Maatschap/Société simple) may be formed by 2 or more partners. This type of partnership does not have legal personality.

General partnerships

A general partnership (Vennootschap Onder Firma (VOF)/Société en nom collectif (SNC)) may be formed by 2 or more partners. The partners are jointly and severally liable to an unlimited extent for the debts and obligations of the partnership. This type of partnership has legal personality.

Limited partnerships

A limited partnership (Commanditaire Vennootschap (CommV)/Société en Commandite (SComm) may be formed by one or more general partners with one or more limited partners. General partners are jointly and severally liable to an unlimited extent for the debts and obligations of the partnership. The liability of limited partners is generally limited to their unpaid contribution (if any). Limited partners may not take part in the management of the partnership. If they do so, they become jointly and severally liable for the obligations of the partnership as if they were a general partner. This type of partnership has legal personality.

Taxation overview

Ordinary partnerships are not themselves subject to corporate income tax and there are no specific tax returns. The partners, either individuals or legal entities, must include their share of partnership assets and income in their tax returns. General partnerships and limited partnerships are liable to corporate income tax and must file a tax return.

(d) Branches

An unincorporated branch is an extension of a domestic or a foreign entity, as opposed to a separate legal entity. Branch income is considered to be directly earned by the head office of the entity and is subject to tax at that level. Branches of foreign entities are subject to Belgian corporate income tax if the branch qualifies as a PE in Belgium. When a foreign company has no proven records concerning profits earned in Belgium, that profit must be determined using comparables or on the basis of other methods that reflect reality (eg the cost plus method).

Taxation overview

The income of a branch of a domestic company must be included in that company's tax return. Branches of foreign entities subject to Belgian corporate income tax must file a non-resident corporate income tax return. Belgian branches of foreign companies are subject to corporate income tax (vennootschapbelasting/impôts des sociétés) on the profits and capital gains arising from all their activities, wherever conducted, unless domestic law or a tax treaty specifically excludes such income.

Branch losses

Losses of a foreign branch are deductible from the taxable income of the Belgian head office, subject to certain conditions. Losses must first offset profits from other foreign branches, resulting in the restriction of offset against Belgian taxable income. Losses may be carried forward indefinitely. In order to avoid double benefiting of losses (both at the branch level and at the head office), future branch profits will result in recapturing the losses previously offset in Belgium.

(e) Foundations

Foundations are not-for-profit organisations with an autonomous and reliable income source generally, but not exclusively, originating from a donation of capital. A foundation is only liable for corporate income tax to the extent it carries out business activities. Other activities of a foundation do not fall within the scope of the Belgian corporate income tax system. Examples of available vehicles for private foundations

(b) Carry-back

In general, Belgian tax law does not provide for carry-back of losses against prior year profits. However, companies may create a tax-exempt reconstruction reserve of an amount equal to the amount of losses incurred during 2020 (subject to a maximum of €20 million) (see BEL ¶1-200(h)).

(c) Change of ownership

Reported tax losses cannot be carried forward in cases where a change of control takes place in a company, unless the takeover can be justified on financial or economic grounds. Control in this context means the power to appoint directors. Thus, a de facto majority of share ownership (greater than 50%) or a shareholder agreement granting the power to appoint a majority of directors is required in order to control a company. A taxpayer is entitled to ask for a ruling on this point (see BEL ¶1-250). Justification on financial or economic grounds is presumed to be automatically present in the case of a change of control in a company with financial difficulties that maintains, even partially, the original employment levels and activities of the company. The condition is also deemed to be fulfilled if a transfer of shares or management occurs within a group of companies.

(d) Other restrictions

Restrictions apply to the carry-forward of losses in the case of a merger. Where 2 companies merge, of which at least one has accumulated tax losses, the surviving company may only carry forward a portion of these accumulated losses. This portion is the ratio of its net fiscal assets prior to the merger to its total combined net fiscal assets following the merger. The balance of the loss is lost forever. The taxpayer is entitled to ask for a ruling on this point.

Additionally, there are restrictions on the deduction of losses (see BEL ¶1-220(b)) if the company claiming the deduction receives an abnormal or beneficial advantage granted by another Belgian company, or where the net fiscal value is equal to zero.

(e) Foreign losses

Foreign branch losses

Losses of a foreign branch are generally deductible from the taxable income of a Belgian head office, subject to the restrictions applicable to losses incurred due to extraordinary events.

Losses of a foreign branch may be deducted only in the following order:

- first, from profits from other foreign branches
- second, from Belgian income.

The final balance (if any) is carried forward and may offset future profits.

Foreign subsidiary losses

Losses of a foreign resident subsidiary may not offset Belgian taxable profits. However, a taxpayer may obtain an indirect deduction with respect to such losses in any of the following ways:

- on liquidation of the foreign subsidiary, any loss arising to the Belgian parent from its share of the investment is deductible from taxable profits to the extent of the paid-up capital lost, the balance being no longer tax deductible (see BEL ¶1-070(b))

- loans to the foreign subsidiary may be written down, when appropriate, to make the continuation of the foreign subsidiary possible and to avoid bankruptcy.

BEL ¶1-090 TREATMENT OF INVENTORY/STOCK-IN-TRADE

(a) Valuation

Inventory may be valued in Belgium either at cost or at a lower market value. Valuation at cost may be done using the first-in first-out (FIFO), last-in first-out (LIFO) or weighted average methods. FIFO and LIFO are methods of valuation based on time and prioritisation. Under FIFO, the first goods purchased are considered the first goods sold according to their purchase price. Under LIFO, the last goods purchased are considered the first goods sold and valued at their purchase price. The weighted average method of valuation gives some assets more importance or weight than others.

(b) Deduction

Inventory may be written down for tax purposes and accounting purposes if the taxpayer can individualise write-down (ie the taxpayer can identify the specific elements on which the write-down is necessary).

BEL ¶1-100 DEPRECIATION

Taxpayers in Belgium may depreciate tangible and intangible assets with a limited useful life. Depreciation must meet the requirements of prudence, truth, fairness and good faith. Depreciation cannot depend on the results of the business, and depreciated items must be individualised.

Small companies can depreciate additional costs (non-deductible VAT, import duties, transport cost, transfer tax on real estate) in the year of the acquisition of the investment. Large companies can do this for the year of acquisition only on a pro rata basis.

(a) Methods

The Belgian tax authority accepts the straight-line method and, in certain cases, the declining balance depreciation methods. The method used must be the one appearing in the financial statements approved by the shareholders.

(b) Rates of depreciation

Depreciation is based on the economic life of the asset. In the straight line method, the following annual depreciation rates are generally accepted:

	%
Office buildings	3
Factory buildings	4
Office equipment	10
Plant and machinery	10–20
Vehicles	20–25
Office computers	20–33
Tools	33
Start-up expenses	20–100
Leasehold improvements	10 or term of lease

Land is not depreciable.

law, and that the same tax offset rules must apply to both resident companies and non-resident companies within the EU. The Belgian tax authorities have therefore issued a circular with guidelines about the conditions under which non-resident companies can reclaim withholding tax.

From tax assessment year 2014, Belgian investment companies are no longer allowed to offset withholding tax for dividends received against their corporate tax liability.

(b) Participation exemption (dividend received deduction)

From 1 January 2018, dividends received from a qualifying company are exempt from Belgian tax (the so-called ''dividend received deduction'', or DRD). Before 1 January 2018, these benefited from a 95% exemption.

Qualifying companies generally include:

- Belgian companies
- companies that are residents of other EU member states
- companies resident outside the EU
- private investment funds (private PRIVAKs), and
- collective investment funds with a fixed number of participation rights.

From 1 January 2021, the DRD is not available in respect of dividends received from companies located in a jurisdiction included in the EU list of non-cooperative states.

The DRD is broader in scope than the participation exemption prescribed by the EU. It is not limited to dividends from the types of companies specified in the annex to the EU Parent Subsidiary Directive. Additionally, dividends from a company resident outside the EU qualify for the exemption if the company is subject to a tax regime not considerably more favourable than the Belgian regime.

Anti-abuse provisions limit the scope of the participation exemption. The recipient of the dividends must hold the participation for a minimum of one year and must have a minimum participation level of 10% or have shares with an acquisition value of at least €2.5 million. These minimums do not apply in the case of investments by banks, insurance companies or brokering companies.

The DRD is disallowed in cases where the dividend has been deducted or is deductible from the paying company's taxable income. In addition, the DRD is disallowed in cases where the dividend is part of an act or series of acts deemed to be artificial and where the main purpose (or one of the main purposes) of the act or acts is to obtain the benefit of the DRD.

Deduction of interest charges is disallowed in proportion to the participation exemption for dividend income received from shares held for less than an entire calendar year. No relation is required between the loan for which interest is charged and the purchase of the shares affected by this regulation.

Unused DRD can be transferred to subsequent tax assessment years. This transfer is allowed for dividends originating in EEA countries as well as countries outside the EEA. From 1 January 2018, however, the carry forward of DRD is subject to certain limits (see BEL ¶1-070).

(c) Liquidation distributions

Liquidation distributions received from Belgian companies are taxed at a rate of 25% or 10% (see BEL ¶1-170(a)).

BEL ¶1-140 DIVIDENDS PAID

(a) Withholding tax

Belgian companies must generally withhold tax at the rate of 30% on all profit distributions to shareholders (but see BEL ¶1-130 for exceptions). The withholding tax rate may be lower under a tax treaty (see BEL ¶2-090(a)).

Reduced withholding tax rates apply to dividends from shares issued against a new cash contribution made in small companies from 1 July 2013. The shares must be held continuously from the date of the cash contribution. The reduced withholding tax rates are as follows:

- distributions from the profits of the second financial year following the financial year of the cash contribution — 20%, and
- distributions from the profits of the third and subsequent financial years following the financial year of the cash contribution — 15%.

A reduced withholding tax rate of 15% applies to dividends from certain kinds of real estate investment funds (SICAFs) that invest at least 60% of their funds into property in the EEA that is solely or principally used (or intended to be used) for health care or residential care.

(b) Payment due

The withholding tax is payable within 15 days of the resolution to pay the dividend.

(c) Reductions provided by tax treaties

Tax treaty withholding rate reductions are subject to formalities requiring that the dividend income is declared in the country of the recipient.

(d) Fairness tax (annulled)

Until 31 December 2018, under certain circumstances, a fairness tax applied to large companies that distributed dividends — see BEL ¶1-020(e).

BEL ¶1-150 REDUCTION OF CAPITAL

Under Belgian tax law, capital reductions are proportionally allocated to paid-up capital and reserves. The portion allocated to reserves is subject to dividend withholding tax, unless exempt (see BEL ¶1-140). Liquidation reserves are taxed as outlined at BEL ¶1-170(a).

BEL ¶1-160 REPURCHASE OF SHARES

Under Belgian tax law, repurchase of a company's own shares is generally taxed as a distribution at a rate of 30%.

BEL ¶1-170 LIQUIDATION

The removal of the company's seat from Belgium to a foreign country is treated as a liquidation. A tax-free merger is another means of liquidation.

A company being liquidated is subject to ordinary Belgian corporate income tax on its profits between the day it dissolves and the day that the liquidation process is complete.

(a) Liquidations

Belgian tax law treats liquidation distributions as the repayment of capital up to the amount of revalued paid-up capital. Liquidations are tax free to the shareholder to the extent that they are treated as a repayment of capital. Distributions that exceed

(n) Annual bank tax

An annual bank tax applies to Belgian credit institutions and Belgian branches of foreign credit institutions. The bank tax is imposed on the amount of "debts to clients", as defined, at a rate of 0.13231%.

(o) Annual securities account tax

From 26 February 2021, an annual tax on securities accounts applies to accounts with an average value exceeding €1 million held by companies and other legal entities, and by resident and non-resident individuals. The tax rate is 0.15%, subject to a maximum of 10% of the difference between the tax base and €1 million. The standard tax period is 1 October to 30 September. However, the first tax period ran from 26 February 2021 to 30 September 2021. Certain entities are exempt from the tax, including credit institutions, insurance companies, investment companies and pension funds.

BEL ¶1-200 SPECIAL INCENTIVES, GRANTS, ETC

(a) Tax incentives

There are many different types of tax incentives available in Belgium, including:

- a partial exemption on payroll withholding taxes for start-up businesses
- an exemption from real property tax
- accelerated depreciation
- investment deductions
- special tax regimes for foreign sales corporations and the diamond sector (see BEL ¶2-040), and
- a favourable tax regime for companies located in reconversion zones.

Partial exemptions on payroll withholding taxes

A partial exemption on payroll withholding taxes is available to start-up businesses for the first 4 years of trading. The partial exemption is 10% for small companies and 20% for microbusinesses. A small company is a company that meets the criteria set out at BEL ¶1-100(e). A microbusiness is required to meet at least 2 of the 3 following criteria at the end of the tax year:

- balance sheet total not exceeding €350,000
- sales (excluding VAT) not exceeding €700,000, and
- average number of employees not exceeding 10.

Eligible companies are still required to withhold payroll taxes (see BEL ¶1-020(g)); however, the company is not obliged to remit the exempt amounts to the state.

Companies with a maximum of 6 employees may benefit from a total exemption on social security contributions for their first employee and a partial exemption for the following 5 employees. The total exemption also applies for independent workers who hire an employee for the first time.

Exemption from real property tax

A property tax exemption applies at source to certain immovable property including:

- specified types of immovable property (eg clinics, rest houses, churches, schools)
- the properties of foreign countries on the condition of reciprocity (eg embassies)

- national monuments, and
- immovable property that falls under the application of the Royal Decree of 13 June 1990.

Temporary exemptions may also apply based on particular provisions within the framework of the economic expansion laws (eg unoccupied and decayed houses).

These exemptions are set out in the laws that establish particular institutions.

Accelerated depreciation

Accelerated depreciation refers to one of several methods by which a company, for financial accounting and/or tax purposes, depreciates a fixed tangible asset in such a way that the amount of depreciation is higher during the earlier years of an asset's life.

For tax purposes, accelerated depreciation provides a way of deferring corporate income taxes by reducing taxable income in current years in exchange for increased taxable income in future years. This is a valuable tax incentive that encourages the purchase of and investment in new assets.

The Belgian tax authority accepts only the declining balance method as the method for accelerated depreciation. The method used must be used in the financial statements approved by the shareholders.

Investment deductions

Some taxpayers may benefit from a one time or spread investment deduction. Generally, the deduction is applied in the tax year in which the investment is made (one time deduction). Some taxpayers, however, may choose to take the deduction over the duration of the depreciation period (spread deduction). The carry forward of the deduction is subject to certain limitations (see BEL ¶1-070(e)). An increased investment deduction applies to certain investments (see BEL ¶1-100(e)).

From 1 July 2016, an innovation deduction is available to taxpayers in the form of a special tax deduction for income from patents and other intellectual property rights, including capital gains. The regime applies to self-developed intellectual property as well as intellectual property that is acquired and licensed from third parties. As a result of this deduction, the effective tax rate on such income is 5.10%.

For patents registered before 1 July 2016, Belgian companies and Belgian branches of foreign companies were eligible for a special tax deduction for patent income and income from additional protective certificates until 30 June 2021. This regime applied not only to self-developed patents but also to certain patents acquired and licensed from third parties. A deemed deduction of profits applied to such patents that were used in the production process. There was no cap on the deduction amount. As a result of this deduction, patent income for patents registered before 1 July 2016 was subject to an effective Belgian tax rate of 6.8% until 30 June 2021. This tax rate applied to income derived on beneficially owned or licensed patents.

Other important incentives of Belgian corporate tax law can also be applied, including:

- the notional interest deduction for equity financed operations (see BEL ¶1-120(b))
- the investment deduction of 13.5% for patents and certain R&D activities (see BEL ¶1-100(e)), and
- grants and subsidies.

61 The 10% rate applies if the foreign company (not through a partnership) owns directly at least 25% or 250 million Belgian francs (about €6.2 million) or equivalent of the paying company's capital since the beginning of the financial year; the 0% rate applies under the EU Parent Subsidiary Directive.

62 The lower rate applies to interest paid to a government organisation or the central bank, or under the EU Interest and Royalties Directive.

63 The lower rate applies if the foreign company (not through a partnership) owns directly or indirectly at least 10% of the paying company's capital.

64 The 0% rate applies to interest paid to a government organisation, the central bank or a pension fund; the 5% rate applies to interest paid in respect of a loan granted or credit extended by a bank or other financial institution, or in respect of bonds or securities traded on a regulated securities market.

65 The 5% rate applies if the foreign company owns directly at least 10% of the paying company's capital; the 0% rate applies under the EU Parent Subsidiary Directive.

66 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid to a government organisation or the central bank, or in respect of (a) commercial debt claims resulting from deferred payments for goods, merchandise or services, (b) loans or deposits not represented by bearer instruments, (c) loans or deposits represented by bearer instruments held by a bank or insurance company for at least 3 months prior to payment of the interest, or (d) a loan or credit guaranteed or insured by a government organisation to promote exports.

67 The lower rate applies if the foreign company owns directly or indirectly at least 10% of the voting rights in the paying company.

68 The lower rate applies to interest paid to a government organisation or a pension fund, or in respect of (a) sales on credit of equipment, merchandise or services, (b) a bank loan not represented by bearer instruments, or (c) a loan or credit granted between enterprises.

69 The lower rate applies to interest paid to a government organisation in respect of a loan, or to the central bank.

70 The lower rate applies to interest paid in respect of (a) a loan or credit guaranteed or insured by a government organisation, or (b) government bonds or debentures.

71 The lower rate applies (a) under the EU Parent Subsidiary Directive, (b) if the foreign company owns directly at least 10% of the paying company's capital for at least 24 months prior to payment of the dividend, or (c) if paid to a pension fund.

72 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid (a) to a government organisation or a pension fund, (b) in respect of bank loans not represented by bearer instruments, or (c) in respect of a loan or credit guaranteed or insured by a government organisation to promote exports.

73 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid in respect of (a) commercial debt claims resulting from deferred payments for goods, merchandise or services, or (b) current accounts or advances between banks.

74 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid in respect of a loan or credit guaranteed or insured by a government organisation.

75 The 0% rate applies if paid to a pension fund; the 5% rate applies if the foreign company owns directly or indirectly at least 10% of the paying company's capital for at least 12 months prior to payment of the dividend and has invested at least €80,000 or equivalent.

76 The lower rate applies if the foreign company owns directly at least 25% of the paying company's capital for at least 12 months prior to payment of the dividend.

77 The lower rate applies to interest paid (a) to a government organisation, (b) in respect of commercial debt claims resulting from deferred payments for goods, merchandise or services, (c) in respect of a loan or credit guaranteed or insured by a government organisation to promote exports, or (d) if the foreign company owns directly or indirectly at least 35% of the paying company's capital.

78 The 0% rate applies if the foreign company owns directly at least 25% of the paying company's capital for at least 12 months prior to payment of the dividend; the 5% rate applies if the foreign company owns directly at least 10% for at least 12 months prior to payment of the dividend.

79 The 0% rate applies if the foreign company owns directly at least 25% of the paying company's capital for at least 12 months prior to payment, or if paid to a government organisation or the central bank; the 5% rate applies if the foreign company owns directly at least 10% of the paying company's capital.

80 The lower rate applies to interest paid to a government organisation or the central bank, or by one bank to another.

81 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid (a) to a government organisation, (b) in respect of commercial debt claims resulting from deferred payments for goods, merchandise or services, (c) in respect of a loan or credit guaranteed or insured by public entities to promote exports, or (d) in respect of current accounts or loans not represented by bearer instruments between banks.

82 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid (a) to a government organisation, (b) in respect of commercial debt claims resulting from deferred payments for goods, merchandise or services, or (c) in respect of a loan or credit guaranteed or insured by public entities to promote exports.

83 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid in respect of (a) commercial debt claims resulting from deferred payments for goods, merchandise or services, (b) a loan or credit guaranteed or insured by public entities to promote exports, or (c) current accounts or advances between banks.

84 The lower rate applies to interest paid to a government organisation.

85 The lower rate applies under the EU Interest and Royalties Directive, or to interest paid in respect of (a) commercial debt claims resulting from deferred payments for goods, merchandise or services, or (b) bank loans or deposits not represented by bearer instruments.

86 The lower rate applies if the foreign company owns directly at least 10% of the paying company's capital for at least 12 months prior to payment, or if paid to a pension fund.

87 The lower rate applies to interest paid to a government organisation or a pension fund, or in respect of a loan granted or credit extended by one enterprise to another.

88 The lower rate applies to interest paid to a government organisation or the central bank, or in respect of (a) a loan made between banks, or (b) a loan or credit guaranteed or insured by a government organisation to promote exports.

89 The lower rate applies if the foreign company owns directly or indirectly at least 25% of the voting rights in the paying company.

90 The lower rate applies to interest paid to a financial institution (including an insurance company).

91 The 0% rate applies to interest paid in respect of a loan or credit guaranteed or insured by a government organisation or the central bank; the 5% rate applies to interest paid in respect of a bank loan not represented by bearer instruments.

92 The lower rate applies if the foreign company owns directly at least 20% of the paying company's capital.

(2) On assessment of tax, the following unutilised thresholds may be transferred from one spouse to the other:

(i) Threshold of DKK46,600 (DKK46,700 in 2021) on calculation of local authority tax and bottom tax to the State — see (a) above

(ii) Dividend income of up to DDKK57,200 (KK56,500 in 2021) per person is taxed at a definitive tax rate of 27%. The non-utilised dividend income of one spouse may be utilised by the other, so that a married couple can have a total of DKK114,400 (DKK113,000 in 2021) in dividend income, taxed at only 27%.

Non-residents

The same rules apply as for persons subject to full tax liability — see (a) above.

(e) Danish tax rates for special categories of individuals

Residents and non-residents

(1) ***Sole proprietors.*** For Danish tax purposes, the income from a sole proprietorship may be taxed in one of the following 3 ways, at the option of the owner:

(i) *In the hands of the individual at their marginal tax rate.* The individual must enclose the accounts of the sole proprietorship when filing a tax return with the Danish Tax Administration. Accordingly, the business income of the sole proprietorship may be subject to a higher tax rate (see (a) above) than the business income of a limited company (22% in 2021 and 2022).

(ii) *Under corporate income tax rules*, whereby interest and other expenses are deductible in accordance with company tax rules, and profits are taxed at corporate tax rates (22% in 2021 and 2022). Income taken out of the business is taxed at personal income tax rates (see (a) above).

(iii) *Under capital gains taxation rules*, whereby the increase in value of the business is taxed as a capital gain each year (see DNK ¶3-010(b)).

(2) ***Children.*** Children, irrespective of age, are generally subject to income tax in the same way as all other persons. In order to limit opportunities for transfer of income between parents and their children for the purpose of tax avoidance, there are regulations that certain categories of children's income must be included in the parents' taxable base. This applies to such income as:

(i) interest on wealth received by the child as a gift from the parents

(ii) recurring payments in the form of gifts from the parents

(iii) wages to children under 15 years of age for work in the parents' business enterprise.

DNK ¶3-030 TAX YEAR AND PAYMENT SYSTEM

(a) Overview of the Danish tax collection system

Residents

(1) ***Normal tax year.*** Taxable income is assessed on the basis of income in the calendar year. In certain very special cases, it is possible for individuals to be granted an adjusted income year.

(2) ***Overview of tax collection system.*** Collection of income tax from individuals is based on the principle of simultaneous taxation. Income is divided into 2 categories, called A income and B income. This division is relevant to advance collection of tax as either A tax or B tax.

Advance tax is collected from wage earners' income as PAYE tax (A tax), which is withheld by employers each time A income is paid to an employee — see (b) below. Self-employed individuals and persons with other categories of income (B income) must pay advance tax (B tax) on their own initiative. The final tax amount is calculated in the following year and compared with the advance tax amounts. Excess tax is reimbursed, while any shortfall is subject to collection.

(3) ***Lodgment of returns.*** Any person subject to income tax liability rules is obliged to file a return for all income, regardless of whether the income is positive or negative. For a large number of taxpayers whose incomes are uncomplicated, the tax authorities automatically send out preprinted tax assessment forms based on information received from employers, public authorities and banks, etc.

If a taxpayer does not receive an automatically preprinted tax return, or the return is not complete, the taxpayer is obliged to submit a tax return form by 1 May of the year after the end of the relevant tax year. Self-employed individuals who are obliged to enclose annual accounts are subject to a deadline of 1 July of the year after the end of the relevant tax year). Extensions of these deadlines are not normally granted. If the deadlines are not met, a penalty of up to DKK5,000 may be imposed on the taxpayer. If the tax return form is not submitted, the tax authorities may assess income on an estimated basis. The tax return must be submitted to the local authority's tax office.

(4) ***Assessment of tax.*** The entire tax assessment procedure takes place on a centralised basis under the Central Customs and Tax Administration (Ministry of Taxation), which sends an annual statement to the taxpayer stating the final tax assessment.

If the local authority's tax office wishes to amend the income assessment, the taxpayer must be informed, and may thereafter lodge any objections, either verbally or in writing. If the tax office upholds the amended tax assessment, grounds for the amendment must be given in writing and at the same time the taxpayer must be informed of opportunities to appeal the ruling.

(5) ***Payments and refunds.*** The annual statement shows whether the taxpayer has paid too little or too much tax. As a rule, excess tax is reimbursed at the time of issue of the annual tax statement. Any tax shortfall is collected in 3 instalments, and the final due dates for payment are 20 September, 20 October and 20 November in the year following the income year. However, smaller tax shortfall amounts (up to DKK21,700 in 2022; DKK21,400 in 2021 are collected together with the advance tax for the following year.

(6) ***Revenue authority contact details.*** Usually, the individual taxpayer's first contact will be the local authority's tax office. The central tax authority is:

Skattestyrelsen (Danish Tax Agency)

Hannemanns Allé 25

2300 København S

Tel: +45 7222 1818

www.sktst.dk

- private limited liability company (société à responsabilité limitée or SARL).

A partnership may take one of the following forms:

- general partnership (société en nom collectif or SNC)
- limited partnership (société en commandite simple or SCS)
- civil law association (société civile or SC).

A legal entity organised in France or under French law is a domestic entity. A company is also considered to be a French resident if it is centrally controlled and managed from a location in France (see FRA ¶2-020). All other entities are foreign entities.

(b) Limited liability companies

A limited liability company may take one of 3 forms. The form of limited liability company that is most commonly used by large business ventures is the SA. Smaller business ventures generally use the SARL. The SARL is more common than the SAS; however, due to simplified management rules, the SAS is growing in popularity.

Insurance companies and financial institutions must do business as an SA.

Formation and governance of an SA

An SA is a limited liability company created under a private contract (articles of association), with ownership interests represented by shares (either registered or bearer). The shares of an SA may be privately held or publicly traded and may bear special rights or limitations (eg double voting rights, no par, etc). The minimum share capital of a privately held SA is €37,000. The minimum share capital of a publicly traded SA is €225,000.

An SA must have at least 2 shareholders when privately held and 7 shareholders when publicly traded. There is no maximum number of shareholders for an SA. There are no restrictions on shareholder residence or nationality and shareholders may be individuals or legal entities. The legal liability of a shareholder of an SA for the debts and obligations of the company is limited to the shareholder's capital contribution.

Management of an SA may take one of 2 forms. First, an SA may utilise a conventional board structure under which the shareholders elect a board of directors and the board elects a chairman and a managing director. The managing director operates the SA and reports to the board. Second, an SA may utilise a supervisory board structure under which the shareholders elect a board of directors and the board elects a management committee. The management committee manages the day-to-day operations of the SA and reports to the supervisory board. Members of the supervisory board may not be members of the management committee. In either form of management, employees are entitled to board representation (up to 2 members) if the employees directly or indirectly own more than 3% of the SA's shares, and are entitled to elect a workers' council if the SA has more than 50 employees.

An SA must maintain at least one statutory auditor registered in France to prepare annual audited financial statements when at least 2 of the following conditions are met:

- balance sheet is more than €4 million
- turnover is more than €8 million
- at least 50 permanent employees are employed during the year.

A publicly listed SA must publish quarterly branch financial data and semi-annual provisional balance sheets in addition to publishing annual financial data.

Formation and governance of an SAS

The SAS is a simplified form of SA. In general, the rules applicable to an SA also apply to an SAS. However, there are 3 areas where the rules applicable to an SAS are markedly different. First, an SAS cannot be publicly traded. Second, an SAS may have as few as one shareholder. Third, an SAS typically does not have a board of directors and separate management. Instead, the shareholders generally elect a chairman to take on the roles filled by the board and management of an SA. No minimum share capital is required for an SAS.

Similar to an SA, an SAS must maintain at least one statutory auditor registered in France to prepare annual audited financial statements when at least 2 of the following conditions are met:

- balance sheet is more than €4 million
- turnover is more than €8 million
- at least 50 permanent employees are employed during the year.

Formation and governance of a SARL

The SARL is a limited liability company that is usually used for mid cap entities. The rules applicable to a SARL are similar to those applicable to an SA and SAS. A SARL has a minimum share capital of €1, and may have as few as one shareholder but may not have more than 100 shareholders. A SARL is managed by one or more managers (gérant), who must be individuals. The articles of association of a SARL must contain a clause limiting the transferability of its shares. The shares of a SARL may not be listed on a public exchange. Similar to the SA and the SAS, a SARL must also maintain a statutory auditor when at least 2 of the following conditions are met:

- balance sheet is more than €4 million
- turnover is more than €8 million
- at least 50 permanent employees are employed during the year.

Principal tax return requirements applicable to limited liability companies

Limited liability companies must file a corporate income tax return each year, unless the company has elected for the partnership tax regime to apply. Corporate income tax is assessed on an annual basis. A taxpayer is required to take into account at the end of its financial year all incurred income and all accrued expenses. As such, each financial year is considered independent from the preceding and subsequent financial years.

A taxpayer may freely choose the financial year over which it will calculate income. The financial year may be the calendar year or fiscal year provided that it is a 12-month period. A company's tax year must be the same as its financial year.

The profits of a limited liability company are effectively taxed twice; once at corporate level and once in the hands of its shareholders when profits are distributed.

- the full name and address of the taxable person and their customer
- the tax number or the VAT identification number of the supplier
- the quality and nature of the goods supplied or the extent and nature of the services rendered
- the date on which the supply of goods or services was made or completed or the date on which the payment in advance was made (insofar that a date can be determined and differs from the date of issue of an invoice)
- the taxable amount per rate or exemption, and
- the unit price exclusive of tax and any discounts or rebates if not included in the unit price.

Invoices for export transactions should mention the VAT exemption with reference to LTVA art 43. Invoices for intra-community transactions should also mention the VAT identification number of the taxable person used for intra-community trade and the place of delivery.

Electronic invoices are accepted. Foreign languages used in Luxembourg are allowed for invoicing. Taxpayers may express VAT in foreign currencies but should convert foreign currencies into euro for calculation of VAT amounts using the official average exchange rate.

A ''standard electronic file'' can be used by certain taxpayers in order to assist the authority in its VAT audit procedure. Known as the Fichier d'Audit Informatise AED (FAIA), the standard file applies to taxpayers who use computerised accounting systems.

Under the FAIA, the tax authority, when carrying out a VAT audit, can request accounts to be transferred in electronic format.

(j) Reverse charge rule

Luxembourg VAT law includes a reverse charge rule. The reverse charge rule applies to most supplies of services where the supplier is not a resident and does not have a PE in Luxembourg. The invoice must refer to the local tax law provision under which the tax liability is transferred to the recipient.

The reverse charge rule is the main rule for the supply of cross border services.

Thus, in the framework of business-to-business (B2B) relationships, the recipient of services supplied cross-border is liable to tax except in the case of certain types of services, such as restaurant and catering services, hiring of transport, cultural, sporting, scientific and educational services for which taxation is still at the place of consumption or for services connected with immovable property, the place where it is located.

For business-to-consumer (B2C) services, the place of taxation continues to be, in principle, where the supplier is established. In addition, EU Sales Lists for intra-EU supplies of services have been introduced. These must be filed on a monthly basis (by the 15th of each month for electronic filing).

The place of supply for B2C radio and television broadcasting services, telecommunications services and electronic services is considered to be the customer's country. The supplier must pay VAT in the customer's country. Luxembourg businesses can register with a One Stop Shop (OSS) in Luxembourg. The supplier can make one quarterly declaration and payment for customers in multiple EU countries through OSS. Alternatively the supplier can register for VAT and pay VAT in each EU country in which the supplier provides the above B2C services.

LUX ¶1-190 OTHER LUXEMBOURG TAXES

(a) Withholding taxes

A withholding tax of 15% applies to dividends. There is no withholding tax on interest or royalty payments. However, interest paid in respect of profits from a profit-sharing bond/loan is treated as a dividend distribution and subject to withholding tax at the rate of 15%.

Income from literary and artistic activities, professional sporting activities, where the activity is exercised (or enhanced in the case of literary and artistic work) in Luxembourg, is subject to a withholding tax of 10%.

While director's fees are subject to a withholding tax of 20%, no withholding tax is due on management or auditors' fees or payments to contractors.

(b) Registration duty

A fixed registration duty of €75 covers several transactions pertaining to Luxembourg companies (financing and participating companies (SoParFis and SICARs), specialised investment funds (SIFs), securitisation vehicles and investment vehicles for private individuals (SPFs)), including incorporation, transfer of seat from a foreign country to Luxembourg and amendment of the bylaws.

Contribution in kind consisting of the transfer of real estate into a company is subject to a specific registration tax as follows:

- the contribution of real estate located in the Grand Duchy of Luxembourg to a civil or commercial company remunerated by shares is subject to 2.4% registration duty plus 1% communal surtax (0.6% registration duty plus 0.5% communal surtax before 1 January 2021)
- the contribution of real estate located in the Grand Duchy of Luxembourg to a civil or commercial company remunerated by means other than shares is subject to 6% registration duty plus a percentage for communal surtax (3% for Luxembourg City).

However, transfers made in the context of a corporate restructuring (ie contributions of all assets and liabilities, contributions of one or more branches of activities as well as contributions of all assets and liabilities of a 100% held subsidiary) are exempt from proportional duties under the condition that the transfers have been mainly remunerated (ie with more than 50%) with securities that represent share capital of the companies involved.

(c) Transfer of shares or securities

No duty or transfer tax is payable on the transfer of shares or securities of a Luxembourg company.

(d) Annual subscription tax

Annual subscription tax on the average value of shares or other securities issued by resident companies applies to Luxembourg entities at the following rates:

- SPFs are taxed at a rate of 0.25%
- SIFs are taxed at a rate of 0.01%
- undertakings for collective investment in transferable securities (UCITS) and undertakings for collective investment (UCIs) are generally taxed at the rate of 0.05% (or 0.1% in certain specific cases). From 1 January 2021, the subscription tax rate for UCITS and UCIs in respect of investments made into sustainable funds are:
  - 0.01% if sustainable investments exceed 50% of the fund's total assets
  - 0.02% if sustainable investments exceed 35% of the fund's total assets

A FIAR may be formed using the following legal forms:

- mutual fund (FCP)
- corporate form as an investment fund with variable capital (SICAV)
- corporate partnership limited by shares (société en commandite par actions, SECA)
- private limited liability company (société à responsabilité limitée, SARL)
- joint stock corporation (société anonyme, SA)
- limited partnership (société en commandite simple, SECS)
- special limited partnership (société en commandite simple spéciale, SCSp).

The applicable tax regime depends on the type of investments of the FIAR.

A FIAR which relies on the same investments as the SIF (see above) is exempt from all taxes on income or capital gains, apart from a subscription tax of 0.01% (see LUX ¶1-190(d)) which is computed quarterly on its net asset value, with some exceptions.

However, if the FIAR has an investment policy that focuses exclusively on risk capital, then the SICAR tax regime applies (see above). FIARs are subject to minimum net worth tax (see LUX ¶1-040). Distributions and capital gains realised by a FIAR are not subject to tax.

Management services provided directly to FIARs are exempt from VAT in Luxembourg.

Securitisation vehicle

Securitisation is a transaction under which a vehicle acquires or assumes directly or through another vehicle the assets of a company such as claims, other fixed or current assets, or engagements assumed by third parties or inherent to all or part of the activities of third parties. The vehicle funds the acquisition of such assets with cash or securities, the value or yield of which depends on such risks. All securities must be freely negotiable and can in principle be listed, except for vehicles set up as private limited liability companies (sociétés à responsabilité limitée) or cooperative societies.

Securitisation vehicles can be set up as joint stock corporations (société anonyme), private limited liability companies (société à responsabilité limitée), corporate partnerships limited by shares (société en commandite par actions), cooperative societies (société cooperative) or mutual funds managed by a management company located in Luxembourg.

Both the securitisation company and the securitisation fund may be set up as an umbrella structure, ie comprising compartments with segregated classes of assets and liabilities, which may be liquidated separately.

The CSSF must approve the set-up of a securitisation vehicle to the extent the vehicle is to issue securities (equity or debt) on a continuous or revolving basis to the public.

The equity contribution to a securitisation vehicle is subject to a fixed capital duty of €75 (see LUX ¶1-190(b)). This fixed capital duty covers any further capital increase as well as any conversion of a securitisation company into a securitisation fund or another corporate type as well as a merger, demerger or other reorganisations.

The tax status of a securitisation vehicle reflects the duality of the legal forms available for setting up a securitisation vehicle. Securitisation funds are assimilated to investments funds. They are not subject to corporate taxes and no withholding tax is due on the payments to its investors and no subscription tax (taxe d'abonnement) is due by the securitisation vehicle.

Securitisation companies are fully subject to corporate income tax and MBT. Undertakings made to investors and to other creditors, ie dividends and interest, are fully deductible. For tax purposes, payments made by the securitisation company to investors are always treated as interest expenses even if these are made in the form of dividends. Hence, the taxable basis is significantly reduced. No withholding tax is due by the securitisation company for the payments made to investors.

From 2016, both securitisation companies and securitisation funds are subject to minimum net worth tax (see LUX ¶1-040(d)).

Management services provided to the securitisation vehicles are VAT exempt.

Captive reinsurance companies

The Luxembourg tax authorities encourage captive reinsurance undertakings in order to increase diversification and attract insurance and reinsurance companies operating internationally.

Regulations regarding the form of incorporation, minimum capital, solvency margin rules, guarantees of the professionalism of management and annual audit apply to reinsurance undertakings.

Reinsurance companies must:

- be incorporated as limited liability companies (sociétés anonymes)
- have a minimum share capital of €1,225,000 that must be fully subscribed and paid up
- be committed to developing in Luxembourg a real and autonomous activity. To this end, they must establish the technical and administrative functions necessary to carry out their activities and management, and they must be under the control of persons of high standing as well as with sound professional judgment and knowledge and experience commensurate with their positions. The appointment of the general manager, who must be domiciled and resident in Luxembourg, is subject to the approval of the Ministry of Finance. The management of the undertaking alternatively may be delegated to a management company also subject to the approval of the Minister of Finance
- have an annual audit by a qualified independent auditor chosen from a list of practitioners recognised by the Commissariat aux Assurances, which is the supervisory body for insurance and reinsurance companies.

As limited liability companies, captive reinsurance societies are subject to corporate income tax, MBT and net worth tax.

The Luxembourg tax authorities are aware of the specific problems facing newly formed reinsurance companies and the need to provide for technical reserves well in advance of the reporting of losses by ceding companies. In this regard, the government has prepared a set of standard tax rules available to reinsurance companies that include the following provisions:

- *General technical reserves:* Technical reserves need to be set up to the extent that they are deemed necessary at the end of each year. These tax deductible reserves include reserves for outstanding claims including IBNR and reserves for unearned premiums.
- *Equalisation reserves:* In addition to the standard technical provisions, Luxembourg allows for a provision for claims fluctuations designed to cover exceptional charges arising from claims on low frequency risks. A company may not use this provision to turn a profit into a loss or to reduce profits to less than tax losses carried forward from previous years. The total amount of this reserve may not exceed a ceiling equal to a maximum of 17.5% of the average amount

(1) ***Liability to tax.*** Any benefits provided by the employee's spouse, family, servants or dependants will be regarded as benefits to the employee.

Whether receipts fall into the category of ''gains and profits from an employment'' will be determined by the particular facts of each case.

A payment made to an employee is not necessarily considered to be a profit arising from employment. In order to be deemed to be a profit arising from an employment, a payment must be made in reference to the services the employee renders by virtue of their office, and it must be something in the nature of a reward for services past, present or future.

In some cases it is important to clearly determine whether a payment or benefit is derived from an employment or from some other source before attaching a tax liability to it. For example, a payment could be a personal gift from the employer or from a person other than an employer and for personal reasons. It could be a contractual receipt not arising from an employment. It could also be a gratuitous payment on termination of an employment or a payment in respect of a wrongful dismissal.

The following items would normally be included in employment income:

(i) wages, salary, leave pay, fees, commissions, bonuses, gratuities, perquisites, allowances, entertainment allowances, housing costs, travelling costs or cost of living, etc

(ii) the value of any benefits provided by the employer, such as a car, food, clothing, servants, rates, etc

(iii) the value of accommodation provided in Malaysia

(iv) any sums paid by an employer in respect of an employee's liabilities such as personal income tax, grocery, electricity or water bills, or any personal liability

(v) amounts received from a pension or provident fund that has not been approved by the Director-General

(vi) any contributions made by an employer in respect of an employee, to an unapproved fund or scheme or to a life or endowment policy

(vii) compensation for loss of office

(viii) payments in lieu of annual holidays, whether gratuitous or compulsory, made on retrenchment, retirement or death

(ix) any rewards for services rendered, such as share options, issue of shares, etc

(x) round sum allowances for entertaining, travelling and other expenses

(xi) all reimbursements of private or domestic expenses

(xii) gifts of assets to an employee or the sale to an employee of assets at less than market price — this would apply to assets such as a car or house and to goods such as clothes, wine and groceries

(xiii) payments arising from restrictive covenants

(xiv) tuition or school fees for an employee's children

(xv) honoraria or voluntary fees made for professional services, and

(xvi) free, subsidised or discounted goods or services provided by employers.

(2) ***Benefit valuation.*** The measurement of the advantage or benefit to an employee of a facility provided by an employer is not always an easy task. Benefit valuation is even more difficult where there are no specific provisions in the Act either defining a benefit in kind or assisting in its valuation. The problem becomes all the more serious where the employee receives benefits to which they are not entitled under the terms of their contract (ie voluntary or gratuitous awards) or where restrictions are imposed on the enjoyment of the benefit.

The amount to be taxed in the hands of the employee in relation to a benefit or advantage may be ascertained in the following ways:

(i) If the Income Tax Act provides for special rates, the special rates may be used (eg valuation of accommodation provided by employer — see (c)(4)).

(ii) If a public ruling is provided by the tax authorities, the benefit is to be based on the public ruling (eg company car and driver benefit and free use of furnishings and household equipment provided by the employer).

(iii) If (i) and (ii) above do not apply and the benefit is convertible into money, the basis of valuation would be the value of the benefit to the employee (eg cash vouchers).

(iv) If the benefit is not convertible into money, the basis would be the cost of providing the benefit by the employer (eg utilities provided by the employer). The cost of certain benefits may not be readily ascertainable. In such instances, the valuation of the benefit would have to be negotiated with the tax authorities.

(3) ***Tax collection.*** Benefits in kind are required to be disclosed together with other employment income by the employer when submitting the annual Return of Remuneration (Form EA) to the tax authorities. On the basis of this form and other income reported in the employee's tax return, tax will be assessed.

(4) ***Major exceptions.*** The tax authorities may by concession in certain cases exclude certain benefits in kind from tax (eg child care facilities, goods and services at discounted price, transport, medical/dental benefits, etc).

The Income Tax Act also provides that certain expenditures incurred by employees in the performance of their duties may be deductible against allowances received from the employers (eg entertainment allowances).

Where employees have received a benefit in respect of living accommodation provided by employers, employees are allowed to deduct the following expenses against the benefit:

(i) public rates or insurance premiums paid by the employee

(ii) repair and maintenance expenses which the employee is legally bound to pay, and

(iii) rent paid by the employee for accommodation.

Where employees are reimbursed for expenses incurred instead of being paid an allowance, the reimbursement received is not assessable to tax.

Non-residents

All the above comments are equally applicable to non-residents. Income that is attached to personal services derives its source from the location where the services are rendered. Therefore, where employment services are performed in Malaysia, all

(l) Trusts

Formation and governance

A trust is an arrangement under which a trust founder transfers assets to a trustee for the benefit of a beneficiary. A trust founder may transfer assets for its own benefit (making the trust founder and the beneficiary one and the same). A beneficiary is the legal recipient of the income from a trust and must have the legal capacity to receive trust proceeds. A trustee must be a credit institution (bank). A trustee is in charge of managing the assets and rights granted under a trust and may not be a beneficiary.

A trust is often used by foreign investors to own land in restricted areas (eg any land within 100 km of a Mexican border or within 50 km of the coastline).

Taxation

A trust is a conduit for tax purposes. The trustee is responsible for determining the tax liability of the beneficiaries on income received from the trust and for making advance payments for any tax due. The beneficiaries share tax income and loss according to the provisions in the trust agreement, and must include such income and loss in their own tax liability for the year.

If a trust founder transfers real property to a trust, the real property is treated as the property of the trust founder unless the trust is irrevocable. If the trust is irrevocable, the trust founder is treated as having sold the real property to the trustee and the trust founder will be subject to tax on income received from the transfer of the property.

(m) Sole proprietorships (PF con AE)

Formation and governance

Individuals are permitted to engage in business through a PF con AE. The sole proprietor of a PF con AE has unlimited liability for the debts and obligations of the sole proprietorship. The PF con AE is used mainly for small single-owner businesses.

A foreign individual may engage in business in Mexico through a PF con AE if the individual is a permanent resident of Mexico.

Taxation

The income of a PF con AE is subject to tax in the hands of the sole proprietor.

(n) Permanent establishments (PE)

A non-resident with a PE in Mexico is subject to ISR on all income attributable to the PE and all other Mexican source income. The profits of a PE are generally subject to ISR in the same manner as the profits of an SA (see (a) above) with the same differences that apply to an S de SE.

A PE is any place in which a non-resident carries on any business activities, and includes any branch, agency, office, factory, workshop, installation, mine, quarry and any other place for the exploration or extraction of natural resources.

A non-resident has a PE in Mexico if they employ an agent to undertake any of the following activities on their behalf and under their detailed instruction or general control:

- the keeping of stock or goods, out of which the agent makes deliveries on the non-resident's behalf
- the agent incurs risk on the non-resident's behalf
- the agent receives payment for services independent of the results of the agent's activities on the non-resident's behalf, or

- the agent conducts activities with the non-resident involving non-arm's length prices or amounts of compensation.

A non-resident is permitted to undertake the following activities in Mexico without establishing a PE in Mexico:

- the use of facilities solely for the purpose of storage or display of goods belonging to the non-resident
- the maintenance of a stock of goods belonging to the non-resident solely for the purpose of storage or display
- the maintenance of a stock of goods belonging to the non-resident solely for processing by a person other than the non-resident
- the maintenance of a place of business solely for the purpose of acquiring goods
- the use of a place of business solely for the purpose of carrying on an activity of an auxiliary character (eg advertising, information gathering, scientific research, etc)
- the deposit of goods belonging to the non-resident in a bonded warehouse, and
- the delivery of goods belonging to the non-resident for import into Mexico.

A PE must keep a capital remittance account, which is increased for capital remittances received from the PE's head office or other PEs of the head office, and decreased for capital remittances reimbursed to the PE's head office or other PEs of the head office.

(o) Non-residents without a PE

A company that is not resident in Mexico and does not do business in Mexico through a PE is subject to ISR on Mexican source income only. A company is not resident in Mexico unless it is either incorporated in Mexico or is mainly or effectively managed in Mexico.

MEX ¶1-012 BUSINESS REGISTRATION AND LICENSING

(a) Mexican business registration

Mexican resident companies must file their by-laws with the Mexican Ministry of Foreign Affairs and must register with the Mexican Public Registry of Commerce. The Ministry of Foreign Affairs will issue a business permit if the by-laws of the filer comply with the formation requirements of the selected business form and provided that the entity will either:

- have no foreign investors, or
- only have foreign investors which have agreed:
  - to be treated as Mexican nationals in regard to their stock ownership, and
  - not to invoke the protection of their governments in matters connected with their stock ownership under penalty of forfeiting their holdings to the Mexican Government.

A resident company must request permission from the Ministry of Foreign Affairs to change the provision in its by-laws regarding foreign investors.

Non-resident companies intending to carry out regular business activities in Mexico (eg through a PE) must obtain permission from the Mexican Ministry of the Economy and must register with the Mexican Public Registry of Commerce. Within

(b) Mexican residence defined

Residence for Mexican tax purposes is defined in Mexico's Fiscal Code of the Federation (Código Fiscal de la Federación (CFF)).

Individuals

The following individuals are considered to reside in Mexican territory:

- individuals who have a dwelling in Mexico. Individuals who also have a dwelling in another country will be considered Mexican residents if the centre of their vital interest is located in Mexican territory. For such purposes, the centre of an individual's vital interest is in Mexican territory in any of the following cases, among others:
  - when the source of wealth of more than 50% of the total income obtained by the individual in a calendar year is located in Mexico
  - when an individual's centre of professional activities is located in Mexico
- Mexican national individuals who are government officials and employees, even if the centre of their vital interest is abroad.

Individuals who are Mexican nationals and who demonstrate that their new residence for tax purposes is in a country or territory where their income is subject to preferential tax treatment, will not lose their status as residents of Mexico. This applies for 3 fiscal years after notification to the tax authorities. This will not apply when the country in which the new residence for tax purposes is demonstrated has entered into a broad agreement for the exchange of tax information with Mexico.

Unless demonstrated otherwise, individuals of Mexican nationality are presumed to be residents of Mexico.

Legal entities

Legal entities are considered resident in Mexico if they have established the main administration of the business or the headquarters of their effective management in Mexico.

Change of residence

Individuals or legal entities that cease to be Mexican residents must give notice to the tax authorities for tax purposes within 15 days after the change of residence occurs.

MEX ¶1-016 TAX AND ACCOUNTING YEAR

Mexico's tax and corporate accounting year is the 12-month period coinciding with the calendar year, ie 1 January to 31 December. A business may not choose an alternative tax year.

MEX ¶1-020 TAX RATES ON INCOME

(a) Mexican corporate income tax (ISR) rate

The ISR rate for the years 2010 to 2021 is 30%.

A company that generally is not subject to income tax (ie a social organisation) must pay ISR at the 30% rate if the company has distributable excess income, obtains more than 5% of its total revenue from disposals of items other than fixed assets, or provides services to third parties.

Companies engaged exclusively in agriculture, ranching, forestry or fishing are allowed a 30% reduction on the 30% standard ISR rate, giving an effective rate of 21%.

(b) Mexican withholding rates

Domestic payments

There is no withholding tax on domestic payments of interest or royalties, although interest paid by financial institutions to Mexican residents in respect of securities is subject to an annual tax of 0.08% (0.97% in 2021) of the underlying capital amount.

An exemption from withholding tax on dividends exists where the dividends are paid out of the company's net earnings after tax. In other cases, companies are required to calculate and pay tax on distributed income. A multiplier of 1.4286 is applied to the dividend paid before application of the standard rate (30%). For companies involved exclusively in agricultural, livestock, fishing and forestry activities, the multiplier is 1.2658.

A 10% withholding tax applies to resident individuals on dividend payments arising out of profits generated from 1 January 2014 onwards (see MEX ¶1-140).

There is no withholding tax on other domestic payments to resident corporations such as rental payments for the use of property or fees paid to consultants and contractors.

Interest paid to non-residents

Interest paid by a resident company or a PE of a non-resident company to a non-resident entity, and any interest paid as a result of capital issued or invested in Mexico, is subject to withholding at source. The withholding tax rates on interest are 4.9%, 10%, 15%, 21%, 35% or 40%. The applicable rate depends on the jurisdiction where the effective beneficiary of the interest is resident, the type of entity that issued the financing from which the interest resulted and the nature of the debt instrument involved (eg negotiable instruments, bonds, debentures, etc).

The 4.9% withholding tax rate applies to interest paid in the following circumstances:

- where the effective beneficiary of the payment is a non-resident financial institution (eg a foreign investment bank) in which the Mexican Government has an equity interest, either through the Central Bank or the Ministry of Finance (SHCP)
- where the payment is derived from a publicly traded negotiable instrument issued through a recognised foreign stock exchange and registered with the National Registry of Securities and Intermediaries, and
- where the effective beneficiary of the payment is a financial institution resident in a country with which Mexico has signed a tax treaty.

The 10% withholding tax rate applies to interest paid in the following circumstances:

- where the interest is derived from the sale of a right to a receivable, and
- where the effective beneficiary is a foreign bank that is registered with the SHCP.

Company 2 distributes a dividend of 2m pesos to Company 1, which distributes a dividend of 3m pesos to Holding Company. Holding Company distributes a dividend of 3m pesos to its shareholders.

The dividends from Company 2 to Company 1 and from Company 1 to Holding Company are tax free. 1m pesos of the dividend from Holding Company to its shareholders is subject to tax at the applicable rate (see MEX ¶1-020) because the total dividend exceeds consolidated CUFIN by that amount.

(e) Consolidated tax filing

Companies included in a consolidated filing must file estimated and annual returns on a separate company basis in the same manner as a company that is not included in a consolidated filing (see MEX ¶1-240). Group members are not required to pay tax based on these separate estimated and annual returns, except to the extent that the amounts due are attributable to the portion of the group member's capital stock that is not owned by another member of the consolidated group.

The holding company in a consolidated group must also file an annual consolidated return by 31 March and pay tax on the group's consolidated taxable income. The amount of estimated and annual tax paid on a separate basis by the members of the group is creditable against the tax due to the extent that the payments are attributable to the income included in the consolidated filing. If the amount of this credit exceeds consolidated tax due, the holding company may carry forward the excess to future tax years or claim a refund.

▶ Example

Holding Company owns 90% of the capital stock of Company 1. Holding Company and Company 1 are required to file separate estimated and annual returns. Holding Company must pay estimated and annual tax on 100% of its taxable income, and Company 1 must pay estimated and annual tax on 10% of its taxable income. Holding Company must also file an annual consolidated return and pay the tax due with credit for separate company payments attributable to the group.

A holding company is required to attach an information report to the annual consolidated return that states the amount of ISR deferred due to the consolidated filing. Mexico's Ministry of Finance (SHCP) may deconsolidate a group of companies if the holding company fails to attach this information report to the annual consolidated return.

When the holding company does not pay deferred ISR for the consolidation within the established deadlines, the SAT will presumptively determine the unpaid ISR, together with its respective additional charges.

MEX ¶1-185 VAT/GST

(a) General information

Value added tax (VAT) has applied in Mexico since 1 January 1980 under the VAT Law (Ley del Impuesto al Valor Agregado — LIVA). VAT is imposed at the rates of 16% or 0% (see (c) below) on the value of taxable supplies of goods and services where such supplies are made by a taxable person in the course of business. VAT is collected at each stage of the process of production or distribution of goods and services. A business that makes taxable supplies of goods and services may claim an input VAT credit for VAT paid to produce the goods and services sold. This system causes the burden of the tax to fall on the ultimate consumer.

(b) Taxable and exempt supplies

There is no VAT registration threshold in Mexico. Whenever a business makes supplies that are deemed taxable under the VAT Law, the business must register for tax purposes.

Taxable supplies for VAT purposes are all domestic sales of goods, property and services, including the importation of such goods, property and services, which are not exempt supplies. A business that makes taxable supplies of goods and services may claim an input VAT credit for VAT paid to produce the goods and services sold.

The sale of the following goods, property and services are exempt supplies for VAT purposes:

- property transferred pursuant to a merger that is not a sale under the Tax Code
- transactions undertaken by a non-resident where goods are temporarily imported under a maquila program and the company has filed for certification (see MEX ¶1-200(j))
- certain types of interest (eg interest from financial lease transactions where the transfer of the property is exempt or subject to a zero rate)
- property transferred by gift or inheritance to the extent deductible from income for ISR purposes
- medical services
- services related to financial derivatives
- books and periodicals, and the royalties paid the authors
- services provided by exempt entities (eg labour unions)
- lottery tickets and winnings
- Mexican and foreign currencies
- administration of retirement funds
- creditor fees for residential mortgages
- life insurance, including commissions and fees for reinsurance
- agricultural insurance, including fees and commissions
- free services other than those provided by a business to its owners or employees.

A business that makes exempt supplies cannot elect to make those supplies taxable. This restriction is particularly important because a business that makes an exempt supply of goods and services may not claim an input VAT credit.

Interest payments made to or by the following are exempt from VAT:

- certain credit unions
- community financial assistance companies
- rural financial integration organisations
- organisations decentralised from the government, and
- economic development trusts established by the government.

(c) VAT rates

Standard rate

The standard rate of VAT is 16%. A taxable supply is subject to VAT at the standard rate unless it is specifically subject to VAT at a reduced rate (see below) or is exempt (see (b) above).

Unless contrary proof is given, the tax authorities will presume that the difference between the market price of any assets sold and any higher total sale price up to the date of operation, is goodwill and subject to taxation. The applicable tax rate for taxable goodwill is 35%.

A 10% withholding tax applies to gains on shares held in the Mexican Stock Exchange.

A reduced tax rate may prevail if a tax treaty is applicable.

(c) Derived financial operations

Residents and non-residents

Income from derived financial operations is taxed in Mexico at the rate of 30% with no deductions applicable. Liability crystallises when title to assets passes between the parties.

A non-resident who has a representative in Mexico can elect to pay tax on the gain at a rate of 30%, if the income is paid to a resident of a country which levies tax on the income equal to, or greater than, 75% of the Mexican tax which would apply in Mexico on income received by a resident in the recipient's home country.

The following are defined as ''derived financial operations'':

- Those carried out in recognised markets, whereby one party acquires the right or obligation to acquire or dispose of merchandise, shares, credit instruments, securities, foreign currencies or other estate, in the future, at a price established upon establishing, receiving or paying the difference between the original price and that prevailing upon maturity.
- Those carried out in recognised markets, whereby differences in prices, indices or price baskets or interest rates agreed upon at the beginning of the operation are settled, depending on their market fluctuations.
- The disposal in the secondary market of credit instruments containing the foregoing operations.

It is important to state that the Ministry of Finance and Public Credit, by means of general rules, will determine the instruments, the markets and the conditions to carry out the derived financial operations.

These are classified as follows:

- Financial operations derived from indebtedness refer to interest rates, debt certificates and the National Consumer Price Index.
- Financial operations derived from capital refer to other certificates, merchandise, foreign currencies, baskets and any other indicator.
- Mixed derived financial operations are related to several properties, certificates or indicators, both in debt and capital transactions.

The Ministry of Finance and Public Credit will indicate by means of general rules the derived financial operations which should be considered debt-related and capital-related.

(d) Income received from preferred (low tax) regimes

For Mexican tax purposes, investments made in preferred tax regimes include those made directly or indirectly via branch offices, corporations, real estate, shares, and bank and investment accounts. They also include any other form of participation in trusts, joint ventures, investment funds, as well as any other similar legal entity which has been created or incorporated in accordance with law of the foreign regime, including those established by third persons.

An investment is considered to be located in a preferred tax regime if:

- there is a physical presence
- the investment is lodged with a financial institution located in a jurisdiction with a preferred tax regime
- the investment can be identified by a post office box in the jurisdiction
- the entity owning the investment has their effective or main domicile in the jurisdiction, or
- any similar legal entity created or constituted in accordance with the laws of the jurisdiction is incorporated there.

A corporation which is located in a jurisdiction with a preferred tax regime, but which has been incorporated according to Mexican laws, will not be considered to represent an investment in a jurisdiction.

Indirect investments will not be considered to be investments in preferred tax regimes if they involve corporations, entities, trusts, joint ventures, investment funds or any other similar entities which have been created or incorporated in accordance with foreign legislation in countries which subject the repatriation of accumulated revenues by their residents to low taxation.

An investment will be considered as an investment in a preferred tax regime only if the average daily participation of the taxpayer (including related parties or associated persons, whether resident in Mexico or abroad) allows the taxpayer to have effective control over the investment or the investment's administration. Effective control is indicated by such factors as the power to make decisions about the timing, sharing and distribution of returns, profits or dividends, either directly or through a third person. There is a presumption that a taxpayer has an influence in the management and control of investments, unless evidence to the contrary is produced.

Income will be considered to have come from a preferred tax regime where the income tax rate in the country in which it the income originated is lower than 75% of the corporate income tax rate in Mexico.

Revenue derived from investments in preferred tax regimes becomes taxable in the year in which it is generated, even if dividends or profits have not been distributed, provided the revenue has not been taxed previously. Tax is charged in proportion to the average direct or indirect daily participation of the person residing in Mexico or the resident abroad with a permanent establishment or a fixed base in the Mexican territory.

Taxable revenues are determined every calendar year and do not accrue with other taxable revenues of the taxpayer, even for the provisional payments and half-yearly adjustments. The tax payable in respect of revenues in preferred tax regimes, however, is payable in accordance with the taxpayer's annual tax return.

Taxpayers may deduct, from their total tax revenue for that tax year, available deductions in proportion to their direct or indirect participation in investments located there, in order to determine their taxable profit or loss. Losses may be carried back for up to ten years.

Inflation gains and interest (without an inflation adjustment) may be taken into account for the purpose of calculating taxable profit or loss.

Taxable revenues are liable to tax at the rate of 40%.

Non-residents

See MEX ¶3-010(b).

(c) Mexican treatment of part-year residents

There is no special tax treatment of part-year residents.

(d) Alternatives to Mexican individual rates

Residents and non-residents

There are no alternatives to individual rates.

(e) Mexican rates for special categories of individuals

Residents and non-residents

An optional regime exists for small enterprises whose income is solely from the sale of goods and/or supply of services to the general public and does not exceed 2 million pesos annually. Tax is payable at a rate of up to 2% on gross income, reduced by 4 times the current monthly minimum wage applying to the area where the taxpayer is located.

MEX ¶3-030 TAX YEAR AND PAYMENT SYSTEM

(a) Overview of the Mexican tax collection system

Residents

(1) ***Normal tax year***. The Mexican tax year for individuals and corporations runs from 1 January to 31 December.

(2) ***Overview of tax collection system***. Individuals are obliged to contribute to Mexico's public expenditure.

Collection of taxes from both taxpayers and third parties is carried out through the local tax collection offices of the Ministry of Finance and Public Credit or through credit institutions authorised to undertake this activity.

(3) ***Filing of returns***. Individuals must file an annual income tax return during the period from February to April of the year following the tax year in question.

(4) ***Assessment of tax***. Individuals must calculate their income tax taking into account:

(i) the aggregate income received during the preceding tax year

(ii) the deductions authorised for that same period

(iii) deduction of losses from previous tax years pending application.

(5) ***Payments and refunds***. Tax is paid by means of an income tax return, which is lodged with the credit institutions authorised by the Ministry of Finance and Public Credit.

If tax is not paid within the term established, the amount due will be adjusted for inflation over the period from the month in which the payment fell due to the actual date of payment. In addition, surcharges for delayed payment must be paid.

Surcharges will be levied over a maximum period of 5 years.

The tax authorities are obliged to refund any excess tax paid. The tax laws may also provide for further refunds. Refunds are adjusted for inflation.

(6) ***Revenue authority contact details***. Individuals must lodge an annual tax return with an authorised credit institution.

Contact details for the Taxpayer Services Department are as follows:

Centro Nacional de Consulta

Paseo de la Reforma Nte No 37

Col Guerrero CP 06300

Tel: (5) 227 0297

www.sat.gob.mx (Spanish only)

Non-residents

Aliens having a permanent establishment in Mexico are subject to the same general requirements in relation to lodging tax returns and payments as residents. The same tax year as that for residents applies.

If a non-resident does not have a permanent establishment in Mexico but receives Mexican source income, the non-resident is not obliged to file an annual tax return. The tax deducted at source is deemed to be a final payment. The tax incurred is normally withheld by the Mexican resident paying the income or receiving the service.

(b) Collection of Mexican tax from employees

Residents

(1) ***Scope of salary tax***. Employers are obliged to withhold tax both monthly and annually. The concept of salary or wages includes earnings and advances received by members of co-operative entities, advances received by members of associations and corporations, and fees paid to administrators and members of boards of directors. In the case of fees paid to administrators and members of boards of directors, tax on such income must be withheld at a rate of not less than 35%.

(2) ***Collection system***. Employers paying salaries and wages are obliged to withhold taxes and make corresponding monthly payments to any credit institution authorised by the Ministry of Finance and Public Credit according to their tax domicile. These payments are treated as credits against the annual tax liability.

Employees whose salaries exceed 400,000 pesos will be obliged to file their annual returns, and their employers will not be required to calculate the employees' annual tax liability on their behalf.

Individuals must file an annual tax return if their income from sources other than salary and interest exceeds 1.5 million pesos in the previous income year. If income from such sources exceeds 400,000 pesos in the current income year, a tax return must also be filed.

Individuals who receive more than 100,000 pesos in interest income must also file an annual tax return.

Income earning taxpayers must provide their employers with the necessary information for registration with the Federal Registry of Taxpayers. Alternatively, taxpayers may supply the registration number to the employer.

Employees receiving income from 2 or more employers must inform each employer in writing.

By 15 February following the end of the calendar year, employers are required to provide employees with a statement indicating the amount of travel expenses incurred in that year.

(3) ***Determination of final liability***. Employers are required to give employees a written record which specifies both the total remuneration and the tax withheld during the calendar year in question. The written record must be filed prior to 31

Otherwise, an individual's previous residence in the Netherlands has no relevance to the issue of the taxation of capital gains.

(c) Controlled foreign companies and trusts

Residents and non-residents

From 1 January 2019, controlled foreign company (CFC) rules apply in the Netherlands. Under these rules, Dutch companies are required to pay tax on the income of subsidiaries and foreign permanent establishments based in low tax jurisdictions.

A jurisdiction is considered low tax if it:

- has no corporate income tax or has a statutory corporate income tax rate below 9%, or
- is listed on the EU list of uncooperative jurisdictions.

A subsidiary is considered to be a CFC if the Dutch company (whether alone or with associated enterprises) owns directly or indirectly at least 50% of the subsidiary's capital or voting rights, or has a profit share of at least 50%.

Before 1 January 2019, the Netherlands had no CFC rules.

The Dutch Personal Income Tax Act also contains provisions against the accumulation of income in foreign entities whose assets consist largely of passive investments. In the event that these provisions apply, the individual's taxable income is increased annually by a notional percentage of 5.69% of the value of the individual's interest in the entity. The effective income tax rate depends on whether there is a substantial interest. If the taxpayer has a substantial interest, the rate is 26.9%. If the taxpayer does not have a substantial interest, the box 3 income tax rates apply (see NLD ¶3-020(c)).

NLD ¶3-020 INDIVIDUAL TAX RATES

(a) Dutch tax rates on income from work and home (box 1 income)

Residents and non-residents

The Netherlands resident individual tax rates on income from work and home (box 1 income — see NLD ¶3-010(a)) for 2022 are as follows:

Taxable income (€)	*Tax rates* (%)
Up to 69,398	37.07[1]
Over 69,398	49.5

Footnotes:

1 This rate includes compulsory social security contributions that are due on income up to €35,472 for 2022 (27.65% for those who have not yet reached the pensionable age — see NLD ¶3-110(b)(2)).

For those who have reached pensionable age in 2022 (66 years and 7 months or over for 2022) and who were born before 1 January 1946, the rates are:

Taxable income (€)	*Tax rates* (%)
Up to 36,409	19.17[2]
36,410–69,398	37.1
Over 69,398	49.5

Footnotes:

2 This rate includes compulsory social security contributions that are due on income up to €35,472 for 2022 (9.75% for those who have reached the pensionable age — see NLD ¶3-110(b)(2)).

For those who have reached pensionable age in 2022 and who were born on or after 1 January 1946, the rates are:

Taxable income (€)	*Tax rates* (%)
Up to 35,472	19.17[3]
35,473–69,398	37.07
Over 69,398	49.5

Footnotes:

3 This rate includes compulsory social security contributions that are due on income up to €35,472 for 2022 (9.75% for those who have reached the pensionable age — see NLD ¶3-110(b)(2)).

The box 1 income tax rates for 2021 were:

Taxable income (€)	*Tax rates* (%)
Up to 68,507	37.1[4]
Over 68,507	49.5

Footnotes:

4 This rate included compulsory social security contributions that were due on income up to €35,129 for 2021 (27.65% for those who had not yet reached the pensionable age — see NLD ¶3-110(b)(2)).

For those who reached pensionable age in 2021 (66 years and 4 months or over for 2021) and who were born before 1 January 1946, the rates for 2021 were:

Taxable income (€)	*Tax rates* (%)
Up to 35,941	19.2[5]
35,942–68,507	37.1
Over 68,507	49.5

Footnotes:

5 This rate included compulsory social security contributions that were due on income up to €35,129 for 2021 (9.75% for those who had reached the pensionable age — see NLD ¶3-110(b)(2)).

For those who reached pensionable age in 2021 and who were born on or after 1 January 1946, the rates for 2021 were:

Taxable income (€)	*Tax rates* (%)
Up to 35,129	19.2[6]
35,130–68,507	37.1
Over 68,507	49.5

Further information on these and other grants are available on the New Zealand Trade and Enterprise website www.nzte.govt.nz.

(e) Research and development

Expenditure on research and development (R&D) for the purpose of deriving income is deductible for New Zealand tax purposes. However, if the expenditure relates to an asset, depreciation of the asset will be allowed instead (see NZL ¶1-100).

Expenditure incurred in connection with unsuccessful attempts to generate new sources of income is deductible. These include:

- expenses of a failed or withdrawn application for resource consent
- expenses of a failed or withdrawn patent application
- expenses of a failed application for plant variety rights.

If any such costs subsequently prove of commercial value to the company, any relevant deductions must be reversed.

For tax years beginning on or after 1 April 2015:

- businesses can deduct for tax purposes R&D expenditure that was not previously deductible or eligible for depreciation if the expenditure is incurred in connection with unsuccessful attempts to generate new sources of income (eg patents)
- start-up companies can apply for a cash refund for tax losses of up to a certain cap amount if they arise from expenditure on R&D, subject to certain conditions. For 2022–23, the cap is NZ$2 million (ie a refund of NZ$560,000 when the tax rate is 28%). The cap was the same for 2021–22. The maximum amount of refund in any given year is the lower of:
  - the cap amount
  - the company's net loss for the year
  - the company's total R&D expenditure for the year
  - 1.5 times the company's salary expenditure on R&D for the year.

For tax years beginning on or after 1 April 2019, a 15% R&D tax credit applies to qualifying R&D expenditure exceeding NZ$50,000, up to a maximum of NZ$12 million.

(f) New Zealand tax assistance for specific industries

Aquaculture

Revenue expenditure for aquaculture activities is deductible in the year incurred. However, certain items of capital expenditure may be claimed progressively on a basis similar to depreciation. Such deductions are available in relation to rock oyster farming, mussel farming, scallop farming, sea-cage salmon farming and freshwater fish farming.

Farming and agriculture

Revenue expenditure for farming and agriculture activities is deductible in the year incurred. Development expenditure for the following activities is allowed in full in the year concerned:

- destruction of weeds or plants detrimental to the land
- destruction of animals or pests detrimental to the land

- repairing flood or erosion damage
- planting and maintaining trees for erosion control
- planting and maintaining trees for shelter
- construction of fences for agricultural purposes, including the purchase of wire or wire netting for making new or existing fences rabbit-proof.

Other development expenses are regarded as capital. For these other expenses, a deduction is not allowed except for specified expenses which may be claimed progressively on a basis similar to depreciation.

Forestry

Revenue expenditure for forestry activities is deductible in the year incurred. Development expenditure for the following activities is allowed in full in the year concerned:

- planting and maintaining trees
- constructing access tracks that are to be used for no longer than 12 months after construction of the track.

Other development expenses are regarded as capital. For these other expenses, a deduction is not allowed except for specified expenses which may be claimed progressively on a basis similar to depreciation.

Film and television production

Grants of 20% of qualifying New Zealand production expenditure (QNZPE) are available for certain film productions with expenditure of at least NZ$15 million (or NZ$4 million for TV and non-feature film productions). These grants are only available to companies resident in New Zealand. Certain productions which pass the Significant Economics Benefits Test can access an additional grant of 5% of QNZPE. A 15% grant is also available for post, digital and visual effects, where expenditure is at least NZ$1 million. Eligible grantees must be residents or have a permanent establishment (PE) in New Zealand.

Grants of up to 40% of QNZPE are available on larger productions with expenditure up to NZ$50 million; the grants are issued subject to certain conditions, including significant New Zealand content.

A comprehensive tax regime applies to other film companies which have not received the grants but satisfy other requirements.

(g) Qualifying company regime

Closely held companies (being companies where 5 or fewer persons own or control more than 50% in the company) may elect to enter New Zealand's qualifying company regime. Dividends paid by a ''qualifying company'' are exempt from tax in the hands of the shareholders to the extent that the dividends are not fully imputed. Also, if an additional election is made, losses derived by the company may be offset against the shareholders' other income. Capital profits derived by a qualifying company may be distributed tax free to shareholders without the need to wind up the company.

Only New Zealand resident companies with 5 or fewer shareholders may become qualifying companies. Relatives of the first degree are counted as one shareholder. Also, in order to qualify, the company must receive no more than NZ$10,000 of foreign non-dividend income and the shareholders must assume personal responsibility for the income tax payable by the company.

6 The lower rate applies to interest paid to government organisations, the central bank, or in respect of loans or credit financed or guaranteed by an institution promoting exports.

7 The lower rate applies to interest paid to government organisations or the central bank.

8 The 0% rate applies if the foreign company owns directly or indirectly at least 50% of the voting rights in the paying company, or if the interest is paid to government organisations or the central bank; the 5% rate applies if the foreign company owns directly at least 10% of the voting rights in the paying company.

9 The lower rate applies to interest paid to government organisations, the central bank, or an institution promoting exports.

10 The lower rate applies if the interest is paid to or by government organisations, or in respect of a loan agreed by both governments.

11 The lower rate applies if the foreign company owns directly or indirectly at least 10% of the voting rights in the paying company for six months prior to payment of the dividend.

12 The 0% rate applies if the foreign company owns directly or indirectly at least 80% of the voting rights in the paying company for 12 months prior to payment of the dividend; the 5% rate applies if the foreign company owns directly at least 10% of the voting rights in the paying company.

13 The lower rate applies to interest paid to or by government organisations or the central bank, or in respect of loans or credit (for a period of at least three years) financed or guaranteed by such entities.

14 The lower rate applies if the foreign company owns directly at least 10% of the voting rights in the paying company.

15 The lower rate applies to interest paid to government organisations.

16 The 0% rate applies to interest paid to government organisations or the central bank; the 10% rate applies to interest paid to any financial institution, or in respect of sales on credit of equipment, merchandise or services.

17 The higher rate applies to royalties from the use of any patent, trademark, design or model, plan, secret formula or process, or information concerning industrial, commercial, technical and scientific activities, or from the supply of assistance pertaining to the application or enjoyment of property or rights subject to royalties.

18 The lower rate applies if the foreign company (not through a partnership) owns directly at least 25% of the paying company's capital.

19 The 0% rate applies to interest paid to government organisations or the central bank; the 10% rate applies to interest paid to a bank.

20 The lower rate applies to interest paid to government organisations, or in respect of loans or credit financed or guaranteed by an institution promoting exports.

21 The lower rate applies to interest paid to government organisations, in respect of loans or credit financed or guaranteed by such entities, or to any financial institution.

22 The lower rate applies to interest paid (a) to a government organisation or the central bank, (b) in respect of a loan or credit guaranteed, insured or indirectly financed by a government organisation or the central bank, or (c) to an unrelated financial institution (excluding interest paid in respect of back-to-back loans).

23 The lower rate applies if the foreign company owns directly at least 50% of the voting rights in the paying company.

24 The 0% rate applies if paid to a government organisation; the 5% rate applies if the foreign company owns directly at least 10% of the voting rights in the paying company.

25 The lower rate applies if the interest is paid to an unrelated bank or financial institution, or in respect of a loan or credit guaranteed or insured by Export Development Canada.

26 The lower rate applies to royalties from the use of copyrights (excluding films and recordings), computer software, patents or information concerning industrial, commercial or scientific operations (excluding rental or franchise agreements).

(b) Tax treaty developments

The following table outlines the status of treaties that have been signed by New Zealand but are not yet in effect, including the withholding tax rates specified under the pending treaties. Non-treaty withholding tax rates will apply where they are lower than the rate specified in the treaty.

Country	*Date*	*Status*
Belgium	7 Dec 2009	Amending protocol signed; withholding tax rates: Interest: 0% if paid to a government organisation or the central bank, or in respect of a loan or credit financed or guaranteed by an institution promoting exports; otherwise 10%

(c) Tax information exchange agreements (TIEAs)

New Zealand has signed TIEAs with the following jurisdictions, based on the OECD model convention:

Anguilla (in force 6 January 2017)
Bahamas (in force 10 January 2017)
Bermuda (signed 16 April 2009)
British Virgin Islands (in force 23 December 2016)
Cayman Islands (in force 30 September 2011)
Cook Islands (in force 13 December 2011)
Curacao (in force 2 October 2008)
Dominica (in force 7 September 2017)
Gibraltar (in force 13 May 2011)
Guernsey (in force 8 November 2010)
Isle of Man (in force 27 July 2010)
Jersey (in force 27 October 2010)
Marshall Islands (in force 9 April 2015)
Niue (in force 31 October 2013)
Saint Kitts and Nevis (signed 24 November 2009)
Saint Vincent and the Grenadines (in force 17 October 2016)
San Marino (in force 8 September 2017)
Sint Maarten (in force 2 October 2008)
Turks and Caicos Islands (in force 23 December 2016)
Vanuatu (in force 27 October 2016).

INDIVIDUALS ● Residents and Non-residents

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The following table provides a summary of the major features of the taxation system of New Zealand as they affect transferring executives and business migrants.