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Malta

A closer look at two EU tax exemption cases

UK

The global rise of the family office

Australia

Tax reform and the new government

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"Law 16.906 grants tax incentives for certain investment projects promoted by the government and complying with certain requirements."
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URUGUAY

Tax incentives for investment in Uruguay

The Uruguayan tax regime grants various fiscal benefits to promote investment growth in the country.

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This article provides a brief picture of the most important benefits of that regime regarding Corporate Income Tax (CIT). There are two main benefits: one is given in article 53 of Title 4, TO 1996, and the other is established under law 16.906 ("Investment Law").

Investment benefits under article 53, Title 4, TO 1996

This benefit considers as exempt income up to 40 % of the amount invested in certain goods mentioned below, and up to 20 % of the investment in the construction or expansion of buildings used for industrial and agricultural activities, subject to the condition that the exempted amount does not exceed 40% of net fiscal profits for the fiscal year.

These goods could be, for example, machines and installations intended for industrial, commercial and service activities*, agricultural machinery, vehicles used for productive activities, etc. Regarding the construction or expansion of buildings, the exemption applies to the increase of the built-up area.

The benefit does not apply to the purchase of real estate, companies or capital participation in companies. To get the exemption, the taxpayer must create a special corporate reserve with the accounting profits of the fiscal year or, if these are insufficient, with accumulated profits. This reserve has to be created in an amount equivalent to the income considered exempt under this regime. The goods acquired should not be sold within 3 years after the year of acquisition; otherwise the income considered exempt will be included as taxable income in the fiscal year the sale took place.

Investment benefits under Law 16.906

This law grants tax incentives for investment projects promoted by the Executive Power.

Companies interested in applying for the benefits granted under this law have to present an investment project to the authorities that complies with certain requirements.

The project is evaluated by the responsible state office ("Comisión de Aplicación"), which advises the Executive Power whether to declare it as promoted. It also determines the benefits to be granted if the project is deemed recommendable as promoted. It is important to note that the project is evaluated on the basis of objective criteria, and it is quite easy to obtain the promotional declaration.

Details of the tax incentives granted

Once the project is declared promoted, the fiscal benefit consists of an exemption of CIT, a deduction from the actual CIT tax liability, in an amount equivalent to a percentage of the effective investment included in the project.

The percentage is determined using an evaluation matrix that considers not only the amount of the investment but also other aspects such as the use of clean technologies, geographical decentralization, export growth and diversification, Afro descendants employment, etc.

The term during which the benefit can be applied depends on the exemption percentage granted and the amount of the investment included in the project. The tax exemption may vary from 20 % to 100 % of the amount actually invested in the assets included in the project, with a limit of 60 % of the tax payable for the years covered by the promotional declaration. The benefits granted under this regime cannot be combined with the benefit granted under article 53 Title 4, TO 1996.

*Financial and real estate rental activities are excluded

"Authorities have been surprised at the reluctance shown by the business community to accept a measure designed to ease their cash flow situation."

Fátima Gouveia, ECOVIS Comark Consultadoria Internacional, Contabilidade e Serviços Administrativos Lda., Porto, Portugal

New VAT regime – VAT cash accounting system

New VAT option, designed to ease cash crunch for companies in Portugal, is meeting with slow acceptance.

A new VAT regime took force on October 1, 2013, in accordance with Decree Law no. 71/2013, dated May 30. The aim: to improve the cash flow of Portuguese companies, which have suffered from a particularly adverse environment in the last three years. The results so far have not been too encouraging. It seems that businesses didn't fully understand the benefits of the new system or they didn't find those benefits appealing enough. According to the authorities, as of a week before September 30, 2013, only about 70 companies had chosen the new VAT regime, which is optional and could potentially cover 85 % of Portuguese companies. Companies may have realized that there's no such thing as a free lunch.

Companies and operations covered by the law

The new system applies to taxable persons with annual revenue up to EUR 500,000 that do not qualify for tax exemption, and to supplies of goods and services whose beneficiaries are other taxable persons. Only companies registered for VAT purposes for more than 12 months, with their tax affairs in order and their reporting obligations duly met, can opt for this VAT regime.

Deadlines for opting in and duration of the application of the regime

With the exception of the transitory rule deadline, businesses are to make use of the option provided by this new law by October 31 of each year. The option comes into effect on January 1 of the following year. It is mandatory to remain in this regime for a minimum of 2 years unless the taxable person ceases to meet the requirements. It should also be noted that, if businesses no longer meet the requirements to stay in the cash accounting system or if they choose to return to the standard VAT regime, they are also to stay there for a minimum of two consecutive years.

Rules on the chargeability and deductibility of VAT

VAT for operations covered by this regulation is due at the moment of payment, in full or in part. The VAT included in unpaid invoices (in full or in part) becomes due in the twelfth month after the date of the invoice in the tax period corresponding to the deadline.
Taxable persons in the VAT cash accounting system may deduct VAT from input transactions only if they have an invoice or receipt as evidence of payment. Nevertheless, the VAT included in unpaid invoices (in full or in part) is deductible in the twelfth month after the invoice is issued.

Requirements for invoices and receipts

Under the VAT cash accounting system invoices must be issued in a special series and must bear the words "IVA – regime de caixa" (VAT – cash accounting system).
At the time of payment, in full or in part, advances included, a receipt must be issued for the amounts received. This applies not only to the taxable persons in the cash accounting system but to all taxable persons who carry out a transaction with businesses categorized under the VAT cash accounting system.
The date of the receipt must be in line with the date of payment. The receipts must be issued as an original and a copy and should be communicated to the tax authorities under the conditions stipulated for invoices (submission of the SAFT(T) file by the 25th of the following month).

Benefits versus costs

The VAT cash accounting system's subdued reception has surprised authorities. While its implementation can have immediate benefits for a company's cash flow, they come at a cost. If one recalls the enormous financial, economic and administrative burden that many other changes caused Portuguese companies in recent years, it is understandable that they might think twice before incurring additional costs when a limited return is at stake.
Finally, we must wait a few more months before drawing any conclusions regarding the real impact of this special program on Portuguese companies.

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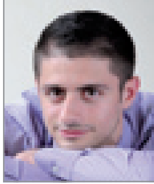

"Outsourcing advising services for investment funds can sometimes be exempt for VAT purposes."

Josef Debono, ECOVIS Malta Consultants Limited/Mdina Trust Services Limited, Balzan, Malta

MALTA

A closer look at two tax exemption cases

Two legal judgments regarding VAT exemption in the management of special investment funds.

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As per VAT directive 2006/112/EC, Article 135 (1) (g), EU member states shall exempt the management of special investment funds, leaving it to member states to define what constitutes a special investment fund. However, questions arise when it comes to what falls under the umbrella of 'management' and to what extent services are exempt. This plays an instrumental part in VAT planning as costs may increase by the applicable VAT rate in the country in which the fund or management company is located.

ECJ cases on exempt services

Case 1: C-275/11 GfBk Gesellschaft für Börsenkommunikation mbH (GfBk)

The facts

GfBk, a German investment manager, provided advice to one of its clients, a fund manager, on the management of the fund. Services also included monitoring the fund and providing buy and sell recommendations within certain risk and investment parameters set by the fund manager. The final responsibility on investment decisions was retained by the client. The fund manager processed the recommendations received from GfBk, often within a few minutes of receiving them, after checking to make sure that they did not deviate from the investment restrictions. For its advice, GfBk was remunerated on the basis of a percentage of the average monthly value of the investment fund. In this context, questions were raised to the European Court of Justice (ECJ) as to the qualification of VAT exemption for services rendered by GfBk.

Conclusions of the case

In its judgement the ECJ held that, despite being outsourced, advisory services concerning transferable securities that are provided by a third party to an investment management company, the manager of a special investment fund, fall within the exemption. This applies even if the third party has not acted on the basis of a mandate within the meaning of Article 5g of the UCITS Directive regulating investment funds. The ECJ's decision in relation to the GfBk case went further, clarifying that the exemption applies to investment advisory services even if they are not considered to be core services in the 'non-exhaustive' list of services in Annex II of the UCITS directive. This conclusion was based on the concept of intrinsic connection. In effect, although delegated to a third party, the provision of recommendations to a fund manager are deemed to be 'intrinsically connected' to the fund manager's activities and hence specific to and essential for the management of special investment funds.

Points to consider

From this judgement, it was clear that **outsourcing** of the management activities, given that they are **intrinsically connected** and **specific to** and **essential** for the management of special investment funds, would still be considered as exempt from VAT.

Case 2: C-424/11 Wheels Common Investment Fund Trustees Ltd and Other (Wheels)

The facts

Wheels is the trustee of a fund pooling for investment purposes the assets of occupational pension programs established by the Ford Motor Company in order to meet its obligations under national legislation and collective agreements. This case concerned whether defined benefit occupational pension programs fall under the term "special investment funds."

Conclusions of the case

It was ruled that an investment fund pooling the assets of a retirement pension program is not a special investment fund for which the members of the program do not bear the risk arising from the management of the fund, and the contributions which the employer pays into the program are a means to comply with legal obligations to-

Is a retirement pension plan a special investment fund whose management is exempted from VAT? ECJ case C-424/11 sheds light on that question.

wards its employees. Accordingly the management of such programs falls outside the scope of the VAT exemption.
Such programs were differentiated from funds which undertake investment in transferable securities on the following grounds:

- → Unlike private investors in a collective investment fund, employees do not bear the investment risk
- → The employer contributions are made as a consequence of the legal obligation it has with its employees rather than purely for investment reasons
- → A pension fund is not open to public investments but constitutes an employment-related benefit by employers to their employees.

Points to consider

It is important to note that even though special investment funds are defined by member states, in this case the ECJ went further and investigated whether in actual fact the investment fund is a special investment fund. Due to the above conditions it was concluded that in fact it does not constitute a special investment fund, thus falling outside the scope of VAT exemption.

A tip for business success in China

Many businesspeople view China as their most important market. However, day-to-day operations in the country frequently pose problems. Particularly in connection with investment planning, founding companies and dealing with the quite critical Chinese tax authorities, good advice is worth its weight in gold. The just-published practical guideline "Business in China" contains fundamental information about the multifaceted culture of the country and offers practical tips for successful investments and operations. The guidebook was written by Richard Hoffmann, Partner in Ecovis' Beijing office and a trusted adviser of international small and midsized enterprises, embassies and managers alike.

TIP
Read more:
www.ecovis.com/focus-china

An arena for worldwide opportunities

About 150 guests from small and medium-sized German enterprises attended the Ecovis event "ChancenWelt – Ausland" (Business Opportunities Abroad) held on September 23, 2013 in Munich's Allianz Arena, home of the soccer clubs FC Bayern and TSV 1860. After the initial briefing session in the press club, where normally Pep Guardiola, FC Bayern's coach, answers journalist's questions before and after matches, the guided tour around the Allianz Arena, from the team locker rooms to the coaching bench, was a memorable experience. Afterwards entrepreneurs and company executives got country-specific information and advice for doing business abroad in one-on-one meetings with Ecovis experts from 25 countries.

Legal Barometer: When employers give notice

Ecovis' latest international survey covers all matters surrounding the sensitive topic of dismissal notices issued by employers: from legal provisions and practice to financial assistance to dismissed employees as well as obligatory unemployment insurance plans and assistance in finding a new job. It all boils down to the following question: Will conditions taken as a whole permit businesses sufficient flexibility to make changes in their labor policy in difficult times?

TIP
Read more:
www.ecovis.com/2014/news-1

"Tax planning remains the dominant issue, but there is a growing interest by high-net-worth families in family offices to look after various requirements."
Ute Mueller, Boodle Hatfield LLP, Law partner Ecovis in London, UK

UNITED KINGDOM

The global rise of the family office

Family offices are helping high-net-worth families manage and increase their wealth, and their popularity is growing.

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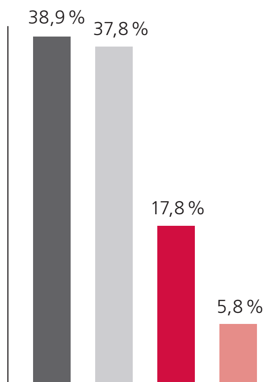
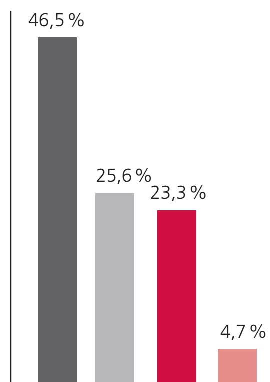


How many of your wealthy clients have set up family offices?



What type of family office are your clients interested in?

With global wealth in the spotlight as never before, high-net-worth and ultra-high-net-worth families are changing the ways they manage their wealth. Like their investments, high-net-worth and ultra-high-net-worth families are becoming increasingly international. Research conducted by Boodle Hatfield LLP for The Wealth Report 2013 shows that 60 percent of the private client advisers consulted deal with families which "frequently" have members who live outside the home jurisdiction. Another 9 percent advise clients whose families are "always" outside.

As a result families must deal with many aspects of their life (ranging from asset management, family governance, succession planning and charitable giving to day-to-day administrative assistance to individual members) in a complex and ever changing international legal, regulatory and tax environment.

The management of investment professionals and other professional advisers across multiple jurisdictions inevitably takes a lot of time and effort. Many of the aforementioned aspects also require a bespoke approach and/or do not traditionally fall within the service offering of a bank or wealth advisor.

While tax planning remains the dominant issue, there is a growing interest by high-net-worth families in setting up family offices to look after various needs. Having in the past been set up mainly by US, UK and Swiss families, single and multi-family offices are now spreading to other areas, and those already established are becoming more tightly run. For example, family offices were largely unknown less than ten years ago in Germany, but it is estimated that some 1,100 single-family offices and 80-120 multi-family offices now operate there.

Types of family offices

Single-family offices focus on one family and often look after the family's business interests and the personal affairs of its members. However, this does not mean that they operate as silos. Information and knowledge are regularly exchanged through formal and informal family office networks. In particular in the US, there is also a new trend of single-family offices actively co-operating in specialised investment areas such as niche kinds of real estate.

As the name implies, multi-family offices assist several families with a view to collating knowledge and benefiting from economies of scale. This can range from bespoke offices for two or three families to large operations set up and run by external service providers (sometimes closely linked to a bank) to look after dozens of families.

Two basic approaches

The operative models of family offices are as diverse as their founders, but they tend to follow two basic approaches. The first model emphasizes the preservation of wealth across multiple generations and focuses on the selection of relevant advisers and the management and monitoring of their performance.

The second approach (particularly popular in the US) is more geared towards active, operative asset management and wealth creation and entails a much more active role of the family office in investment decisions and the selection and implementation of direct investments.

What private clients want

According to The Wealth Report 2013 only 23 percent of private clients worldwide rule out the idea of establishing a family office; 47 percent want a single-family office; 5 percent want a multi-family structure and 26 percent a mixture.

With the next generation of entrepreneurs increasingly enjoying active involvement in the management of their or their family's wealth we expect that the family office trend will continue and increasingly also spread to the Asia-Pacific region.

“The centre-right coalition is working to repeal some of the previous Government’s laws and reform the tax system as a whole.”

Scott Hogan-Smith, Ecovis Clark Jacobs, Sydney, Australia

AUSTRALIA

Tax reform and the new coalition government

The new Australian Government is battling uncertainty about tax legislation with a variety of measures.

The return to government of the centre-right coalition led by Tony Abbott in the September 2013 elections has created new impetus for taxation reform. Indeed, two major taxes introduced by the former Government, the Carbon Tax and the Minerals Resource Rent Tax (MRRT), featured prominently in the election campaign, with the Coalition promising to make their repeal a priority if elected. That promise is in the process of being kept, with repeal bills for both taxes currently being considered by the Federal Parliament. However with a deficit approaching AUD$50 billion this year and a record level of public debt (although still low by OECD standards), serious consideration needs to be given to fundamental taxation reform by the Government as a priority to not only secure the Federal Government’s revenue base but also to clarify a multitude of complex areas of taxation which remain unresolved.

Bringing stability to the taxation landscape

Taxation professionals in Australia have become increasingly concerned over time about the number of changes that were announced by the Government but had not become law. At the time of the election in September 2013, 96 taxation measures had been announced by various Governments but not yet passed. Some of these measures dated back as far as 2001, and many

sought to make technical and other practical amendments to clarify the tax acts and their operation.

On November 6th, 2013, the new Treasurer, Joe Hockey, announced the first phase in dealing with all of these measures:

- → 4 are to be dealt with along with the repeal of the Carbon and Mining Taxes
- → 18 will proceed as announced, maintaining close to $ 11 billion in revenue over 4 years
- → 3 will proceed but in a modified form and will cost $ 700 million over 4 years
- → 7 will not proceed, with an impact on revenue of $ 2.4 billion over 4 years
- → The remaining 64 measures are now subject to an expedited consultation period but the Government’s current disposition is not to proceed with any of them.

In addition the Government will also introduce special transitional measures to ensure that any taxpayers who followed Australian Tax Office guidance on the measures with which the Government is not proceeding are not treated unfairly.

The Treasurer made a further announcement on December 14th that of the remaining 64 measures 16 will proceed, 46 will not proceed and 2 are still subject to consultation. These swift decisions on the remaining changes will effectively “clear the decks” for the new Government to put its own stamp on taxation reform and have largely been welcomed by taxation professionals.

So where to from here?

The Government has indicated it is considering a wide range of taxation reforms and integrity measures to be announced in the coming months. There are currently 6 Board of Taxation reviews on specific taxation measures being undertaken, and we expect the Government to announce a new White Paper process later this year to lay out options for significant reforms. We also expect further announcements in the lead-up to the Federal Budget to be delivered in May. How this reform process will interact with the current Commission of Audit of all Government expenditure and the recently announced Financial Systems enquiry we do not yet know; however the new Government is certainly taking steps in the right direction. Whether there will be sufficient political courage in the long term to implement real, structural and potentially unpopular taxation reform remains to be seen!

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ABOUT ECOVIS

Ecovis is a leading global consulting firm with its origins in Continental Europe. It has over 4,000 people operating in over 50 countries. Its consulting focus and core competencies lie in the areas of tax consultation, accounting, auditing and legal advice. The particular strength of Ecovis is the combination of personal advice at a local level with the general expertise of an international and interdisciplinary network of professionals. Every Ecovis office can rely on qualified specialists in the back offices as well as on the specific industrial or national know-how of all the Ecovis experts worldwide. This diversified expertise provides clients with effective support, especially in the fields of international transactions and investments – from preparation in the client's home country to support in the target country. In its consulting work Ecovis concentrates mainly on mid-sized firms. Both nationally and internationally, its one-stop-shop concept ensures all-round support in legal, fiscal, managerial and administrative issues.

The name Ecovis, a combination of the terms economy and vision, expresses both its international character and its focus on the future and growth.

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