Tax challenges and opportunities for small and medium sized enterprises
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Introduction

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June 2014
Introduction

Recent tax developments around the World

Due to more awareness and the current economic situation worldwide, Governments around the World are showing increased concern regarding aggressive tax planning, double non-taxation and international tax arbitration.

“I deal with tax avoidance - he deals with tax evasion.”
Introduction

Recent tax developments around the World

Main topics being discussed internationally:
• OCDE action plans regarding BEPS (*Base Erosion and Profit Shifting*);
• Substance over form principle;
• Anti-abuse provisions;
• Transparency;
• International cooperation and good tax governance;
• Reinforcement of information exchange treaties as well as introduction of automatic mechanisms for information exchange between States;
• “Double non-taxation”;
• Tax competition.
## Recent tax developments in Portugal

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Huge increase in Personal Income tax rates</td>
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<tr>
<td>Corporate Income Tax Reform!</td>
<td></td>
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<tr>
<td>More demanding tax obligations &amp; control</td>
<td></td>
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<tr>
<td>Controlled Foreign Corporations (“Offshores”)</td>
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<tr>
<td>Non Habitual Tax Residents</td>
<td></td>
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<tr>
<td>Reduction of the Corporate Income Tax burden</td>
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<tr>
<td>Tax Benefits</td>
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<tr>
<td>Simplification and cost reduction</td>
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</tbody>
</table>
Introduction

Recent tax developments in Portugal

Evolution of Portugal’s compliance burden according to World Bank’s Paying Taxes study:

Tax challenges and opportunities for small and medium sized enterprises
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Introduction

Recent tax developments in Portugal

Corporate Income Tax (CIT) Reform - “Comprehensive reform of the Portuguese CIT Code that aims to promote the simplification of the tax compliance procedures, the internationalization and the competitiveness of the Portuguese Companies”

Main objectives:

- Review of the taxable base/operations
- Reduction of the tax burden
- Simplification and cost reduction
- Restructuring of the international tax policy

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Corporate Income Tax Reform

The 2014 CIT Reform has become effective. The main changes include the following:

- Reduction CIT rate (from 25% to 23% and to 17% for the first € 15,000 taxable income);
- New upper threshold for the state surcharge and the additional payments on account;
- Increase of the carry forward period for tax losses (from 5 to 12 years);
- Limitations to the tax deductibility of expenses and losses;
- Increase and changes to the autonomous taxation on light passenger vehicles;
- Simplified tax regime.
Corporate Income Tax Reform

Other relevant changes include the following:

• Introduction of a participation exemption regime;

• Elimination of the regime for holding companies (SGPS);

• Introduction of a new regime for the profits/losses of permanent establishments abroad;

• Increase of the effectiveness of the tax credit for double taxation (5 tax years);

• Introduction of a patent box regime;

• Reduced thresholds for the limitation to the deductibility of net financing expenses.
Benefits to internationalization

Participation exemption

Profits and reserves paid or received by tax payers resident in Portugal as well as to capital gains on the transfer of shares, provided some conditions are met:

i. ≥ 5% held for 24 months;

ii. The foreign entity paying/receiving the dividends is subject to income tax at a rate no lower than 60% of the Portuguese CIT rate and is not resident in a tax haven;

iii. The entity receiving the dividends is resident in the EU, the EEA or a Treaty Country.
Benefits to internationalization

Permanent establishments located abroad

New regime applicable to permanent establishments (PE) of Portuguese resident entities located abroad:

• Possibility to exclude profits or losses from the computation of the Portuguese entity’s taxable profit;

• When opting for this regime, all the PE within any given jurisdiction are included;

• The option for this regime must be kept for a period of at least 3 years.
Other aspects

**Autonomous taxation**

CIT Reform has changed the autonomous taxation on light passenger vehicles, establishing the following thresholds:

<table>
<thead>
<tr>
<th>Acquisition cost</th>
<th>Autonomous taxation rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower than €25,000</td>
<td>10%</td>
</tr>
<tr>
<td>Between €25,000 € and €35,000</td>
<td>27.5%</td>
</tr>
<tr>
<td>Equal or higher than €35,000</td>
<td>35%</td>
</tr>
</tbody>
</table>

No longer applicable to all vehicle expenses provided a written agreement between the company and the employee regarding the personal use of the vehicle is signed.
Other aspects

**Tax losses**

**Carry forward period**
12 years (tax losses assessed after 1 January 2014)

**Annual limit**
70% of the taxable profit

**Loss of the carry forward right**
Only with a change in ownership of more than 50% of the equity/voting rights

**Tax neutrality regime**
The transfer of tax losses does not require authorization from the Ministry of Finance
There are several tax benefits available to entities investing in Portugal, such as:

- Tax incentive for Research and Development ("SIFIDE");
- Tax regime for investment support ("RFAI");
- Benefit for the creation of net young employment;
- Benefit for the investment of retained earnings;
- Contractual benefits.
New Investment Tax Code (Law proposal 206/2014 from May 20)

It will broaden and regulate the application of tax benefits in the future:

• Specific measures applicable to start-ups;
• Increases the benefits that aim to allow the creation of employment opportunities and the development of underprivileged regions in Portugal.

Tax benefits:

• CIT deductions;
• Real estate tax exemptions/deductions;
• Stamp duty exemptions.
VAT and other indirect taxes

3

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**VAT – Opportunities**

**VAT recovery in Bad and doubtful debts**

<table>
<thead>
<tr>
<th>Doubtful Debts</th>
<th>- Due for more than 24 months (regardless of the qualification of the debtor)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- Under € 750 (VAT included), due for more than 6 months, whose debtor is a private individual or a taxable person without the right of VAT deduction</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bad debts</th>
<th>- Enforcement procedure, insolvency, PER e SIREVE</th>
</tr>
</thead>
</table>

*Communication to the debtor*

**Recovery deadline:**

2 years, starting from 1 January of the following year
**VAT – Opportunities**

**VAT recovery in dad and doubtful debts**

- **Exclusions**: e.g. credits transferred (e.g. factoring), receivables from the State
- **Certification** by a Statutory Auditor, if 2013 onwards
- **Request** to the Portuguese Tax Authorities (PTCA) to regularise VAT on doubtful debts (2013 onwards):
  - **When?** 24 months after invoice due and within the following 6 months
  - **Timing?** 8 months to decide. Tacitly approved if invoices under € 150,000 (VAT included)
- **No request needed**:
  (i) bad debts; and
  (ii) doubtful debts under € 750 (VAT included), due for more than 6 months, when the debtor is an exempt VAT taxable person without the right to deduction or a private individual
VAT – Opportunities
Cash accounting scheme

General rules:

- **Deferral of the payment** of the VAT to the PTA until receipt of funds
- Only allows the **deduction** of the input VAT when the invoice is paid
- At the **end of a year** the taxpayer must pay VAT on invoices issued which have not yet been paid by customers

Requirements:

1. Activity started more than one year ago
2. Annual turnover (subject to tax) up to €500,000
3. Tax situation regularised (absence of tax debts)
4. Minimum period of two years in this scheme
5. Waiving of banking secrecy
VAT – Opportunities
Cash accounting scheme

Exclusions:

- Taxable persons who exclusively perform exempt transactions which do not grant the right to deduct VAT, e.g.:
  - Businesses and individual with threshold < € 10,000
  - Retailers with threshold < € 50,000
VAT – Opportunities

Cash accounting scheme

**Invoices and receipts’ requirements:**

1. Price, net of tax;
2. Applicable tax rate(s) and amount(s) subject to tax;
3. Tax ID of both acquirer and seller;
4. Number and series of the invoice;
5. Mention “VAT – Cash accounting scheme”.

VAT deduction when invoices is paid

Deduction in the invoice reception period or the following

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## VAT – Compliance obligations

<table>
<thead>
<tr>
<th>Obligation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2008</strong> SAF-T (PT)</td>
<td>Obligation to extract a SAF-T file from accounting systems.</td>
</tr>
</tbody>
</table>
| **2010** Certification of invoicing software | Certified invoicing software obligation for retailers.  
Certified invoicing software must be able to digitally sign invoices (hash code), guaranteeing integrity of content and ensuring sequential numbering.  
Invoices must include reference to the certification number granted by the PTCA and to the respective hash code. |
# VAT – Compliance obligations

<table>
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<th>Obligation</th>
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<tbody>
<tr>
<td><strong>2013</strong> Monthly submission of SAF-T (PT) on the PTCA website</td>
<td>The communication is made by uploading the invoicing SAF-T (PT) file at the PTCA’s website or in real time via web service</td>
</tr>
</tbody>
</table>
| **2014** Changes to the Certification of invoicing software | Software developed internally or by a company from the same economic group, must also be certified by the PTCA.  

The exclusions from this obligation are:  
• taxpayers with annual turnover < €100,000;  
• supplies of goods made through automatic vending machines or supplies of services for which a sales receipt, entry ticket or a title of transport is issued. |
Personal Income Tax and Social Security

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Recent Trends:

- Significant increase of PIT burden (increased rates/surcharges/limitation of deductions and benefits);
- Increased compliance and reporting obligations for companies/control by the PTA;
- International trend towards transparency and exchange of information;
- Change to SS environment (SS Contributions Code: harmonization with PIT/changes to service providers and MoB)
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What next?

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Thank you

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