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ACCOUNTANTS - AUDITORS - TAX CONSULTANTS

ASESORIA ECONOMICA SC

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25 YEARS

C/ Lagasca nº 79, San Pedro Alcántara, Marbella, 29670 Málaga, España
Tel: 952783139
Fax: 952785644
E-mail: info@asesecon.com

Dear Clients Associates & Friends,

Well its newsletter time again, and whilst the temptation to talk about World affairs generally gets stronger every time I sit down to write this introduction, I have to admit that we as a firm would be failing in our duty to keep you informed of the latest developments in the accounting and tax world, if I did so.

25 years ago when this practice was born, new legislation in the tax arena took years to get enacted. These days the changes come so thick and fast that the professionals hardly have time to cope with the changes, and Spain is no longer an exception to this rule. Its seems that the authorities are no longer content with tightening the taxpayers belt any more, but making life more and more difficult for the ordinary person, by almost purporting that all tax contributors are by assumption tax evaders.

The relationship between the tax payer and his professional advisor has also now been brought into serious question by the authorities. It seems that the professions can no longer be trusted. Gone are the days when client and advisor where seen to be contributors to the economy and to employment. And the maintenance of high business standards as the backbone of true ethics. No, now we are assumed to be scoundrels and not capable of being trusted.

Throughout the EU, professions which have existed for hundreds of years as the custodians of high moral principals are now forced to act as secret unpaid policemen, and to renege on their client trust relationships. All thanks to the politicians. Soon, no doubt, we will see the civil servants thrown into the same boat. And I ask myself where is this boat taking us?

In this issue of Advance you will find articles that deal with other EU issues, which have arisen in recent months, as well as our customary summary of the latest news as far as Spanish taxes are concerned.

JUAN CARLOS RONCO CORSI
Senior Partner

Who's New At Asesoría Económica, S.C.

We'd like to take the opportunity to introduce you to the newest members of our team.

Juan Carretero González

"Juan joined the firm in July as an accounts executive, to assist with the general accountancy, taxation and administration of client companies. He lived in the UK during 18 years where he obtained a BA in Economics at the London Guildhall University"

Pilar Sánchez

"Pilar Sánchez is the newest member of the Asesoria Economica, S.C. team. She has joined our payroll services department and has a strong background in personnel administration. A graduate in Labour Relations from Huelva University, she has the knowledge and experience necessary to compliment our team."

Welcome aboard!

Breaking News

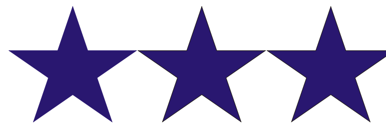
DOUBLE TAXATION CONVENTIONS

As part of its general strategy of addressing the cross-border tax problems facing individuals and businesses operating within the Internal Market, the European commission is currently considering closely the possible conflicts between the EC Treaty and the bilateral double taxation treaties that Member Status have concluded with each other and with third countries.

In relation to company taxation the Commission is in the process of assessing the various options for tackling the problems set out in the Commission's 2001 study on company taxation. Issues include the question of equal treatment of EU residents and the application of bilateral treaties in situations where more than two countries are involved (triangular situations).

CGT ON SPANISH PROPERTY

EU property buyers could be in line to save £millions in capital gains tax when they sell their family holiday home or investment property in Spain after the EC ruled they were being "discriminated against" compared with Spanish-resident property owners.



The Spanish Government charges capital gains tax at a flat 35% of the profit (difference of registered purchase price to selling price) from British and other ex-pat owners, but charges Spanish resident owners only 15% CGT if they have owned a property for at least one year.

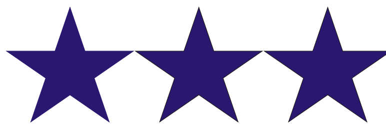
The European Commission has sent Spain a formal request to amend its discriminatory legislation. It considers that the "difference in the tax treatment of the two categories of taxpayers, in so far as it results in a higher tax burden on non-resident individuals in situations objectively similar to those of residents, constitutes indirect discrimination on the grounds of nationality prohibited by the Treaty".

EC officials claim the higher tax burden on non-residents may dissuade individuals from taking up employment or buying immovable property in Spain while remaining resident for tax purposes in another Member State. It also makes it less attractive for Spanish employers to recruit labour from other Member States rather than locally.

If the Spanish Government amends its tax rules following the EC ruling, British and other non-resident property owners would pay only 15% capital gains tax when selling after a year and enjoy the same progressive discounts on CGT as Spanish residents if they sold within the first year.

Breaking News (The latest developments in Spain).

COMMON COMPANY TAX BASE IN EUROPE



The European Commission believes that the only systematic way to address the underlying tax obstacles which exist for companies operating in more than one Member State in the Internal Market is to provide companies with a consolidated corporate tax base for their EU-wide activities. Targeted solutions have many merits and would go some way towards remedying the tax obstacles. However, even if all of them were implemented, they would not address the fundamental problem of dealing with up to 25 different tax systems.

The Commission's Directorate-General responsible for Taxation and the Customs Union are currently working on two main comprehensive approaches to remove tax obstacles which companies face in the Internal Market:

The Common Consolidated Tax Base and
A possible pilot scheme for Home State Taxation for Small and Medium Sized Enterprises.

BRUSSELS WILL BRING FORWARD TO 2006 THE FREE MOVEMENT OF FOREIGN NATIONALS WITHIN THE EU .

The European Commission is in favour of relaxing or cancelling from 2006 any restrictions related to the free movement of foreign workers, imposed on eight of the newly incorporated countries to the UE last year.

According to the EC we should remove all barriers, including the transitional periods, to complete the internal market.

IAPA News From Around The Globe.

It's official!

IAPA now ranks among the top 20 international networks of accountancy firms. A definitive listing, published in the June issue of the UK journal "Accountancy" places IAPA in 19th position. This is a great result for IAPA and for our 240 member firms.

Spanning 43 countries, the IAPA network is now represented in more than 125 locations. The total annual turnover of the network for 2004/5 was more than US$ 711 million.

2005 has been a busy year so far. Conferences in Copenhagen and New York have provided stimulating working programmes, while at the same time offering a valuable opportunity for partners within our member firms to strengthen existing friendships and establish new contacts. A one-day European Tax Forum, also held in Copenhagen, gave a valuable insight into changes proposed by the European Commission and developments within each member state.

Our International Board and its supporting committees have concentrated on implementation of the new strategy approved by the membership last September. Our aim is to ensure that member firms are in the best possible position to meet their client's international needs and to benefit from the opportunities of an increasingly competitive global business environment. The prime focus is to demonstrate, both internally and externally, that IAPA is a quality organisation whose member firms are committed to the provision of high quality services to their clients.

Our Public Sector Group has been active in preparing bids for projects funded by the European Commission and we have just received our first notification of success. The Group will be building upon this experience to secure other contracts in the future.

As a means of enhancing the opportunities for our member firms, and also to offer a more extended service to clients, IAPA has introduced a form of association for non-accountancy firms.

Organisations which meet the specified criteria will be designated as

"Commercial Associates". We look forward to welcoming our first associates in the months to come.

Looking ahead, we expect to admit new member firms in a number of locations in Europe, Asia and Central/South America thereby strengthening our global coverage and ensuring the network's continuing ability to meet all our clients' needs.

IAPA has a strong working relationship with our Spanish member firm, Asesoria Economica,S.C. and its partners. Juan Carlos Ronco Corsi is current chairman of our European regional grouping and also sits on the international board.

A.E.
Susan Humphrey
CEO IAPA

The Eu Savings Tax Directive

The Directive results from many years of discussions regarding the taxation of interest savings for EU residents. It states that all EU member states will introduce either:-

* A system of automatic information exchange;

or

* A withholding tax on interest income, starting at 15% and ultimately increasing to 35%.

Gibraltar has chosen to report to the tax authority of the relevant country, whereas the Channel Islands have elected to apply the withholding tax.

It was a key condition for the implementation of the Directive by member states that the so-called "third countries" would establish a similar scheme. These countries are Switzerland, Liechtenstein, Monaco, Andorra and San Marino.

Are you affected?

If you are an individual with a bank account in an EU member state and you are resident in an EU member state, then the Directive will most likely apply to you. It is your country of residence and not your domicile or nationality that is the determining factor.

Who is excluded?

The Directive does not apply to savings income paid to companies, partnerships, trusts and other legal entities. Similarly it does not apply to individuals who are tax-resident in a country outside the EU.

What action should you take?

Assuming that for whatever reason you do not wish to have your savings income reported or to suffer a withholding tax, then certain courses of action are available to you:-

* Convert your bank account to a current account which does not bear any interest
* Establish a limited company or other legal entity and transfer the funds to a corporate or other account
* Invest in non-income producing assets
* Become resident (or invest with banks who are resident) outside the EU.

Mike Harvey
Director
Parliament Corporate Services Limited
3/1A Parliament Lane
P.O. Box 452 Gibraltar
Tel: (350) 76517
Fax: (350) 76718
Tel (from Spain): 956 7 76517
Fax (from Spain): 956 7 76718

Business Strategy for High Season

As Europe slows down and millions of people take their vacations, many leisure-orientated areas on the Mediterranean Coastline begin to enjoy their "high season". With the increase in number of customers and economic traffic in general, the businesses in the leisure and hospitality industry enter their period of prosperity. From a financial point of view, this is the period they have all been waiting for. However, there are certain principles and practices that need to be adhered to if the business is to best benefit from these high seasons. We will touch on a few here:

The Customer is Paramount

Even if the business is very heavily dependent on tourism, don't make the mistake that the customer can be short-changed (in any manner of form) as he/she is "merely a tourist". This way of thinking is incorrect and short-sighted. Moreover, with residential tourism being one of the fastest growing sectors of the leisure industry the "tourist" is likely to be or know a "resident tourist" with a second home and therefore could ostensibly be a recurring seasonal "core" client. Similarly, many returning tourists seek out their favourite places when they return and happily share this information with others. Clients are the cornerstone of every business. No business can afford to ignore this fact either consciously or unconsciously - and the latter is measured by the conduct and relationship the business maintains with its clients.

Pricing

Many a business takes the opportunity of the season to increase the prices dramatically. Whilst this may have been a "normal" practice in the past when no alternatives were available, this strategy will be perceived as a "poor value proposition" vis-à-vis the client and custom and loyalty will decrease. Indeed the adoption of this strategy by a collective group or number of businesses in a specific area has lead the public to believe that the prices in the area were exorbitant, resulting in the customer's choice to avoid the area in its entirety. This, together with the emergence of alternative shopping opportunities accelerates the downfall of a previously

CONT..

Business Strategy for High Season

popular shopping "node". For this customer perception to even start to be addressed, prices need to be reduced to well below those of the competitors and a prolonged marketing campaign needs to be embarked upon. Sadly, this reversal process never restores the previous status quo with the market sentiment remaining "they had their heyday and they abused our custom!". Other factors however also make up the "complete retail shopping experience" such as convenience, parking, variety, proximity, controlled climatic environment and shopping hours, to name a few and some of these can be classified as "uncontrollables", which in turn affect the customer perception over and above "price".

Core Customer

In considering the strategy the business adopts, it is paramount that the year-round customer (core customer) is not mistreated or alienated during the summer period. The core customer must not be made to feel that he/she is regarded as "dispensable" during the high season - as it then should be expected that the customer apply the same treatment to the business when the high season is over! If changes in the value proposition are necessary the core customer should be made to feel favoured as a customer. This will be rewarded through increased loyalty.

Financial

As the period of prosperity starts, the business owners can relax knowing that his financial concerns are temporarily over. Wrong. Whilst this is the period where all seasonal businesses show an increase in cash inflow (sometimes 5 to 10 times that of "normal" trading periods) the owners must have a sound understanding of the difference between cash flow and profitability. The increase in cash inflow can easily create the incorrect perception that the cash are profits, leading to excessive expenditure (investment in capital items or owner drawings). The period following the high season brings with it the increased liabilities to suppliers. Ironically, the more favourable the terms with suppliers, the more delayed the invoicing from such suppliers only to coincide with the extremely quiet months after the high season. Needless to say, when all the "chickens come home to roost" the business finds itself in a cash flow "squeeze" all of which can be avoided.

The owner should make adequate provision for the payment of the increased expenditure during the high activity period. The best way to achieve this is to have proper and timely accounting records that inform the owner of the profitability of the month's activity quite apart from the substantial increase in the cash generated during this same period. Only once there is a clear distinction between the two can the owner be safe that he/she has an element of control over the season's "takings".

Since the "high season" provides the wherewithal to sustain the business for the next months of relative slowdown, it is imperative that the above principles be borne in mind and guide the decisions during and immediately after the said period.

In conclusion we wish our clients and especially those with high seasonality a prosperous and well-controlled summer season with continued customer-oriented awareness.

Romano Foti
Asec Management Consultants, S.L.

UK pre-owned asset rules.

The tax authorities in UK have issued detailed guidance on how they will operate the pre-owned asset rules which impose an annual income tax charge in certain circumstances when assets are given away but a right to use or enjoy them remains.

We understand that this legislation could affect UK investors who have purchased property in Spain via a company or a trust which is not controlled by them, but they retain a right of usage of the underlying property.

If you are such an investor, we recommend that you take advise from your UK tax consultants. Alternatively we can assist you to find a suitable firm through our professional network.

New Tax Regimen For Employees Who Relocate Into Spain

Two months ago the Spanish Government finally set in motion a new Decree-law which establishes the requirements for workers who have applied for their fiscal residence in Spain, as a consequence of their relocation to this country, can opt for paying taxes under the non-residents rules (tax rate 25%). Residents are taxed at rates between 15 and 45%, therefore, those displaced persons who acquired the fiscal residence in Spain and whose incomes, were superior to a tax rate of 25% could benefit from this situation under non-residents rules; although before taking any decision they should value, as a whole, the fiscal implications which this novel decree-law entails.

Generally speaking, those who recourse to this decree-law, will pay taxes in regard to their income, applying the non-residents rules. However they will not be able to take advantage of the reduced CGT rates for residents on the sale of assets, including property.

The following requirements need to be complied with:

- Not to be resident in Spain during at last 10 years prior to their relocation.
- The move to Spain must be as a result of a work assignment.
- The work must be carried out in Spain
- The work must be carried out for a company resident in Spain, or a non-resident company with a permanent establishment located in Spain

The official forms for applying for this option are now available.

Mª Jose Lima Cabello
Tax Partner

Cross-Border Workers

General Background

Under the EC Treaty, individuals are entitled to move freely for work reasons from one EU Member State to another without suffering discrimination as regards employment, remuneration or other conditions of work and employment. Cross-border workers are persons who work in one EU Member State but live in another. It should however be stressed that the definition of what a cross-border worker exactly is may vary from one field to another (e.g. tax law, right of residence, welfare entitlements).

Social Security and cross-border workers special Community rules exist

In the field of social security there exist Community rules which define the concept of cross-border worker for the purpose of determining in which Member State they are entitled to social benefits. The Community definition in the social security field covers both employed and self-employed persons.

Taxation and cross-border workers no special Community rules exist

In the field of taxation there exist no rules at Community level regarding the definition of cross-border workers, the division of taxing rights between Member States or the tax rules to be applied.

Neighbouring Member States with many persons crossing borders to work often agree special rules for cross-border workers in their bilateral double taxation conventions.

Since these rules reflect the special situation between two Member States and are the result of negotiations between them, it follows that these rules vary from one double taxation convention to another. This applies both to the definition as such, and the division of taxing rights between the Member States concerned. Normally any special rules for cross-border workers are limited to persons who both live and work close to the border and are employed. The may even be limited to persons employed in the private sector (as opposed to the public sector).

Income earned by a cross-border worker may be taxed in one or both of the Member States concerned, depending on the tax arrangements. In the latter case, tax paid in the Member Sate where the work is carried out would normally be taken into account when determining the tax liability in the Member State o residence, in order to avoid double taxation.
There are no rules which guarantee the cross-border worker the right to the most favourable of the tax regimes of the Member States involved.

CROSS-BORDER WORKERS AND THE NON-DISCRIMINATION PRINCIPLE

Taxation in the State of residence

The EC Treaty freedoms and the non-discrimination principle mean that the cross-border worker may not be discriminated against in his State of residence, because he works in another Member State.

To the extent that he/she is taxed in the State of residence on income from employment or self-employment exercised in another Member State, he/she should therefore normally have the same right to deduction for work-related costs or costs of a personal kind in the State of residence as if the work had been carried out there. This may be the case for instance as regards costs for travelling to and from work, social security contributions paid in the Member State of employment/self-employment, chid-care fees, pension contributions, etc.

Taxation in the State of employment

From the point of view of the State of employment, a cross-border worker falls within the broader category on non-resident workers non-resident meaning that they have their tax residence somewhere else.

The Court of Justice has constantly held that residents and non-residents are not generally in the same situation. Differences in taxation between residents and non-residents may therefore not necessarily constitute discrimination.

However, where a non-resident worker including a cross-border worker is virtually in the same situation as a resident worker (for instance because he/she earns all or almost all of his/her income in that State), the non-resident worker may not be subject to less favourable taxation rules in the State of employment than residents of that State.

The Commission Recommendation of 1993 regarding non-resident workers

On 21st December 1993 the Commission issued a Recommendation on the taxation of certain items of income received by non-residents in a Member State other than that in which they are resident.

The recommendation proposes to Member States a Community system for taxing income of non-resident workers. The main feature is that non-resident persons should benefit from the same tax-treatment as residents, if they obtain 75% of their total income in one Member State. In such situations, the Member State of residence would be allowed to reduce the personal tax advantages correspondingly in order to avoid that personal allowances could be enjoyed twice.

The case-law of the Court of Justice relating to cross-border workers

The principles of the Recommendation were largely confirmed by the Court of Justice in its judgement of 14 February 1995 in the Schumacker case. They have been further settled in later judgments such as Gschwind, Zurstassen, Gerritse and Wallentin even if notably the Gschwind case indicates that the limit should be set somewhat higher than 75% suggested in the Commission Recommendation.

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Tax Tables 2005

INCOME TAX

Taxable Base Up to Euros	Tax Due Euros	Remaining Taxable Base Up to Euros	Rate Applicable %
0	0	4.080	15%
4.080	612	9.996	24%
14.076	3.011,04	12.240	28%
23.316	6.438,24	19.584	37%
45.900	13.684,32	Onwards	45%

WEALTH TAX

Taxable Base Up to Euros	Tax Due Euros	Remaining Tasable Base Up to Euros	Rate Applicable %
0	0	167129,45	0,2
167.129,45	334,26	167123,43	0,3
334.252,88	835,63	334.246,87	0,5
668.499,75	2.506,86	668.499,76	0,9
1.336.999,51	8.523,36	1.336.999,50	1,3
2.673.999,01	25.904,35	2.673.999,02	1,7
5.347.998,03	71.362,33	5.347.998,03	2,1
10.695.996,06 1	83.670,29	Onwards	2,5

INHERITANCE TAX

Taxable Base Up to Euros	Tax Due Euros	Remaining Tasable Up to Euros	Base	Rate Applicable %
0	0	7.993,46		7,65%
7.993,46	611,50	7.987,45		8,50%
15.980,91	1.290,43	7987,45		9,35%
23.968,36	2037,26	7987,45		10,20%
31955,81	2851,98	7987,45		11,05%
39943,26	3734,59	7987,45		11,90%
47930.72	4685,10	7987.45		12.75%
55918,17	5703.50	7987.45		13.60%
63905,62	6789,79	7987,45		14.45%
71893,07	7943,98	7987,45		15,30%
79880.52	9166,06	39877,15		16,15%
119757.67	15606,22	39877,16		18,70%
159634,83	23063,25	79754,30		21,25%
239389,13	40011,04	159388,41		25,50%
398777,54	80655,08	398777,54		29,74%
797555,08	199291,40	Onwards		34,00%

Commonly asked Questions

CAN I BE A NON-RESIDENT COMPANY DIRECTOR?.

Yes, but as regards payroll, if a company would need to contract employees in Spain and its director/s is a non-resident, he/she will have to grant a Power of Attorney in favour of a third party (an individual or a legal entity resident in Spain) for the latter to be able to represent him/her before the Spanish Social Security office and other public Employment agencies. However, this representative will have to be registered with Social Security.

CAN I EMPLOY WORKERS FROM THE 10 NEW MEMBER STATES OF THE EU?

From the 1 May 2004 the following countries have joined the EU:
- Cyprus, Slovakia, Slovenia, Estonia, Hungary, Latvia
- Lithuania, Malta, Poland, Czech Republic

Prior to the free movement of the foreign nationals' regime for the above states to take effect, a temporary period of two years has been fixed in Spain (except for Cyprus and Malta, which have been excluded from the said temporary period), which ends on the 1 May 2006, unless this period is extended. Once it ends, the free movement of the foreign nationals' regime will be applied automatically to the afore-mentioned eight countries.

Workers from the above eight states have to apply for work and residence permits during this temporary period.

WHAT HAS HAPPENED TO THE E111 FORM?

From the 1 June 2004 the temporary stay forms (E-111 and E-128) have been replaced with the European Health Card (EHC).

This card is personal and certifies its holder's rights to receive the necessary health care during his/her temporary stay in any other member state of the EU, including Switzerland.

Please note that if the reason for moving to another EU country is to receive a specific or special medical treatment, the EHC will not be valid.

WHAT ARE THE REQUIREMENTS FOR QUALIFYING AS A PROPERTY HOLDING COMPANY SUBJECT TO THE SPECIAL REDUCED CGT TAX REGIME?

More than 50% of the share capital belongs to 10 or less shareholders provided that, at least, one of the said shareholders is an individual.
-More than 50% of the total assets of the company are not linked to a business activity. The above requirements must be fulfilled, at least, 90 days in the calendar year.

The rates of taxes applicable are:
-In general 40%.
-And 15% on any capital gain obtained on assets sold which have held for more than 1 year.

What do you think?

Please let us know which areas of this newsletter you found most helpful, and what, if anything, you would like to see added.

If you would like to send this newsletter to a friend please complete the form below:-

FRIEND'S NAME

ADDRESS

COUNTRY

If you would like to be removed from our mailing list please fill in your address details below and put a tick in the box. ☐

NAME

ADDRESS

COUNTRY

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