



# Global Tax Newsletter

September 2018

Audit / Tax / Advisory

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## Update on VAT and Turnover Tax

An agreement between the national government and most of the provinces was undertaken with the main purpose of making a gradual reduction in the gross income tax aliquots charged by the provinces between 2018 and 2022.

The aim is that activities such as agriculture, livestock, fishing and mining are exempt from the year 2020. The transport is exempt from the year 2021, whereas the manufacturing industry is exempt from the year 2022. Furthermore, limits of aliquots are set for activities such as: communications, financial services, construction industry, trade, and retail services, among others.

In addition, it is stipulated that the differential treatments in the tax based on the taxpayer's location must be eliminated, as well as the tax relief on services provided in the country with effective use abroad ( service exports).

Moreover, adjustment in municipal taxes on sales is encouraged in order that they correspond to the concrete, effective provision of services by the districts and that the amounts are related to their costs.

Digital services which are provided by subjects living or domiciled abroad and effectively used in the country are brought within the scope of the value added tax.

A value added tax refund scheme for the acquisition of capital goods was approved as long as it is not recovered within six months.

That scheme is a useful tool for investment projects.

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# Australia

## Are you prepared for a review by the ATO?

6 August 2018

Tax Governance is a key focus area for the Australian Taxation Office (ATO) when reviewing both privately held groups and large public and multinational businesses.

The ATO released an expanded Tax Risk Management and Governance Review Guide in January 2017, which was updated again in April 2018. This guide sets out their view on director's duties and management responsibilities, along with a framework for controls and testing.

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## Annual Tax Act 2018

In July this year several adaptations to Austrian tax laws have been issued. These adaptations were made under the so-called Annual Tax Law 2018, which will partially enter into force as of January 1, 2019. The most relevant changes for international companies are the following:

- Adaption of exit taxation due to the BEPS directive
- Redefinition of abuse for tax purposes
- Extending of advance ruling on international tax law
- Adaptations concerning real estate transfer tax
- CFC rules
- Horizontal monitoring for certain companies

The amendments regarding CFC rules and horizontal monitoring are the most important and comprehensive ones and will, thus, be discussed in detail: CFC (controlled foreign corporation) rules apply to low taxed foreign subsidiaries, which mainly achieve passive income (i.e. income from interest, royalties and dividends).

In Austria corporations are subject to 25% CIT. In case an Austrian corporation is shareholder of a foreign entity subject to a corporate income tax rate, which is lower than in Austria (< 12,5%), the implementation of CFC rules would lead to a direct attribution of profits from the subsidiary to its shareholder for Austrian CIT purposes.

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## New optional VAT regime for immovable rent

Recently the Belgian government announced that an optional VAT regime to tax the immovable rent for professional purposes will be introduced as of 1 January 2019. Previously, an immovable rent was in any case VAT exempted, without the right to deduct VAT (e.g. on construction costs, maintenance costs, etc.).

On 2 August 2018, the draft law and explanatory notes were published by the Federal Chamber of Representatives providing further detail on the application conditions for the new optional VAT regime.

### Scope of application of the new optional VAT regime

The application of the optional VAT regime is subjected to material as well as formal conditions. As material conditions, the (draft) legislation stipulates that:

1. The rent should concern a building or parts of a building which can be operated separately (with or without adjacent grounds);
2. The immovable property is rented to a VAT taxable person that uses the immovable property for the purpose of his (VAT taxable) economic activity.
3. The optional VAT regime only applies for rental agreements relating to immovable property that is new or thoroughly renovated. The legislator has opted to allow the optional VAT regime in principle only for immovable property on which VAT has become chargeable as of 1 October 2018. Buildings for which VAT became due before 1 October 2018 are thus out of scope of the optional VAT regime.

Furthermore, the optional VAT regime is subject to a formal condition. More specifically, it is required that both the renter as well as the tenant must mutually agree to apply the optional VAT regime.

As a counter to the option to tax and deduct the VAT incurred, the VAT revision period for the immovable property that is rented under the optional VAT regime will be extended from 15 years to 25 years.

Needless to say that the extended VAT revision period is a drawback of the new optional VAT regime. Therefore, a VAT taxable person should still consider possible alternatives to the optional VAT regime such as a VAT group, immovable lease, business center, etc.

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## **Social Security Totalization Agreement (SSTA) between the United States and Brazil.**

August 2018

The Totalization Agreement will enter into force with effect from 1 October 2018.

Totalization agreements are international agreements in the area of social security and stipulate that a worker will pay social security tax in only one of the two countries. The general rule under the USA and Brazil Agreement is that a worker will be subject to the tax only of the country where the services are provided.

Without this agreement, workers sent on temporary assignment between the USA and Brazil fall liable to double contributions, paying social security contributions in both countries.

## **Convention to Avoid Double Taxation between the Russia and Brazil**

It was enacted the Executive Decree nº 9.115/17 Convention between Russia and Brazil.

Below the most relevant points of agreement:

- Article 2 Income Tax: the rules to avoid double taxation shall apply to the Brazilian and Russia income tax of individuals and corporations. There is no mention to the Brazilian Social Contribution on Net Profit;
- Article 5 Permanent Establishment: the permanent establishment (“PE”) characterization regarding a building site, a construction, assembly or installation project or connected supervisory activities only if such project continues for a period more than 9 months;
- Article 10 Dividends: a) general 15%; and b) 10% of the gross amount of the dividends if the beneficial owner holds directly at least 20% of the total capital of the company paying the dividends. Brazilian domestic legislation currently does not levy WHT on dividend remittance abroad;
- Articles 11 and 12 Interest and Royalties: maximum rate for interest and royalties 15%;
- Article 13 Capital Gain: taxation of capital gains derived from the alienation of properties and movable assets;
- Article 14 Professional Service: a Contracting State to tax at source the remuneration for the performance of independent professional services rendered by an individual, a company or a partnership of the other Contracting State.
- Article 23 DDT: elimination of double taxation – credit method.



## Updating of Brazilian tax haven list and privileged tax regimes

Normative Instruction nº 1.773/17 removes the following jurisdictions from the tax haven list:

1. Republic of Costa Rica;
2. Madeira Island; and
3. Singapore.

The same rule includes specific regimes from those jurisdictions in the list of privileged tax regimes: a) Free-Trade Zone Regime in Costa Rica; b) International Business Centers of Madeira in Portugal; and Singapore, several regimes with differentiated tax rates, on the following areas: finance and treasury; leasing, insurance, among others.

From to new rule the applicable withholding income tax to entities in those jurisdictions will be 15%, instead of the 25% that applied previously.

Privilege tax regimes are subjected to the following restriction: must observe the transfer pricing regardless the corporate relation between the parties; deductibility of payments; and stricter limits of thin capitalization.

## IOF – Financial Tax

From March, 2018 the IOF FX tax rate for cross-border remittances of funds made to bank accounts held abroad by Brazilian residents (legal entity or individual) was increased from 0,38% to 1,10% (Decree 9,297, 2018). The new rate should be applied as from March 3, 2018.

According to the Government the purpose of the rate increase is to equate the tax with that levied on purchase of foreign currency.

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## A Refresher on Employer Certification Program – Relief from Canadian Withholding

3 August 2018

Canadian tax rules require ALL EMPLOYERS to withhold Canadian income tax from remuneration paid to employees providing services in Canada per Regulation 102 (Reg. 102). As a result, even foreign employers must withhold Canadian payroll taxes from remuneration paid to non-resident employees who are performing employment duties in Canada. Such obligation applies despite the fact that an employee might have been exempt from Canadian tax on such earnings as a result of a tax treaty between Canada and the employee's country of residence.

To mitigate the cash flow challenges imposed by Reg. 102 withholding, the Canada Revenue Agency (CRA) allows employees to apply for a waiver of such obligation on a case by case basis. This waiver process was, however, found to be administratively burdensome and impractical as a separate waiver was required for each individual employee which were required to be filed in advance of the services being provided.

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## Expense Deductibility in International Operations: The Case of Rio Tinto Alcan

International operations are very complex. Every operation, whether it be the setup of a corporate group structure or transactions involving the acquisition or sale of a pre-existing structure involve a lot of work before and during the operation.

Important amounts of resources are spent in determining the feasibility, profitability, structural efficiency or tax-efficiency of the operation. And no matter which country is involved, there is invariably one question that will come out in the end: can the cost of all this work and effort be used to offset taxable income?

The answer depends on many things and varies depending on the country. It can often be the reason for audits with the local tax authorities.

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## Holding Companies May Face New Rules for GST/HST

14 August 2018

The Department of Finance has proposed new “holding corporation rules” for GST/HST\* that, if enacted, would be effective as of July 28, 2018. The following is intended solely to provide an overview of the current and proposed new rules including why these rules exist and how they apply.

### What are the holding corporation rules?

In simple terms, the rules generally allow for a GST/HST registered parent corporation (“Holdco”) to claim input tax credits (“ITCs”) to recover GST/HST paid by Holdco with respect to expenses that relate to another corporation (“Opco”) that carries on GST/HST taxable activities.

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## Quebec Sales Tax and Mandatory Registration for Non-Resident Businesses

10 April 2018

The Quebec Provincial Budget released March 27, 2018, proposed measures making the collection of the Quebec Sales Tax (“QST”) mandatory on the electronic sales of services and digital products (e.g., Netflix services and software), as well as on the sale of goods from outside Quebec.

### Current rules and issues

Currently, suppliers that sell goods or services via the internet in Quebec are generally not required to register for QST, for the purpose of collecting and remitting it to Revenu Quebec, unless they have a physical (permanent establishment) or significant presence (carry on business) in Quebec.

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# Caribbean

## Doing business in the Caribbean Islands

Read more about the tax highlights for the following countries by clicking on the 'Read More' button below.

- Trinidad and Tobago
- Guyana
- St. Lucia
- Grenada
- St. Kitts and Nevis
- British Virgin Island (BVI)
- St. Vincent and the Grenadines

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## Judgement of European Court of Justice overturns prior decision of European General Court

In its decision as of June 28, 2018 the European Court of Justice annulled the former judgement of the European General Court and the decision of the European Commission (2011/527/EU) which defined the German “restructuring clause” as a unlawful state aid.

In the course of financial and economic crises, the German government introduced the so-called “restructuring clause” in 2009. The restructuring clause enabled corporations, in case of restructuring due to financial difficulties, to carry forward their tax losses despite any harmful share acquisition and forfeiture of losses accordingly.

Thereupon, the European Commission initiated a formal examination of the restructuring clause and deemed in its decision as of January 26, 2011 (2011/527/EU) the clause as a unlawful state aid. The Commission founded the rule sets up an exemption to the forfeiture of losses rule which limits respectively and completely excludes the carry-forward of losses in case of a share acquisition of more than 25% and more than 50% respectively. Furthermore, the European Commission stated in the decision that the clause offers a non-justifiable selective advantage on corporations which met the criteria which is not consistent with the European law. The German government was forced to suspend the restructuring clause, recover the aid granted from the beneficiaries and provide a summary accordingly.

Two companies which were listed as beneficiaries of the restructuring clause applied at the European General Court. The federal republic of Germany applied as intervener to support both companies. However, the European General Court followed the previous decision and opinion of the European Commission and dismissed the applications as unfounded.

In response to the judgement of the General Court, the companies and the Federal republic of Germany lodged cross-appeal at the European Court of Justice. On June 28, 2018, the European Court of Justice overturned the decision of the General Court and annulled the commission’s decision on state aid.

# Germany

The European Court of Justice found that the European Commission did not use the appropriate “reference framework” in order to examine the conditions relating the selectivity of the state aid. In the case of the restructuring clause, the correct reference framework is the possibility of unlimited utilization of tax losses in future years. Thus, the forfeiture of loss is not the general rule to be applied with regards to the loss carried forward, but is rather the exception. The restructuring clause is once more a reverse exception of the exception.

Due to the falsely determined reference framework, the decisions relating to the selectivity were incorrect. The EU Commission and the General Court should have applied a broader framework. However, the European Court of Justice has only declared that the decision of the Commission and the General Court were wrong due the false reference system and did not state if the restructuring clause itself constitutes a unlawful state aid or not.

Therefore, there is currently no certainty concerning the restructuring clause, however, explanations indicate that the rules may not be classified as unlawful.

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## Hong Kong

### **New BEPS and Transfer Pricing Law in Hong Kong**

10 August 2018

After getting passed by the Legislative Council on 4 July 2018, signed by the Chief Executive of Hong Kong and then published in the Gazette, the Inland Revenue (Amendment) (No.6) Ordinance 2018 (“TP Ordinance”) was enacted into law on 13 July 2018.

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## Tax Compliances – a quick reminder

### Tax returns

- Delayed tax returns attract larger penalties than in the past. More importantly, you will not be able to file a return beyond the end of the relevant assessment year. For example, for FY17-18 returns cannot be filed after 31 March 2019 – a full year of permissible delay time has been shaved off.
- Non-resident entities deriving income from India must file a tax return even if applicable tax withholding has been applied to the entire income. This is an important development and timely compliance is urged.

### Tax status

- Non-resident entities for which substantial decisions are made in India must consider the provisions and rules of Place of Effective Management, to determine their tax status and consequent tax liability.
- The main elements are:
- A company is said to be engaged in ACTIVE BUSINESS OUTSIDE INDIA if it satisfies all the conditions and hence the POEM is outside India.
- To determine whether the business is active the condition to be satisfied is Passive income (whether earned in India or Outside India) is less than or equal to 50% of total income. Passive income means the royalty, dividend, capital gains, rental income and income from transactions where BOTH purchase and sale of goods is from associated enterprise.
- To determine whether the business is outside India the following three conditions are to be satisfied:
- Assets test – Less than 50% of total assets situated in India.
- Employees test – Less than 50% of total employees situated in India or are resident in India.
- Payroll Test – Payroll expenses of employees situated or resident in India is less than 50% of total payroll expenditure.

### Advance tax obligations

- Capital gains exceeding Rs. 100,000 on sales of shares of listed companies and equity oriented mutual funds are subject to 10% tax.
- If you are a domestic company with turnover upto Rs. 2.5 billion, your basic tax rate is now only 25% instead of 30% previously; surcharge may apply.

## **Application of Equalisation Levy**

- Equalization levy is similar to withholding of taxes and is to be levied on certain specified services. These “specified service” are
  - i. Online advertisement;
  - ii. Any provision for digital advertising space or facilities/ service for the purpose of online advertisement
- The service of digital advertisements was often provided by establishments located in lower tax jurisdiction, outside India. Consideration paid to such establishments were not taxed in India due to double tax avoidance agreements.
- Equalisation Levy is to be applied at 6% at the time of remittance of consideration. The amount withheld towards this Levy must be deposited within 7th of the succeeding month.

## **Loans and advances by closely held companies to shareholders – deemed dividend**

- Any loan or advances given by closely held company to shareholders holding more than 10% shall be construed as deemed dividend under section 115-O.
- The company needs to pay Dividend Distribution Tax at 30% plus surcharge and cess.
- Earlier the deemed dividend was taxed in the hands of the recipient; now the onus is on the company and at its cost.

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Italy

## Mandatory electronic invoicing: Are you ready?

Electronic invoicing will be mandatory for transactions from 2019, write Antonella Della Rovere and Filipa Correia of Crowe Valente/Valente Associati GEB Partners. Intercompany invoicing will also be affected by this new measure.

The Italian Revenue Agency has provided clarifications and practical guidance on the issuance, receipt and preservation of electronic invoices through various rulings.

The Italian Budget Law 2018 provided that both companies and individuals liable to VAT must issue and receive electronic invoices when they supply goods or services to Italian tax residents. The obligation enters into force on January 1 2019. However, it already applies to the supply of gas and petrol as motor fuel as of July 1 2018.

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## Korean Tax Newsletter July 2018

July 2018

Content

- **Tax Law Change**

- Extensions of tax payment and collection newly enacted for Small and Medium Enterprise (SME) in disaster regions effective from June 26, 2018

- **Recent Tax Ruling**

- When to recognize dividend income from a foreign (non-Korean) corporation and exchange rate applied

- **Other Tips**

- National pension and national health insurance, max contribution ceilings increased effective from July 1, 2018
- Extension of national pension exemption available for expatriate employees in Korea
- Flat tax rate benefit available to foreigner (non-Korean) expatriate employees and its time limit

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## Korean Tax Newsletter September 2018

September 2018

Content

- **Proposed South Korean Tax Law Changes in 2019 (International Taxation)**
  - Extended income tax exemption for qualifying foreign (non-Korean) engineers
  - Embrace OECD standards in connection with international taxation
  - Reduced tax credit allowed to Class B earned income taxpayers reporting through the Class B taxpayers association
  - Expanded scope for electronic services for foreign (non-Korean) company subject to VAT
  - Extended statute of limitation on tax assessment for cross-border transactions
  - Strengthened exit tax
  - Strengthened reporting requirement for overseas real estate and overseas direct investment
- **Proposed South Korean Tax Law Changes in 2019 (Other Items of Interest)**
  - Expanded tax credit and carryover period for donations
  - Increased dividend received deduction rate for the holding company
  - Eased taxpayers' burdens by reduced penalties, etc.
  - Reduced scope of business buyer's secondary tax liability
  - Introduced right for audio recording during tax audit
- **Tax Planning Tips**
  - Income tax reduction benefit for youth employees of small and medium enterprises (SME) in Korea
  - Flat tax rate benefit available to foreigner (non-Korean) expatriate employees and its time limit

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# Malaysia

## Release of the Proposed Sales Tax and Service Tax (SST) Legislation and Guides

The Royal Malaysian Customs Department (RMCD) has uploaded the following proposed legislation and guides on the MySST website ([mysst.customs.gov.my](http://mysst.customs.gov.my)) to help businesses understand the new SST model:

- Appointment of Date of Coming into Operation (Sales Tax);
- Appointment of Date of Coming into Operation (Service Tax);
- Customs (Amendment) Bill 2018;
- Final Submission GST-04 Return;
- Free Zones (Amendment) Bill 2018;
- Guide on Credit Card & Charge Card;
- Guide on Customs Agent Services;
- Guide on Domestic Flight;

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# Malaysia

## Tax Chat

August 2018

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#### 1. Updates: Inland Revenue Board of Malaysia (“IRBM”)

- Revised Tax Audit Framework 2018
- Revised Tax Investigation Framework 2018
- Introduction of Digital Franking System 2.0

#### 2. Taxing the Digital Economy Business

#### 3. Reinvestment Allowance Claims and Sales Tax

- What Manufacturers need to know about Reinvestment Allowance (“RA”) incentive claims under the Income Tax Act 1967 (“ITA”)?

#### 4. Crowe Malaysia Events

- SST Implementation Workshop
- Employee Retention Program Strategies Workshop

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## **Main fiscal effects in Mexico due to the reduction of the corporate income tax rate in the United States**

August 2018

The substantial interaction between Mexico and USA economies forces all Mexican companies holding businesses with this country to analyze carefully the effects and impact of the US Tax Reform recently enacted on their tax regime.

The United States (US) Congress recently approved one of the most important tax reforms of the last 30 years of this country, promoted and already enacted by President Trump and his Republican Party through the document known as Tax cuts and Jobs Act. The main purpose of this reform is to reactivate the economy and increase the job rate within the country. These provisions are in force since January 1, 2018 and, in some cases, are limited to a certain number of years.

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## Roadmap new regulations as of 2019 budget

2019	2020	2021
<p><b>CIT</b></p> <ul style="list-style-type: none"> <li>CIT rate:           <ul style="list-style-type: none"> <li>EUR 0 – 200K = 19%</li> <li>EUR 200K+ = 24.3%</li> </ul> </li> <li>Earnings stripping rule</li> <li>Abolition of specific interest deduction limitation rules</li> <li>CFC rule</li> <li>Revision of APA/ATR-practice</li> <li>Substance requirements will include:           <ul style="list-style-type: none"> <li>Office 24 months</li> <li>EUR 100,000 salaries</li> </ul> </li> <li>Relevant for:           <ul style="list-style-type: none"> <li>APA/ATR-practice</li> <li>Exchange of information</li> </ul> </li> <li>Loss carry forward limited to 6 years</li> <li>Limitation depreciation buildings in own use</li> <li>Abolition of holding loss regime</li> </ul> <p><b>VAT</b></p> <ul style="list-style-type: none"> <li>Reduced VAT rate raises to 9%</li> <li>Telecommunication, broadcasting and e-services to non-entrepreneurs:           <ul style="list-style-type: none"> <li>EUR 10,000 annual threshold for paying local VAT</li> <li>EUR 100,000 annual threshold for single item evidence customer residency</li> </ul> </li> <li>Mini One Stop Shop (MOSS) for non-EU companies with e-services</li> <li>Simplification rule invoicing for MOSS purposes</li> </ul> <p><b>Income tax / Wage tax</b></p> <ul style="list-style-type: none"> <li>Individual income tax rates reduced on income above EUR 20,384           <ul style="list-style-type: none"> <li>Income above EUR 68,507 = 51.75%</li> </ul> </li> <li>Maximum duration 30%-ruling reduced to 5 years. No transitional regulation</li> </ul> <p><b>Other</b></p> <ul style="list-style-type: none"> <li>UBO register</li> <li>Mandatory disclosure</li> </ul>	<p><b>CIT</b></p> <ul style="list-style-type: none"> <li>CIT rate:           <ul style="list-style-type: none"> <li>EUR 0 – 200K = 17.5%</li> <li>EUR 200K+ = 23.9%</li> </ul> </li> <li>Abolition of dividend withholding tax; and introduction of conditional dividend withholding tax<sup>1</sup></li> <li>Anti-hybrid rules to discourage:           <ul style="list-style-type: none"> <li>CV/BV structure</li> <li>PPL</li> </ul> </li> <li>MLI, including (a.o.):           <ul style="list-style-type: none"> <li>Treaty abuse</li> <li>Permanent establishment</li> </ul> </li> <li>Thin-cap regulations for banks and insurance companies</li> <li>New group relief regime</li> <li>Fiscal investment funds no longer allowed to invest in real estate</li> </ul> <p><b>Income tax / Wage tax</b></p> <ul style="list-style-type: none"> <li>Individual income tax rates are reduced further           <ul style="list-style-type: none"> <li>Income above EUR 68,507 = 50.50%</li> </ul> </li> <li>Box II rate is raised to 26,25%</li> </ul> <p><sup>1</sup> <i>Payments to low tax jurisdictions, EU black list countries and in case of abuse; the withholding percentage is the same as the highest CIT rate.</i></p>	<p><b>CIT</b></p> <ul style="list-style-type: none"> <li>CIT rate:           <ul style="list-style-type: none"> <li>EUR 0 – 200K = 16%</li> <li>EUR 200K+ = 22.25%</li> </ul> </li> <li>Introduction of conditional<sup>1</sup> withholding tax on interest and royalties</li> </ul> <p><b>VAT</b></p> <ul style="list-style-type: none"> <li>EUR 10,000 threshold Dutch VAT due distance sales, option applies;</li> <li>Distance sales of imported goods rules change</li> <li>MOSS system extended to all types of services (B2C) as well as to distance sales of goods.</li> <li>VAT exemption low value consignments removed</li> <li>VAT due by online marketplaces facilitating distance sales imported goods</li> </ul> <p><b>Income tax / Wage tax</b></p> <ul style="list-style-type: none"> <li>Individual income tax rates are reduced to 2 brackets:           <ul style="list-style-type: none"> <li>37.05%</li> <li>49.50%</li> </ul> </li> <li>Box II rate is raised to 26.9%</li> </ul>

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## VAT – Increase Dutch reduced VAT rate – 6% to 9%

The Dutch Government announced the increase of the current reduced VAT rate from 6% to 9% effective 1 January 2019 in today's 2019 Tax Budget Plan (Miljoenennota 2019). The bigger picture is to shift the taxes on labor to the taxation of actual consumption. Please note that the Dutch parliament will still need to approve this plan.

The 6% VAT rate applies to amongst others 'first need' goods such as food, beverages, books and medicine. Further, the lower VAT rate also applies to the hospitality & leisure industry. A visit to a swimming pool, zoo, sports match or theater will be more expensive, as well as having a diner in a restaurant and staying in a hotel or campsite. Please note that the above examples are not exhaustive. More products and services will be affected.

### Effects

The change of the VAT rate will most probably increase the costs for consumers, depending on the price elasticity of the product. Further, companies should modify their financial administration and ERP systems.

The Dutch government does not want to create an administrative burden for companies in relation to the planned increase of the 6% VAT rate effective 1 January 2019.

Therefore, in June 2018 the Deputy Minister of Finance already announced that the Dutch Tax Administration will not issue additional VAT assessments if 6% VAT will be charged on invoices that will be issued in 2018 in relation to supplies for 2019.

Please note that most probably supplies invoiced in 2019 will have to be taxed with 9%, even if the supply is done in 2018.

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## The Netherlands amends tax treaty with Denmark

On 9 May 2018 the Netherlands has signed a protocol amending the tax treaty between the Netherlands and Denmark. amendments have been made to the allocation of the right to levy tax on pensions and tax avoidance.

Before the amendment the right to levy tax on pension from the Netherlands or Denmark was allocated to the state of residence of the pensioner. With the new agreement, pensions can also be taxed in the country from which they originate. The state of residence will then provide an avoidance of double taxation under the tax treaty. A transitional arrangement has been made for existing situations.

### Tax treaty between the Netherlands and Algeria

On 9 May 2018 a tax treaty has been signed between the Netherlands and Algeria.

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## Changes to Thin Capitalisation Calculations

15 June 2018

The Taxation (Neutralising Base Erosion and Profit Shifting) Bill contains a number of amendments to New Zealand's tax laws designed to prevent multi-nationals lowering their exposure to New Zealand income tax. Among those changes are changes to the thin capitalisation rules.

One proposed change is for "Total Assets" to be calculated net of "Non-Debt Liabilities". An entity's "non-debt liabilities" is an entity's liabilities other than its interest-bearing debt. Some examples of non-debt liabilities are accounts payable, reserves and provisions, and deferred tax liabilities. Some deferred tax liabilities are excluded from the proposed "non-debt liability" adjustment. These are deferred tax liabilities that are technical accounting entries, which do not reflect tax on current accounting profits that will be payable in the future. An example, is the deferred tax liability calculated on a building (depreciated for accounting purposes and not for tax purposes, but creating a deferred tax liability in the financial statements).

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## New commercial property tax in Poland

Since January 2018, the owners of the commercial buildings are obliged to pay so-called the 'minimum tax'. On June, 2018, the amendments specifying the application of minimum tax were introduced to Polish law. All of these changes make relatively huge impact on the commercial real estate market in Poland.

Minimum tax apply to the buildings (or their parts) that are given for use under a rental, lease or other agreement of a similar nature. It means that among others: shopping centers, department stores, independent boutiques are subject to taxation. The vacant areas should not be subject to the minimum tax.

The tax rate is 0.035% of the tax base for each month. Basically, the tax base is the initial value of buildings determined in accordance with the regulations on tax depreciation.

[Read More](#)

**Crowe Poland** [www.crowe.com/pl](http://www.crowe.com/pl)



## User manual for the registration of business units and warehouses announced

August 2018

We kindly inform you that the User Manual regarding the procedure of reporting business units of economic subjects and warehouses has been published on Tax Authorities' website. The User Manual contains information of relevance for fulfilling new requirement for tax payer to deliver all data about warehouses or business units in which it performs business activity, as well as to report change of mentioned data to Tax Authorities, as of August 27, 2018.

**Crowe Serbia** [www.crowe.rs](http://www.crowe.rs)





## GST Treatment of Virtual Currencies

10 April 2018

Recently, a growing number of online merchants are willing to accept virtual currencies such as Bitcoin as a form of payment. As the adoption of virtual currencies for purchases are expected to grow, it is necessary to understand the Goods and Services Tax (GST) implications arising from the use of this method of transaction.

GST is essentially a consumption tax levied on the supply of goods and services in Singapore, with some exceptions.

In January 2014, during a period of increasing emergence, awareness and buzz surrounding virtual currencies, the Inland Revenue Authority of Singapore (IRAS) released content on its website with regards to the GST treatment of transactions involving virtual currencies as detailed below.

[Read More](#)

**Crowe Singapore** [www.crowe.com/sg](http://www.crowe.com/sg)



## Regulation for the mail-order trade as of 1 January 2019

The new rules for the mail-order trade are intended to eliminate the competitive advantage of foreign mail-order companies over mail-order companies domiciled in Switzerland. This competition advantage is a result that no VAT is charged on imports of goods, if the tax amount is five francs or less (so-called small consignments). In addition, the delivery of goods is not subject to domestic VAT, since it is not a domestic delivery. The buyer can therefore purchase small consignments from abroad without VAT, whereas the same consignment is subject to domestic tax when purchased from a domestic supplier liable for VAT.

### Change in regulation as of 1 January 2019 for annual sales of at least CHF 100,000 from small consignments

If a mail-order company reaches a turnover of at least CHF 100,000 per year deriving from small consignments, delivered from abroad to Switzerland, all its deliveries from abroad to Switzerland are newly regarded as domestic deliveries. As a result, the mail-order company becomes mandatory liable for Swiss VAT must be registered in the VAT register. Thus all deliveries within or to Switzerland of the taxable mail-order company are subject to domestic VAT. This means that the supplier must invoice VAT for all his deliveries to Switzerland. In the following, the consequences of registering as a mail-order company are summarized again using a practical example:

- Shipment from abroad to Switzerland.
- Import tax is charged if the CHF 5 limit is exceeded. The importer is the mail-order company; any import tax will be charged to him. The importer can reclaim the import tax within the scope of his business activity which entitles him to deduct input tax by filing his VAT return.
- After import clearance, the goods are delivered to the customer in Switzerland. The mail-order company invoices the delivery with domestic VAT to the recipient and has declared the sale in the VAT return. This is independent of whether import tax was charged or not (based on the CHF 5 limit).

[Read more](#)

**Crowe Switzerland** [www.crowe.com/ch/zh](http://www.crowe.com/ch/zh)

# Switzerland

## Exemption from radio and television fee

The Swiss sovereign decided in March 2018 that public TV and radio stations shall remain supported by the government. Thus, the revised Federal Act on Radio and Television (RTVA) will become effective as of January 1st, 2019.

In accordance with the exact wording of the RTVA, all companies that are registered for Swiss VAT purpose would be subject to the RTVA-fee, whereby the fee is measured based on the worldwide revenue. This would include foreign companies that are registered for VAT for any reason; despite whether they are physically present or not. The Federal Office of Communications recently published an explanatory report, according to which only companies with domicile or branch in Switzerland will be liable to pay respective fees.

It was recognized that it would violate international law and international agreements, if Switzerland would make liable non-established companies for such type of levy. The annual worldwide revenue still has to be declared in the quarterly VAT statements but remains without any effect.

[Read More](#)

**Crowe Switzerland**  
[www.crowe.com/ch/zh](http://www.crowe.com/ch/zh)

# Ukraine

On July 23, 2018 Ukraine has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) (hereafter referred to as MLI).

MLI will change 77 existing Double-tax Treaties of Ukraine.

Its main purpose is to prevent the abuse of Double-tax Treaties.

Ukraine, therefore, has adapted a number of instruments, the most important of which for Ukrainian taxpayers are two: principle purpose test and taxation of immovable property.

## Principal purpose test

Principle Purpose Test is defined as follows: “Irrespective of any provisions of the agreement covered by the MLI, the benefit under the tax agreement is not granted in respect of income or capital, if it is reasonable to conclude, taking into account all relevant facts and circumstances, that obtaining the latter was one of the main purposes of concluding any arrangement or transaction that is directly or indirectly subject to this benefit, unless it has been established that its provision under the circumstances will correspond to the object and purpose of the corresponding provisions of the agreement covered by the MLI”

That is, if the main purpose of the arrangement or a transaction is obviously tax minimization, then the benefits under the double tax agreement will not be granted. This shall apply not only to passive income, but also to any benefits.

Accordingly, foreign holdings and financial (letter-box) companies without staff and functions will not be efficient anymore. And one secretary with a coffeemachine will not create enough “substance”. It is necessary to create real management teams and build the working processes. And control over this activities can not only be formal. As foreign tax authorities, for example, monitor the profiles of the leading employees on LinkedIn, and if the CEO of a large foreign holding company of the production group will only put “Likes” on kittens and announcements of fashion shows, his /her importance in decision-making role will probably be unconvincing.

The creation of such a real holding and management structure is quite a long although doable process. In order to be ready for MLI from 2020 (although hypothetically ratification may take place already in 2018), it is necessary to start the process now. sion according to which it has the right to tax the capital gain of foreign companies, the value of which is based of more than 50% of real estate in Ukraine. And the taxation will be applied if the condition of exceeding the 50% threshold was met in any of the 365 days preceding the transaction. To apply the benefits it is necessary to have this condition documented.



# Ukraine

At the same time, we would like to draw your attention to the fact that the adaptation of these provisions by Ukraine does not automatically mean that they will be applied in relations with any other jurisdiction. To do this, such other jurisdiction should also adopt similar or comparable provisions - in other words, there should be a so-called “matching” between the provisions adapted by Ukraine and the second jurisdiction.

## Other reservations

It should be noted that Ukraine also adapted number of other MLI provisions, in particular relating to artificial avoidance of PE status. These are more relevant for foreign taxpayers undertaking activities in Ukraine. Among major trading partners, affected double tax treaties are in particular DTT with Poland, France, UK, Italy, Turkey.

The Netherlands, Germany and Switzerland appeared not to include DTT with Ukraine into the list of covered agreements, but this is position as of now and may change in the future.

Ukrainian groups with foreign companies within the structure and foreign investors into Ukraine will have to make serious efforts of analyzing the changes, assessing its impact and modifying the structures accordingly.

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## Tax Developments: Summer 2018

8 August 2018

### Helping you plan for change

Crowe's tax team reflect on the top tax developments so far in 2018, and the areas that organisations should focus on in the near future.

At the start of the year, we detailed some upcoming tax developments that organisations should address during 2018. Six months later, several trends are developing.

[Read More](#)

## Making Tax Digital for VAT

2 July 2018

VAT is at the forefront of HMRC's Making Tax Digital (MTD) plans which aim to make HMRC into a "world leading, digital tax authority".

From 1 April 2019 all organisations with a turnover above the VAT registration threshold will have to:

- keep their VAT records digitally
- submit their VAT data to HMRC through compatible software, not through the HMRC online portal.

There are currently no plans to change the frequency of VAT returns or payment deadlines.

[Read More](#)

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[www.crowe.com/uk](http://www.crowe.com/uk)

## United States

# Supreme Court Decision in Wayfair Overturns Physical Presence Standard for Remote Sales Tax Collection

25 June 2018

On June 21, the U.S. Supreme Court issued a 5-4 decision in *South Dakota v. Wayfair, Inc.*, allowing states to compel remote sellers to collect sales tax from customers even if the sellers do not have physical presence in the customers' state. This landmark case overturns the holding of *Quill Corp. v. North Dakota*, a 1992 Supreme Court case that required the remote seller to have physical presence in a state as a prerequisite to sales tax collection.

[Read More](#)

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United States

## Cannabis Companies: A Crowe road map to addressing taxes

August 2018

Approximately 30 U.S. states allow the legal sale of cannabis for medical use, and eight states and the District of Columbia allow its sale for “adult use” (recreational use) under state law.

However, the cannabis industry is at a severe tax disadvantage. The overall federal, state, and local tax burden for cannabis companies can approach an 80 percent effective tax rate. Cannabis companies undeniably feel tax pressures that severely diminish their profitability and can threaten their continued operations.

**Crowe US** [www.crowe.com/us](http://www.crowe.com/us)





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