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# International Tax News

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## Welcome

Keeping up with the constant flow of international tax developments worldwide can be a real challenge for multinational companies. International Tax News is a monthly publication that offers updates and analysis on developments taking place around the world, authored by specialists in PwC's global international tax network.

We hope that you will find this publication helpful, and look forward to your comments.

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### Featured articles

**Bernard Moens**

Global Leader International Tax Services Network

T: +1 703 362 7644

E: [bernard.moens@pwc.com](mailto:bernard.moens@pwc.com)

**Responding to the potential business impacts of COVID-19**

COVID-19 can cause potentially significant people, social and economic implications for organisations.

This link provides information on how you can prepare your organisation and respond.

## In this issue

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# Legislation

## Argentina

### Argentina amends corporate income tax and withholding on dividend rates effective January 2021

Argentine Law 27,630, which introduced amendments to the corporate income tax (CIT) law, entered into force on June 16, 2021. Under prior law, the CIT rate was 25%. Under the new law, which applies to fiscal years beginning on or after January 1, 2021, corporate income is subject to tax at progressive rates ranging from 25% to 35% as follows:

Taxable income from \$0 to \$5M (~USD 52,000): 25%.

- Taxable income from more than \$5M to \$50M (~USD 523,000): \$1,250,000 (~USD 13,000) + 30% on the amount that exceeds \$5M.
- Taxable income above \$50M: \$14,750,000 (~USD 155,000) + 35% on the amount that exceeds \$50M.

**\*\* Note:** Amounts are in Argentinian pesos except for parenthetical amounts, which are US dollar

**\*\* Note:** Beginning January 1, 2022, these brackets will be adjusted annually to account for inflation, as determined by the consumer price index 'IPC', published by the relevant governmental agency (INDEC).

Under prior law, distribution of earnings attributable to fiscal year 2021 was subject to withholding tax at a 13% rate. This rate was calculated based on the prior CIT rate of 25%. Law 27,630 no longer ties the withholding tax rate on dividend distributions to non-residents to the CIT and instead reduces the rate to 7% for earnings obtained on or after January 1, 2021.

For more information see our **PwC Insight**.

#### PwC observation:

Taxpayers conducting business in Argentina should model how the amended CIT and withholding rates could impact current tax costs on operations and any planned transactions.



**Luis Vargas**

United States

T: +1 (347) 325-4171

E: maximo.l.vargas@pwc.com

**Ignacio Rodriguez**

United States

T: +54 11 5115-9626

E: ignacio.e.rodriguez@pwc.com



## Denmark

### Denmark significantly changes its CFC rules

After three years of political discussions, Denmark, on June 3, passed significant changes to the current CFC rules applicable for income tax years starting on or after July 1, 2021. The most significant changes to the CFC rules are:

- CFC taxation will be triggered when only 33% of the subsidiary's income consists of CFC income instead of the current 50% threshold.
- The expanded Danish CFC income definition will include 'embedded royalties' from the sale of goods or services.
- The introduction of a new substance exemption which may exempt 'embedded royalties' from being CFC income.
- The possibility to elect whether the Danish parent company is taxed only on the CFC income in the subsidiary or on the total taxable income of the CFC subsidiary (current rules). An election to only tax CFC income will be binding for a five-year period.
- Taxpayers will need to observe special CFC rules when a subsidiary is sold.

### PwC observation:

Group structures which include Danish holding companies (with non-Danish subsidiaries) should assess the impact of the new CFC rules. The new rules may be especially relevant for structures where the subsidiaries hold IP or in-license IP, are earning high margins, or are resident for tax purposes in countries subject to tax at corporate tax rates lower than 22% (the Danish Corporate income tax rate). We expect the compliance burdens for Danish holding companies to increase going forward. We also expect more subsidiaries to become subject to Danish CFC taxation.

## France

### Temporary adjustment of the tax loss carryback provisions

The French Government, on June 2, introduced a 2021 finance law amendment which provides for a temporary adjustment of the loss carryback provisions. The amendment is meant to improve the financial situation of companies, which were severely affected economically by the pandemic.

Currently, fiscal year tax losses may only be carried back and offset against the tax profits of the previous year.

Under the proposed adjustment, companies subject to corporate income tax could offset the loss recorded in respect of the first loss-making financial year ending on or after June 30, 2020 and until June 30, 2021 against any profits recorded for the three previous fiscal years. If they fulfil the conditions, the companies would obtain a tax credit computed at a 25% rate. The credit could pay future corporate income tax liabilities during the following five years or could be refunded after this period.

### PwC observation:

The adjustment introduced by the amending finance law follows the prior C(2021)3484 recommendation issued by the European Commission on May 18, 2021, and would allow companies to obtain a cash advantage.

Lars Ellegård Holst

Denmark

T: +45 51945185

E: lars.ellegaard.holst@pwc.com

Guilhem CALZAS

Paris

T: +33 (0) 1 56 57 15 40

E: guilhem.calzas@avocats.pwc.com

Julie COPIN

Paris

T: +33 (0) 1 56 57 44 17

E: julie.copin@avocats.pwc.com

## Hungary

### Hungary adopts reverse hybrid mismatch rules

Hungary adopted and published the rules on reverse hybrid mismatches in line with the ATAD II deadline. The rules apply effective January 1, 2022.

The reverse hybrid mismatch rules, in conformity with the ATAD II recommendations, trigger Hungarian tax residency for certain hybrid entities that are not considered Hungarian corporate tax residents based on the general rules. These entities' corporate tax base should be calculated based on the normal rules with an exemption for income that is taxed outside of Hungary or under other circumstances in Hungary. The reverse hybrid rules are triggered when the following conditions are met:

- the entity meets the definition of the hybrid entity prescribed by the domestic legislation;
- the hybrid entity has either its establishment or registered seat in Hungary
- the hybrid entity does not qualify as Hungarian tax resident based on the domestic legislation, and
- the rules of the state(s) of the non-Hungarian corporate tax resident owner(s)/shareholder(s) of the hybrid entity holding in aggregate a direct or indirect interest in 50% or more of the voting rights, capital interests or rights to a share of profit regard the entity a taxpayer of the corporate tax or an equivalent tax.

The rules do not apply to investment funds and other collective investment vehicles whose investors fall under the Hungarian investor protection rules and have extensive, diverse, security portfolios.

#### PwC observation:

Companies should review whether their Hungarian entities or arrangements may fall under the reverse hybrid regulations. Considering that Hungarian domestic legislation rarely applies the tax transparent treatment, it is unlikely that the new regulations will affect many entities.

Gergely Juhasz

Hungary

T: +36 1 461 9359

E: gergely.juhasz@pwc.com

## Uruguay

### Tax measures in response to COVID-19

The Uruguayan executive power regulated the previously introduced COVID-19 tax debt measures. (See **May 2021 edition**). For tax debts generated before February 28, 2021, payment facilities are available with the Tax Office.

Taxpayers can apply for this exceptional regime from May 1, 2021 to February 28, 2022. The tax debts must be adjusted by the inflation index and converted to indexed units. Additionally, tax debts can be paid in instalment; taxpayers should arrange this with the Tax Office.

Under the Net Wealth Tax (NWT), the amounts of tax generated in a fiscal year may be reduced as follows:

- Up to a 50% reduction for taxpayers whose gross taxable income is up to approx. USD 102,000.
- Up to a 25% reduction for taxpayers whose gross taxable income is between approx. USD 102,001 and USD 204,000.
- Up to a 1% reduction for taxpayers whose gross taxable income exceeds approx. USD 204,001.

This NWT provision applies exclusively to the first fiscal year that ended as of and including December 31, 2020.

Furthermore, CIT taxpayers whose gross taxable income in the last fiscal year does not exceed approximately USD 102,000 were relieved from the obligation of making the minimum CIT advanced payments for the January to June 2021 period.

#### PwC observation:

These measures aim to mitigate the economic impact of the pandemic caused by COVID-19.

Patricia Marques

Uruguay

T: +598 2916 0463

E: patricia.marques@pwc.com

Eliana Sartori

Uruguay

T: +598 2916 0463

E: eliana.sartori@pwc.com

# Administrative

## Spain

### New Spanish DST and financial transactions regulations

#### Digital services tax

The Digital Services Tax officially entered into force on January 16, 2021, with the publication in the Spanish Official Gazette of Law No. 4/2020. The regulations to the tax were published on June 9, 2021, (Royal Decree No. 400/2021, dated June 8). These regulations focus on the location rules and taxpayers' record-keeping obligations.

Taxpayers would be obligated to keep certain records and, at the request of the Authorities, provide information related to its digital services and systems, mechanisms, or agreements that allow for determining the location of the users 'devices in Spain. In this sense, the location would be determined through the details of the IP address, unless other geolocation technologies such as Wi-Fi, GPS, or Bluetooth determine that a device is in a different area than the IP address indicates.

Given the rules' complexity, the Spanish tax authorities published a resolution with the purpose of clarifying taxable events (which include (i) online advertising, (ii) intermediation, and (iii) sale of data) and transactions not subject to the tax. Currently this resolution is subject to public consultation.

The tax form to self-assess and pay the tax (form #490) was published on June 11 through Order No. 590/2021. As a general rule, the filing should be made on a quarterly basis (i.e., in April, July, October and December). However, exclusively for services rendered in the first quarter of 2021, the self-assessment filing and payment of the tax correspondent to these services should be made together with the tax correspondent to the second quarter of 2021, i.e., within the period July 1 to August 2, 2021 (as July 31 is a Saturday).

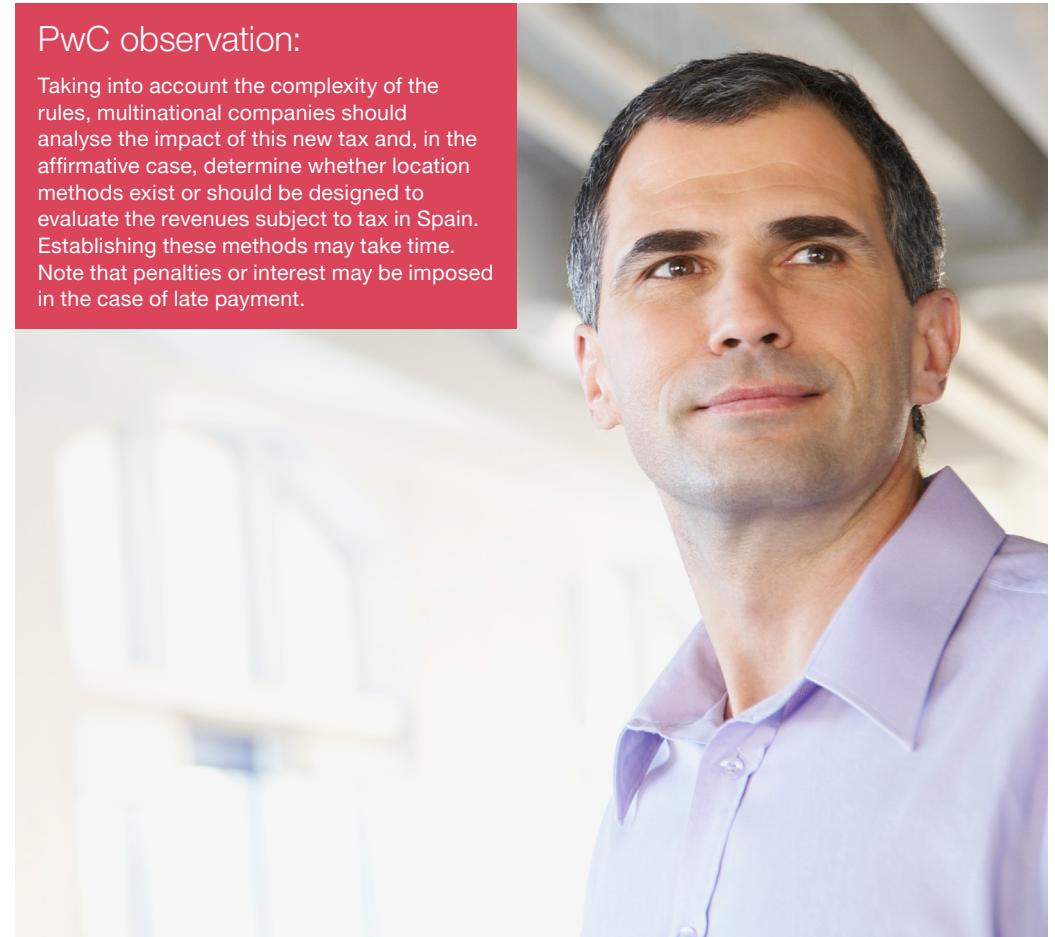
#### Tax on financial transactions

The tax on financial transactions officially entered into force on January 16, 2021, with the publication in the Spanish Official Gazette of Law No. 5/2020. The regulations to the tax were published on May 26, 2021 (Royal Decree No. 366/2021). These regulations develop the procedure to self-assess and pay the tax. Also, the order which approves the self-assessment of the tax (form # 604) was also published.

The settlement period is monthly, being the ordinary filing deadline from the 10th to the 20th of the month following the month in which the tax accrues. However, for the first four months of 2021, the filing should have been made together with the tax accrued in May 2021, i.e., within the period June 10 through 20, 2021).

#### PwC observation:

Taking into account the complexity of the rules, multinational companies should analyse the impact of this new tax and, in the affirmative case, determine whether location methods exist or should be designed to evaluate the revenues subject to tax in Spain. Establishing these methods may take time. Note that penalties or interest may be imposed in the case of late payment.



**Roberta Poza Cid**

Madrid

T: +34 669 41 92 20

E: roberta.poza.cid@pwc.com

**Isabel Asin Perez**

Madrid

T: +34 660 41 28 13

E: isabel.asin.p.perez@pwc.com

## United Kingdom

### Double tax relief – availability where relief denied under an applicable tax treaty

Credit relief for foreign tax is not available in the United Kingdom where the claimant has been denied relief for the tax concerned by an ‘express provision’ of an applicable tax treaty. That term’s meaning was recently considered by the First Tier Tax Tribunal (FTT) in *Aozora GMAC Investments (Aozora) v HMRC*. Aozora, a UK company with a Japanese parent, suffered US withholding tax on interest received from its US subsidiary, but could not obtain relief under the US-UK tax treaty because it failed the limitation of benefits (LoB) article. The UK tax authority (HMRC) denied Aozora credit relief for that WHT on the basis that the LoB constituted an ‘express provision’ denying relief. The FTT allowed the taxpayer’s appeal, rejecting HMRC’s interpretation and therefore ruling it was wrong to deny Aozora credit relief in this case.

For more information see our [PwC Insight](#).

### PwC observation:

Taxpayers considering whether they are entitled to credit relief in the United Kingdom for tax that is not relieved by an applicable tax treaty should account for this ruling’s potential implications for their own arrangements. The decision may offer support for making a credit relief claim, but taxpayers should seek advice, particularly where the facts differ from those in this case. It seems likely that HMRC will apply for permission to appeal this decision, so the decision could be overturned on appeal.



**Sara-Jane Tovey**

United Kingdom

T: +44 (0)7950 354061

E: [sara-jane.tovey@pwc.com](mailto:sara-jane.tovey@pwc.com)

**Rachael Palmer**

United Kingdom

T: +44 7525 298719

E: [rachael.palmer@pwc.com](mailto:rachael.palmer@pwc.com)



# Treaties

## Cyprus

### Cyprus ratifies first-time tax treaty with the Netherlands

The first-time tax treaty between Cyprus and the Netherlands, which was signed on June 1, 2021, was ratified by Cyprus on June 4. Certain legal procedures now need to take place in both states following which the treaty will 'enter into force'. Once the treaty enters into force it will be effective on January 1 of the next calendar year.

The treaty is based on the OECD Model Tax Convention on Income and on Capital.

In accordance with the treaty, 0% withholding tax (WHT) applies on dividends where the beneficial owner is:

- a. A company that holds directly at least 5% of the capital of the company paying the dividends, throughout a 365-day period that includes the day of the payment
- b. A recognized pension fund which is generally exempt under the corporate income tax law of Cyprus.

For all other cases, the treaty provides for a maximum 15% WHT rate. Nil WHT applies on interest and royalty payments.

In relation to capital gains, Cyprus retains the exclusive taxing rights on share disposals made by Cyprus tax residents, except where:

- a. the shares derive more than 50% of their value, directly or indirectly, from immovable property situated in the Netherlands (certain exceptions apply), or
- b. the shares derive more than 50% of their value, directly or indirectly, from certain offshore rights/property relating to exploration or exploitation of the seabed or subsoil or their natural resources located in the Netherlands.

### PwC observation:

The first-time tax treaty between Cyprus and the Netherlands will contribute to the further development of trade and economic relations between the two States.



**Marios Andreou**

Cyprus

T: +357 22 555 266

E: marios.andreou@pwc.com

**Stelios Violaris**

Cyprus

T: +357 22 555 300

E: stelios.violaris@pwc.com

## Spain

### Spain advances the OECD MLI and tax treaties with China, Japan and Belarus

#### Multilateral instrument

The Spanish Senate reapproved for ratification the OECD MLI, on June 9, taking into account certain changes in the Spanish reservations that had been approved by the Spanish Congress on May 13.

#### Spain-China tax treaty

The China-Spain tax treaty entered into force May 2, according to information published in the Spanish official gazette. Key provisions include:

- A 5% withholding tax on dividends distributed to a company that holds directly and for more than 12 months, at least 25% of the shares of the distributing company. In all other cases, the withholding tax is capped at 10%. As an exception, an exemption would apply to dividends distributed to political divisions, Central Banks, or any state-owned entities.
- Generally, interest and royalties would be subject to withholding tax, capped at 10%.
- Capital gains derived from land-rich entities, or from shares in companies in which the seller held, directly or indirectly, at least 25% during the year before the sale, would be subject to tax in the source state. Special rules would apply to capital gains from the sale of shares listed in a stock exchange market.

The treaty was signed November 28, 2018, in Madrid. It replaces the tax agreement signed November 22, 1990, in Beijing and its provisions will apply from January 1, 2022, for taxes not withheld at source and from May 2, 2021, for other taxes. Article 23 of the 1990 treaty, concerning capital, will no longer apply beginning December 31, 2021.

#### Spain-Japan tax treaty

Mutual notifications necessary for entry into force of the tax treaty between Spain and Japan were completed between the Japanese and Spanish governments on February 12. The tax treaty, which was signed in Madrid October 16, 2019, entered into force on May 1, 2021 and replaces the existing agreement, which was signed in Madrid February 13, 1974.

The most important provisions include:

- 0% withholding tax on dividends distributed to (i) a company, being the beneficial owner, that holds directly or indirectly and during more than 12 months, at least 10% of the voting power of the company or (ii) to a pension plan. In all other cases, the withholding tax is capped to 5%. However, if the dividends are deductible in the payer's state of residence, the tax may not exceed 10%.
- Regarding interests and royalties, as a general rule those are taxable only in the beneficial owner's state of residence.

- Capital gains derived from the sale of land-rich entities would be subject to tax in the source state.

The new treaty contains an article with certain tests that must be met in order to apply the treaty benefits (LoB clause).

#### Spain-Belarus tax treaty

The tax treaty, signed in June 2017, entered into force May 9, 2021. This will replace the tax agreement signed in 1985 between Spain and the former USSR. Important provisions in the new tax treaty include:

- Dividends are exempt for direct holdings of at least 10% if the value of such interest amounts to at least €1 million. A 5% rate would apply if a beneficial owner directly holds at least 10% in the capital of the distributing entity. In other cases, a 10% rate would apply.
- As a general rule, interests and royalties are subject to a 5% withholding tax rate. Certain interest payments could be exempt.
- Capital gains derived from land-rich entities would be subject to tax in the source state.

The tax treaty generally applies from May 9, 2021 for withholding taxes and January 1, 2022, for other taxes. The provisions of articles 24 (mutual agreement procedure) and 25 (exchange of information) apply from May 9 regardless of the tax period to which the matter relates.

### PwC observation:

Spain has moved a number of its tax treaties forward. These agreements should further develop international relations and provide more tax certainty for companies interested in investing in Spain.

**Roberta Poza Cid**

Madrid

T: +34 669 41 92 20

E: roberta.poza.cid@pwc.com

**Isabel Asin Perez**

Madrid

T: +34 660 41 28 13

E: isabel.asin.p.perez@pwc.com

## Glossary

Acronym	Definition
ATAD	Anti-Tax Avoidance Directive
BEPS	Base Erosion and Profit Shifting
CFC	controlled foreign corporation
CGT	capital gains tax
CIT	corporate income tax
DAC6	EU Council Directive 2018/822/EU on cross-border tax arrangements
DEBRA	Debt equity bias reduction allowance
DST	digital services tax
DTT	double tax treaty
EBITDA	earnings before interest, tax, depreciation and amortization
ECJ	European Court of Justice
ETR	effective tax rate
EU	European Union
FTT	First Tier Tax Tribunal

Acronym	Definition
GAAP	generally accepted accounting principles
IF	inclusive framework
IP	intangible property
M&A	mergers and acquisitions
MNC	multinational corporation
NCST	non-cooperative states and territories
NWT	Net Wealth Tax
OECD	Organisation for Economic Co-operation and Development
PE	permanent establishment
R&D	research & development
STE	Small & Thin Profit Enterprises
VAT	value added tax
WHT	withholding tax

## Contact us

For your global contact and more information on PwC's international tax services, please contact:

**Bernard Moens**  
**Global Leader International Tax Services Network**

**T: +1 703 362 7644**  
**E: [bernard.moens@pwc.com](mailto:bernard.moens@pwc.com)**

**Geoff Jacobi**  
**International Tax Services**

**T: +1 202 262 7652**  
**E: [geoff.jacobi@pwc.com](mailto:geoff.jacobi@pwc.com)**

[www.pwc.com/its](http://www.pwc.com/its)

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