THE AGN EUROPEAN REGION

-- 2009 Corporate Tax Survey--

The AGN European Region conducts annual surveys of corporate, parent companies, value added (VAT), salary and social security and inheritance taxes. These surveys have been produced for a number of years and provide interesting comparisons from year to year and from country to country and give an insight into trends.

The 2009 corporate tax survey covers most of the EU (plus Russia and the Ukraine) and aims to calculate the effective corporate tax payable using a model profit and loss account for a standard trading company with pre-tax accounting profit of €1 million. It also calculates the dividend receivable by shareholders of a company resident in a non-treaty (tax haven) country. Additionally the percentage of accounting profit received as dividend is shown under different assumptions.

Nominal corporate tax rates range from 10% (Bulgaria and Cyprus) to 34% (Belgium). Ireland (13%), Liechtenstein (15%) and Romania (16%) are also quite low, whereas Finland, Germany, Italy, Norway, Sweden, Spain and the United Kingdom all show nominal rates of at least 26%. A notable exception is the Isle of Man, where – apart from rental profits from Manx property, and local banking services – no corporate tax is charged.

Effective corporate tax rates: The truth however lies in comparing the effective corporate tax burden, thus considering taxable adjustments of the accounting profit and withholding taxes on business expenses such as intercompany interest and royalties.

Effective corporate tax rates range from 7% (Malta), to 42% (Ukraine). However, most countries surveyed have effective corporate taxes between 28% and 42%.

The Ukraine shows the largest divergence between nominal (25%) and effective (42%) rates, followed by Romania, Poland and Luxembourg.

Net dividends received by shareholders may be subject to withholding taxes. Without considering the shareholder's personal income tax position the range of percentages of accounting profit received is:

- **Individual shareholder resident in same country:** From 86% (Bulgaria) to 50% (Norway and Germany).
- **Individual shareholder resident in treaty country:** From 93% (Malta) to 45% (Gibraltar).
- **Individual shareholder resident in non-treaty country**: From 93% (Malta) to 44% (France).
- **EU resident company as shareholder:** From 93% (Malta) to 50% (Germany and Gibraltar).
- **Treaty country (non EU) resident company as shareholder:** From 93% (Malta) to 48% (Gibraltar).
- **Non-treaty country resident company as shareholder:** From 93% (Malta) to 44% (France).

Tax adjustments to the accounting profit

Most countries adjust accounting profit (usually increases) to arrive at taxable profit. These adjustments are generally shown as a percentage of book expenses.

Bad debts: Belgium, Estonia, Gibraltar, Isle of Man, Malta, Netherlands, Romania, Russia and Ukraine allow general provisions whereas most other countries allow specific provisions.

Complimentary pension provisions: Bulgaria, Denmark, France, Ireland, Liechtenstein and Poland do not allow deduction of company pension provisions. Slovenia limits such deductions as does Luxembourg which also levies a withholding tax.

Non-executive directors' fees: Austria, Germany and Slovenia allow 50% deduction. Czech Republic and Luxembourg disallow completely. Spain and Poland allow deduction but charge a withholding tax, as does Luxembourg.

Depreciation: Apart from Ireland, Russia and the UK, depreciation of fixed assets for accounting purposes is also accepted for tax purposes.

Company cars: Austria, Croatia, France, Ireland, Italy, Liechtenstein, Malta, Poland, Portugal and Romania set a maximum purchase price. Annual depreciation rates range from 12,5% (Austria, Ireland and Romania) to 40% (Croatia).

Intercompany interest deduction: All countries apply the arm's length principle for interest on loans from group companies or related parties and about 50% apply thin capitalisation rules. In the UK transfer pricing rules apply. Bulgaria, Croatia, the Czech Republic, Greece, Italy, Poland, Portugal, Russia and the UK apply withholding taxes between 10% and 20% on intercompany interest payments.

Royalties: Belgium, Denmark, Gibraltar, Hungary, Ireland, Isle of Man, Liechtenstein, Luxembourg, the Netherlands, Norway, Sweden, and the Ukraine do not apply withholding taxes to royalties paid to EU companies. The others do at rates between 10% (Austria, Bulgaria, Cyprus, France, Italy, Malta, Poland, Portugal, Romania, Spain and the UK) and 26% (Finland).

Company formation costs: Cyprus, Ireland, Poland, Russia, Sweden and the UK completely disallow the deduction of formation costs.

Conclusion

From the corporate tax perspective Bulgaria, Malta and Cyprus and the Isle of Man (zero tax!) seem to be perfect places to run a business; if the shareholder is a non-resident individual or company, up to 93% (Malta) and 90% (Bulgaria and Cyprus) of the company's pre-tax accounting profit can be received as dividend.

Actively doing business through an Ireland or Liechtenstein company is also very attractive, some of the South- and Eastern-European countries such as Croatia and Hungary however have become increasingly competitive.

Before taking or refraining from action in relation to the above, specific professional advice should be taken in the countries concerned.

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