Austria

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TAX AUTHORITIES

1. What are the main authorities responsible for enforcing taxes on corporate transactions in your jurisdiction?

The authority responsible for enforcing all indirect and direct taxes in Austria is the Federal Ministry of Finance (*Bundesministerium für Finanzen*) (*www.bmf.gv.at*) and its local finance offices (*Finanzämter*). Authorities of local governments or municipalities are not involved.

2. Is it possible to apply for tax clearances or obtain guidance from the tax authorities before completing a corporate transaction? If yes, provide brief details, including whether clearance or guidance is binding.

Although no statutory procedure exists for obtaining tax rulings on transactions, the local finance offices or the Ministry itself generally must answer taxpayers' information requests. Their response is not binding, but the authorities undertake their duties in good faith, so their response is generally binding provided the actual transaction does not deviate from the description given by the taxpayer in his request.

If no answer is given to an information request of the taxpayer, the authorities have to issue a decision.

General questions on international tax law issues are answered by the Federal Ministry of Finance via the Express Information Procedure (*Express-Auskunft-Service (EAS)*). The Ministry of Finance's answers constitute expert opinions, which are also published on the Ministry's website. The answers, while not binding, are taken as legal authority by practitioners.

A procedure for obtaining binding rulings from the authorities is likely to be introduced by proposed tax law reform (*see Question 35*).

MAIN TAXES ON CORPORATE TRANSACTIONS

3. What are the main transfer taxes and/or notaries' fees potentially payable on corporate transactions? In relation to each tax/fee identified, explain briefly:

- **Its key characteristics.**
- **What triggers it.**
- **Who is liable.**
- **The applicable rate(s).**

Capital duty (*Gesellschaftsteuer*)

Capital duty is triggered when capital contributions are made (in cash or in kind) from a shareholder to a directly held Austrian company, including, for example:

- The exchange of assets (especially cash) for the issuance of new shares.
- Waiving shareholder debt or a portion of it.

Even if no shares are issued, capital duty is payable if, on a contribution to a directly held company, the value of the relevant participation increases.

The company whose capital or value is affected by the trigger event must pay the capital duty, but the relevant shareholder is liable for it as a secondary debtor.

Capital duty is charged at the rate of 1% of the contribution to the company.

Stamp duty (*Rechtsgeschäftsgebühren*)

Stamp duty is triggered:

- On the written conclusion of an agreement.
- If the agreement is included in the statutory list of stamp duty transactions, for example, credit and lending agreements, assignments, leases and surety arrangements (*Stamp Duty Act (Gebührengesetz)*).

If the written agreement is not concluded in Austria (or not brought to Austria) and certain other criteria are met, stamp duty is not likely to be imposed. Note that in M&A transactions, and in corporate restructurings, stamp duty may be triggered:

- By a contract novation or an assignment of a contract.
- If a so-called substitute document is signed that is issued by the parties in lieu of an original.

The parties and their advisers involved in preparing the relevant documents are liable to pay stamp duty.

Stamp duty rates are set between 0.8% and 1.5%. The rate differs depending on the type of agreement:

- For loan agreements or assignments it is 0.8%.
- For real estate rental agreements it is usually 1%.
- For revolving credit agreements with a term above five years it is 1.5%.

Note that the transfer of the following shares is not subject to stamp duty:

- Shares in limited liability companies (*GmbH*) and partnerships (*Personengesellschaft*).
- Shares in stock corporations (*Aktiengesellschaft (AG)*) that are securities.

The transfer of a stock corporation's shares where these are not securities generally does trigger stamp duty.

Real estate transfer tax (*Grunderwerbsteuer*)

Real estate transfer tax is triggered on the transfer of Austrian real estate or the transfer of shares in corporations that hold Austrian real estate if certain conditions are met, for example:

- 100% of the capital interest is transferred.
- Because of the transfer 100% of the capital interest is aggregated in the hands of one person or a group of persons considered a unit.

It is relatively easy to structure a corporate transaction in a manner that no such tax is triggered, for example, if 99% of the shares in a real estate holding corporation are transferred and the remaining 1% is held in trust for the acquirer.

The general real estate transfer tax rate is 3.5%. The taxpayers are generally either:

- The parties involved in the relevant transaction.
- The person (or the group of persons) into whose hands the transfer is to be made (if 100% of the shares are to be held in the hands of one person or a group of persons considered to be a unit).

A real estate registration fee is also payable on real estate transfers. This amounts to 1% of the tax base determined for real estate transfer tax purposes. This fee does not arise if shares in a company are transferred, as the owner remains the same in that context.

Notaries' fees

The transfer of shares in a limited liability company (*Gesellschaft mit beschränkter Haftung (GmbH)*) must be executed by a notarial deed for which the notary public charges a fee under the Notaries' Tariffs Act (*Notariatstarifgesetz*). The fee amount generally depends on the value of the underlying transaction.

4. What are the main corporate and/or capital gains taxes potentially payable on corporate transactions? In relation to each tax identified, explain briefly:

- **Its key characteristics.**
- **What triggers it.**
- **Who is liable.**
- **The applicable rate(s).**

Corporate income tax (*Körperschaftsteuer*)

Corporate income tax is a charge on the net profits of a company's business. It is charged at a flat rate of 25%. The taxable base is the company's worldwide income if the taxpayer is an Austrian company, that is, if it has its registered seat or its place of management in Austria. The tax period is generally the corporation's financial year, and the liable entity is the company.

Income from any source is considered taxable business income, even if it stems from a generally passive activity (for example, from interest income, the leasing out of premises, or from the disposal of portfolio investments). The main costs related to generating income are fully deductible.

In relation to loss carry forwards from previous periods, these can only offset 75% of current profits. Loss carry forwards refer to the application of the current year's net operating losses to future years' profits to reduce tax liability. Loss carry forwards cannot be used following a share deal or a change in participation of the company if this change affects more than 75% of the company's share capital and if significant changes to the target's business and management occur within a certain time context.

A company's net profits from business income are determined under local generally accepted accounting principles (GAAP) and adjusted by special tax law rules.

Dividend income from participations in domestic companies and dividend income from, as well as capital gains related to, certain foreign participations are generally exempt from corporate income tax if covered by the participation exemption (*see Questions 8* and *10*).

Partnerships are generally transparent for corporate income tax purposes. Taxable profits of a partnership are determined at the level of the partnership. This determination is then used to impose (corporate) income tax on the partners.

Corporate groups can enter into a tax group with the result that the profits of the group members are attributed to the group parent for tax law purposes. Benefits of a group are, in particular, that losses offset profits across the group members (including foreign losses), and that a goodwill write-off is allowed regarding acquired participations (*see Question 11*).

5. What are the main value added and/or sales taxes potentially payable on corporate transactions? In relation to each tax identified, explain briefly:

- **Its key characteristics.**
- **What triggers it.**
- **Who is liable.**
- **The applicable rate(s).**

Value added tax (*Umsatzsteuer*) (VAT)

The standard VAT rate is 20%, generally triggered on:

- The delivery of assets or the provision of services in Austria.
- The delivery of assets or the provision of services to entities that are not businesses (for example, to mere holding companies) outside Austria.

- The importation of goods to Austria from outside the EU.

While share deals are exempt from VAT, asset deals are not exempt.

VAT incurred by a business on the deliveries or services it receives (input VAT) is usually credited against VAT the business must itself impose and pay to the authorities for its deliveries and services (output VAT).

In principle, input VAT can be credited if it is attributable to a taxable delivery or service (whether at the standard rate or lower rates), but it cannot be credited if it is attributable to the business's VAT-exempt deliveries or services. Generally, if no changes in the proportion of taxable and tax-exempt transactions are likely, input VAT is recoverable based on the overall proportion of the business's taxable transactions to total transactions (*Umsatzschlüsselmethode*). If input VAT exceeds output VAT, a refund is generally paid.

6. Are any other taxes potentially payable on corporate transactions? In relation to each tax identified, explain briefly:

- **Its key characteristics.**
- **What triggers it.**
- **Who is liable.**
- **The applicable rate(s).**

Entry tax

If private foundations meaning foundations established for private purposes are involved in a transaction and they are the recipient of assets, entry tax of 2.5% of the transferred assets is payable by the foundation, unless it does not have its seat in Austria in which case the transferring person has to pay the entry tax.

Other taxes

Depending on the type of businesses involved, certain other taxes may be payable on corporate transactions, for example, energy taxes, insurance tax, petrol duty, real estate tax or municipality tax.

7. In what circumstances will the taxes identified in *Questions 3* to *6* be applicable to foreign companies (in other words, what "presence" is required to give rise to tax liability)?

Corporate income tax

Foreign companies are subject to Austrian corporate income tax on their income if that income has a particular link to Austria, for example:

- Dividends paid from an Austrian corporation.
- Interest from debt secured with Austrian real estate.
- Rental income from Austrian real estate.
- Capital gains from real estate.
- Capital gains from corporate participations if, during the last five years before the disposal, 1% or more of that company's capital was held at any point in time.
- Income effectively connected with an Austrian permanent establishment.

In all of the above cases except the last one, double tax treaties can reduce or even avoid the payment of tax in Austria.

VAT

Whether Austrian VAT is triggered depends on the place in which the delivery of goods or the provision of services occurs. Generally, the relevant place is where the delivery occurs or, in the case of services, where the recipient of services undertakes its business. If the recipient of services is not a business for the purposes of VAT, however (*see Question 5*), the place of performance may be the place from which the service provider undertakes its business.

Stamp duty

Stamp duty is triggered if a document concerning an agreement that is generally subject to stamp duty:

- Is signed in Austria.
- If not signed in Austria, is brought to Austria and:
  - the agreement involves a domestic issue;
  - the place of performance is in Austria; or
  - a right is pursued in Austria based on the document.
- Involves, if not signed in Austria, only Austrian parties and either point one or two of the previous sub-bullet point criteria are fulfilled. A party is Austrian if it has its seat, place of management, or home in Austria or if it has an Austrian permanent establishment.

Capital duty and real estate transfer tax

These two taxes can apply to foreign companies (*see Question 3*).

DIVIDENDS

8. Is there a requirement to withhold tax on dividends or other distributions? If yes, provide brief details.

Generally, dividends are subject to a 25% withholding tax imposed by the distributing Austrian corporation. No withholding has to be made on distributions to:

- A domestic corporate shareholder that holds at least a quarter of the capital interest in the distributing corporation.
- An EU-resident corporate shareholder that has held at least 10% of the capital interest of the distributing corporation for at least one year, as long as there is no indication of any tax abuse.

Withholding tax can be reduced by a relevant tax treaty rate if the distributing corporation holds proof of the dividend recipient's residence and as long as there is no indication of any tax abuse.

The abuse is indicated in the context of EU companies if the dividend recipient is a mere investment company, with no staff or offices of its own (*Regulation on § 94a ITA Regarding Imposition of Withholding Tax in the Context of Parent Subsidiary Directive, BGBl 1995/56*). A similar provision applies concerning potential abuse committed to obtain the benefit of a treaty rate reduction (*Regulation Regarding Double Tax Treaty Relief, BGBl III 2005/92*).

No withholding tax is imposed on the repayment of capital. If the repayment exceeds the acquisition cost, however, capital gains as a result of a disposition may be triggered and taxable.

SHARE ACQUISITIONS AND DISPOSALS

9. What taxes are potentially payable on a share acquisition/ share disposal?

Corporate income tax

Capital gains realised on the disposal of a domestic participation are subject to corporate income tax (*see Question 4*). The same is true in relation to participations of less than 10% in foreign companies. If a 10% or greater participation is held in a foreign company, and that company is not undertaking a passive business, capital gains are exempt from corporate income tax under the Austrian participation exemption (*see Question 10*).

VAT

Share deals are exempt from VAT (*see Question 5*).

Real estate transfer tax

Real estate transfer tax might be triggered on a share transaction (*see Question 3*).

Capital duty

Capital duty is only triggered on a contribution, and so is unlikely to fall due in connection with the acquisition or disposal of shares (*see Question 3*).

Stamp duty

The transfer of shares in any of the following is not subject to stamp duty:

- Limited liability companies and partnerships.
- Stock corporations whose shares are securities.

The transfer of shares in a stock company that are not securities triggers stamp duty (*see Question 3*).

Notaries' fees

Notaries' fees are payable if a notarial deed is used. This is mandatory on the transfer of shares in limited liability companies (*see Question 3*).

10. Are any exemptions or reliefs available to the liable party? If yes, provide brief details.

Corporate income tax

Capital gains from the disposal of a foreign participation is exempt from corporate income tax if the participation represents a capital interest of 10% or more, is held for at least one year and the foreign company is not pursuing a passive business. A business is considered passive if it predominantly generates profits from interest income, rental activities or from the disposal of portfolio investments (that is, from investments involving a participation of less than 10%).

VAT

Share deals are exempt from VAT (*see Question 5* and *9*).

11. Please set out the tax advantages and disadvantages of a share acquisition for the buyer.

Advantages

The advantages of a share acquisition for the seller include that:

- The tax attributes (for example, tax assets) of the target generally survive resulting in the benefit of a continued use of the target's tax assets, for example, loss carry forwards.
- It is not subject to VAT.
- While a step-up in the basis of the acquired assets is not possible, the goodwill of the target can be amortised over a period of 15 years under the group taxation rules if control is acquired in the course of a share acquisition and a tax group is formed. The amount of the goodwill is determined based on the acquisition price and the target's equity and asset structure, for example, participations or assets that cannot be depreciated reduce the goodwill.
- Costs incurred by the buyer on acquiring shares are deductible even if related to foreign participations that are covered by the participation exemption. (Note, however, that in the context of an asset deal costs are also deductible; this rule is mentioned to show that no detriment might result from a share deal regarding incurred costs.) (*See Question 16.*)

Disadvantages

The disadvantages of a share acquisition for the buyer are:

- Even though the goodwill depreciation is available if the target is integrated into a tax group with the buyer, such depreciation only usually serves to minimise the disadvantages of a share deal as compared with an asset deal, which achieves a step-up, possibly establishing a comparatively higher depreciation amount.
- Loss carry forwards can be lost if changes occur in the business structure and management. On an asset deal, loss carry forwards are not transferred at all but the capital gains incurred by the seller may be partially offset by such loss carry forwards, which may impact the purchase price, since it may be reduced as a result of the buyer enjoying this benefit.

12. Please set out the tax advantages and disadvantages of a share disposal for the seller.

Advantages

If the seller on a share deal is foreign, this is generally advantageous as capital gains might not be subject to taxation in Austria.

In general, VAT is not triggered on a share deal, which is advantageous for the seller.

Disadvantages

On a share deal, capital gains in relation to the participation can only be offset by loss carry forwards of the seller, while on an asset deal the loss carry forwards of the target can be used.

Certain tax disadvantages may be triggered on the sale of a subsidiary out of a tax group, for example, tax benefits derived from losses of the subsidiary used at the level of the group parent in previous periods might be clawed back. In addition, if a group member is sold within the first three years of the group formation, any tax benefits achieved by the tax group will be reversed retroactively.

13. What transaction structures (if any) are commonly used to minimise the tax burden? Give brief details of the effect of each structure.

Corporate income tax

It is market practice to integrate an acquired target company into a tax group. If such a group has not been established before the transaction, it is generally beneficial to set up a group that includes the acquired target, to depreciate the goodwill and ensure that profits and losses are offset between the group companies.

Note, however, that loss carry forwards from the periods before the target is integrated cannot be used. The parent group's loss carry forwards can be used to offset profits of the target (*see Question 4*).

Real estate transfer tax

No real estate transfer tax is triggered in relation to real estate held by a target company if a stake in the target (even a minority stake of 1%) is held, for example, by a trustee for the acquirer.

Stamp duty

If shares in a stock company are acquired that are not securities, an interim share certificate must be issued to avoid stamp duty on the share transfer (which would normally be triggered by an assignment of the rights relating to the shares).

ASSET ACQUISITIONS AND DISPOSALS

14. What taxes are potentially payable on an asset acquisition/ asset disposal?

Corporate income tax

Capital gains realised on the disposal of an asset held by a company are fully subject to corporate income tax, as a company's income from any source is considered business income (*see Question 4*).

Real estate transfer tax

If the assets disposed of are Austrian real estate, real estate transfer tax is generally triggered (*see Question 3*).

VAT

The transfer of assets between businesses (as well as from a business to an entity that is not a business) is subject to VAT (*see Question 5*).

Stamp duty

Generally, stamp duty is payable if, in the course of the asset deal, agreement rights or claims are transferred. Several techniques are available to prevent stamp duty being triggered in this context (*see Question 3*).

15. Are any exemptions or reliefs available to the liable party? If yes, provide brief details.

Corporate income tax

No reliefs or exemptions are available in relation to corporate income tax.

Stamp duty

The assignment of rights or claims are exempt from stamp duty if achieved by way of a statutory assignment, for example, if the transferred asset is a business and certain other conditions apply relating to the statutory assignment of rights and claims of the business (*Business Act (Unternehmensgesetzbuch)*).

16. Please set out the tax advantages and disadvantages of an asset acquisition for the buyer.

General

If tax considerations are the driving factor in deciding whether a transaction should be executed as a share or an asset deal, the main issue to be considered is whether the hidden reserves are located in the assets or in the shares. If the target has been held for a long time and therefore has a low book value for tax purposes, an asset deal may be beneficial if the assets were relatively recently acquired. Other considerations include whether the target will be integrated into a tax group of the buyer or if a tax group will be broken up by the seller.

If the aim is to preserve tax assets at the level of the target, a share deal is the only option.

Advantages

The advantage of an asset deal is that the step-up basis of assessing the asset's value is available, creating a higher depreciation value.

Disadvantages

Loss carry forwards cannot be transferred on an asset deal, which is generally seen as a disadvantage.

In addition, VAT is payable on the transfer of the asset, as well as real estate transfer tax if real property is sold.

If the assets are rights and agreements that are transferred and assigned, stamp duty may be payable either as a result of the assignment, or if the agreement is considered newly concluded and falls within the scope of the Stamp Duty Act (for example, leasing arrangements or loans).

17. Please set out the tax advantages and disadvantages of an asset disposal for the seller.

Advantages

The seller may be able to use loss carry forwards and current expenses for the purposes of offsetting capital gains realised on the asset sale.

In addition, if the company whose assets are sold is part of a tax group, negative consequences that might otherwise be triggered on an exit from the tax group can be prevented on an asset deal (this does not apply on a share deal).

Disadvantages

VAT, real estate transfer tax and stamp duty may arise, for which the seller is liable.

18. What transaction structures (if any) are commonly used to minimise the tax burden? Give brief details of the effect of each structure.

No particular structures are commonly used to minimise the tax burden on an asset deal.

LEGAL MERGERS

19. What taxes are potentially payable on a legal merger?

Corporate income tax

In general, a legal merger can be tax neutral if it meets the requirements of the Reorganisation Tax Act (*Umgründungssteuergesetz*). Shareholders who receive cash compensation, as allowed under the Reorganisation Tax Act, must also reduce the book values of their shareholdings. Where the legal merger is effected into a tax exempt domestic company, the hidden reserves of the transferred assets are subject to a final taxation before being no longer subject to tax going forward.

If certain requirements are met, loss carry forwards of the companies involved in the merger can remain in existence as loss carry forwards of the acquiring company, provided the requirements of the Reorganisation Tax Act are met (for example the relevant businesses or assets remain in place).

VAT

Transfers executed in the course of a legal merger are exempt from VAT.

Real estate transfer tax

Real estate transferred on a legal merger is subject to real estate transfer tax. The tax base is double the assessed value of the real estate (*Reorganisation Tax Act*) (the tax base would ordinarily be three times the assessed value of the real estate).

Capital duty

No capital duty is payable on a legal merger, provided the merged company existed for more than two years on registration of the merger.

20. Are any exemptions or reliefs available to the liable party? If yes, provide brief details.

See *Question 19*.

21. What transaction structures (if any) are commonly used to minimise the tax burden? Give brief details of the effect of each structure.

A legal merger can be achieved with retroactive effect, meaning that the merger date can be set at any point in time within the nine months preceding the merger. Any tax events that occurred during that period are considered to be realised by the surviving company. This provides some tax planning opportunities.

Generally, legal mergers within the meaning of Austrian corporate law benefit from the tax neutrality allowed by the Reorganisation Tax Act. The application of this act is denied in specific circumstances.

To avoid triggering real estate transfer tax, the corporation holding the real estate should be the acquiring corporation, not the transferring corporation.

JOINT VENTURES

22. What taxes are potentially payable on establishing a joint venture company (JVC)?

Corporate income tax

If the joint venture partners create a JVC by way of contributing businesses or qualifying participations (for example, partnership interests, or capital interests of at least 25%) to the JVC, these contributions are tax neutral under the Reorganisation Tax Act.

VAT

Generally, no VAT is payable on the contribution of assets to a JVC.

Capital duty and real estate transfer tax

If the JVC is set up achieved by applying the rules of the Reorganisation Tax Act, no capital duty arises if the contributed assets were held for at least two years by the contributing party, and real estate transfer tax is imposed on the basis of double the assessed value of the real estate.

If the joint venture partners create a JVC by way of contributing cash or assets without falling under the Reorganisation Tax Act, capital duty is triggered, unless such contributions amount to "grandparent" contributions, that is, contributions made by (at least) a second-tier group company.

23. Are any exemptions or reliefs available to the liable party? If yes, provide brief details.

See *Question 22*.

24. What transaction structures (if any) are commonly used to minimise the tax burden? Give brief details of the effect of each structure.

The establishment of a JVC is achieved either by way of:

- A contribution in compliance with the Reorganisation Tax Act (*see Question 22*).
- Setting up a new company to which grandparent contributions are made, to avoid capital duty being triggered (*see Question 22*).

COMPANY REORGANISATIONS

25. What taxes are potentially payable on a company reorganisation?

The legal merger (*Verschmelzung*) and the contribution (*Einbringung*) (*see Questions 19* and *22*) are commonly used for company reorganisations. Other forms recognised by the Reorganisation Tax Act are:

- Transformation (*Umwandlung*).
- Spin-off (*Spaltung*) (demerger).
- Separation of a partnership (*Realteilung*).
- Fusion to form a partnership (*Zusammenschluss*).

To the extent that the requirements of the Reorganisation Tax Act are met, such reorganisations are broadly tax neutral (with the exception of real estate transfer tax, which may be payable).

If the requirements of the Reorganisation Tax Act are not met, or if a reorganisation is not covered by the legislation, general tax law principles apply.

26. Are any exemptions or reliefs available to the liable party? If yes, provide brief details.

Tax neutrality is only achieved if the requirements of the Reorganisation Tax Act are met. Otherwise, no exemptions or reliefs apply (*see Question 25*).

27. What transaction structures (if any) are commonly used to minimise the tax burden? Give brief details of the effect of each structure.

See *Question 25*.

RESTRUCTURING AND INSOLVENCY

28. What are the key tax implications of the business insolvency and restructuring procedures in your jurisdiction?

Business

On an insolvency, the general liquidation tax rules apply. In the context of a restructuring that aims to ensure the continuing existence of the company, certain tax benefits apply, that is, any profit that the insolvent company receives as a result of a waiver of debt by a creditor is taxed lower than other profits.

Owners

The shareholders of a company that goes bankrupt can either totally or partially write-off their participation in that company.

Creditors

Losses accrued because payments on debts are no longer made, or because receivables have to be depreciated because they are impaired, are tax deductible.

SHARE BUYBACKS

29. What taxes are potentially payable on a share buyback?

Corporate income tax

A share buyback (*Rückkauf*) (which is only possible in relation to stock corporations) is a normal share sale transaction from the shareholder, as seller, to the company, as buyer. The general tax law principles apply to any capital gains or losses that result from such a buyback.

30. Are any exemptions or reliefs available to the liable party? If yes, provide brief details.

No particular exemptions apply in this context.

31. What transaction structures (if any) are commonly used to minimise the tax burden? Give brief details of the effect of each structure.

No particular transaction structures are commonly used in this context.

PRIVATE EQUITY FINANCED TRANSACTIONS: MBOs

32. What taxes are potentially payable on a management buyout (MBO)?

Corporate income tax

In general, if management buys out the shareholders it typically uses a new company (the acquisition vehicle), which raises debt capital for the purpose of the buyout. Finance expenses incurred by the acquisition vehicle are tax deductible, as long as profits from the target are allocated to the acquisition vehicle through a tax group (*see Question 4*).

If the managers provide subordinated loans or security for third party loans, the debt-to-equity ratio and the ability to service relevant debt financing must be taken into account to ensure that the financing costs are accepted as tax deductible expenses.

While interest on debt financed capital repayments is not tax deductible, interest on debt financed dividend distributions is tax deductible.

33. Are any exemptions or reliefs available to the liable party? If yes, provide brief details.

The group taxation rules can provide tax benefits (*see Question 32*).

34. What transaction structures (if any) are commonly used to minimise the tax burden? Give brief details of the effect of each structure.

Debt financing at the level of the acquisition vehicle, combined with the setting up of a tax group, may optimise the tax position of the structure (*see Question 32*).

REFORM

35. Please summarise any proposals for reform that will impact on the taxation of corporate transactions.

A statutory procedure for obtaining binding rulings is due to be outlined in impending tax law reform during the course of 2010. Taxpayers should then have the option of asking for binding rulings by the tax authorities on certain matters, for example, on transfer pricing, reorganisations, and group taxation issues.

An application for a binding ruling should cost between about EUR1,500 (about US$2,145) and EUR20,000 (about US$28,615). The rulings will be issued by the tax authority competent to assess the relevant taxpayer and will only be binding in relation to the particular facts of the matter.

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