MANAGING PORTUGAL'S DIFFERENCES IN TAX LEGISLATION - ABBC

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Portuguese tax legislation may be broadly aligned to the prevailing European Union (EU) regulation but significant differences remain, says Antonio Moura Portugal, tax partner at ABBC.

'We live with an ambitious tax law and as a result deviations have been growing. The main discrepancies in Portuguese tax regulation have traditionally been in the corporate tax field, although the rules surrounding issues such as originality and protectionism have now been progressively abandoned largely due to the jurisprudence of the European Court of Justice.'

However recently introduced domestic measures, such as those affecting swap transactions, deserve criticism he says – not only do they destroy the economics of such transactions but they may ultimately impact on the competitiveness of the economy.

Pese a que Portugal haya reducido el ní°mero de procedimientos fiscales y haya adaptado su legislación nacional a la normativa europea, aí°n se observan notables deficiencias en fiscalidad corporativa, comenta António Moura Portugal, socio fiscalista en ABBC. Sin embargo, recientes medidas han simplificado los procedimientos de las empresas en las relaciones comerciales en países lusos y se han introducido nuevas ventajas fiscales para aquellos que operan, por ejemplo, en Madeira.

Significant also is the requirement on companies to prepare and submit two different sets of accounts, to the shareholders and to the market, and to the tax office. 'Additionally, inconsistencies that exist between Portuguese GAAP and IAS may result in differences in accounting treatment for different types of enterprise,' he says.

On the positive side, Portugal has however introduced legislation aimed at reducing red tape and simplifying certain legal, tax and licensing procedures. 'Since June 2006 notary publics need no longer intervene in legal procedures for companies by private document. Company formations may now be completed online, and capital decreases no longer require the approval of a law court.'

The double taxation of income derived from Lusophone (Portuguese speaking) countries and East Timor companies has also been removed, and entities operating within Madeira's International Business Centre can benefit from one of the European Union's most advantageous tax regimes – where corporate profits are taxed at between 0%-5%, and where VAT is 14% (from July 1).

A comprehensive understanding of such diversity is essential however, says Moura Portugal. 'One of the main ongoing demands of our tax team is to invest in training programs, in Portugal and elsewhere, so that we may better assist global investors.'