

## Global Update



December, 2009  
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## EDITORIAL

Integra International can now look back over 15 years of successful growth in number of firms and of course in turnover of its member firms. Experienced people in the different member firms help our clients solve their questions concerning accounting, auditing, taxation etc.

The December issue of the global update shows some of the consulting work done by our member firms all over the world.

Colin Harvey our expert in M&A matters gives a short summary about the deal board just set up by his firm Castle Corporate Finance Limited to help Integra members find contacts in M&A cases. This article is a must for all M&A specialists.

Inheritance taxation in Germany shows us a special niche in which our Integra member firm from Berlin has special experience and knowledge. Inheritance taxation is not harmonized within the EU; some countries (like Austria) even don't have taxes on inheritance.

Insolvency News from our special interest group in the UK lead by Christopher Axford (ABL) and Norman Cowan (Wilder Coe) provides some thoughts on a topic which is of utmost importance in critical economic times like today. Use their experience in the best interest of your own clients.

Football and Spain – of course most interesting for all football (soccer) fans all over the world. Does someone see a connection between world famous football player David Beckham and tax law in Spain? Read the article from our Madrid member about changes in Spanish tax law starting January 1<sup>st</sup>, 2010 – “Beckhams law”.

Finally we present two articles about a completely new initiative – transfer pricing. The transfer pricing initiative was started in Montreal by member firms with experience in transfer pricing. Simon Cheung our member from Hong Kong presents some information on transfer pricing in China and Roberto Condoleo does the same for Argentina. Transfer Pricing – a real hot topic for multinationals all over the world. Based on the OECD model, different countries ask more and more for documentation on transfer pricing - , the question is a real issue for most tax audits world wide for international companies. We in Integra can help clients all over the world in setting up their transfer pricing guidelines and assist them in preparing the necessary core documentation or country specific documentation.

I want to thank all members who sent us 2009 Global Update articles and hope that in 2010 we will get new input from all over the world. May 2010 be a successful year for all of us.

Franz Schweiger



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## The Deal Board

The Deal Board is now fully operational on the new Integra website.

The Deal Board enables members to bring details of merger and acquisition opportunities to the attention of colleagues in Integra and ABL and potentially to an even wider audience around the world. It contains screens which highlight:

- Businesses for sale
- Business wanted
- Funding required
- Joint venture opportunities

It will become a useful M&A tool to increase deal success if everyone uses it on a regular basis. We at Castle Corporate Finance will take responsibility for co-ordinating the entries and ensuring that each deal submitted is relevant and up-to-date.

### Getting Started

There is no need to log-in to view the deals, but members will need to register for a website account if interested in finding out more about any of the deals and expressing interest with the member firm that “sponsored” the entry on behalf of their client. The process is simple and straightforward and we are keen that one person from each firm take responsibility for acting as a “co-ordinator” and a central point of contact. If Integra members haven’t done so already, they should advise me who their co-ordinator will be.

Once a member is registered, and personal profile is completed, any deal can be submitted for potential inclusion, once authorized, or responded to.

The Deal Board is simple and easy to use, but if any problems are encountered or questions arise, please don’t hesitate to send me an e-mail.

We look forward to working with you and helping to make your deals a success.



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## Inheritance Taxation

*The final desire of every tax payer...*

... is to pay as low inheritance tax as possible. The assumption that a lot of inheritance tax can be saved by connecting heritage to a tax haven, is quite common.

The following paragraphs will take a closer look at the inheritance tax law of one possible tax haven – the canton Fribourg in Switzerland. In order to provide a fundamental analysis, it was chosen to compare the inheritance tax law of the canton to the law of Germany. The comparison is limited to the transfer of partnership shares.

The two tax laws are structured in a similar way. Nevertheless, there are a lot of differences.

Right at the first step, which is the unlimited and limited tax liability, one recognizes the first discrepancy: In Germany, tax liability is concluded if either the heir or the decedent is a national at the record date. In the canton Fribourg, the tax liability is only concluded if the decedent is a national at the record date.

The tax objects are more or less the same in both laws. Among these are all acquisitions mortis causa, e.g. through testamentary.

Generally, the taxable acquisition is calculated as the difference between the assets transferred minus the allowable deductions. The so calculated value equals the taxable net acquisition. In Germany, the fair market value is the starting point for calculating the tax base. For the canton Fribourg, it is the fair value (more details in paragraph "Valuation".)

Major differences between the two laws are found when looking at the tax exemptions. Germany offers subjective tax exemptions in the form of exempted amounts. Those amounts increase, the closer the relationship between heir and decedent is. The maximum is e.g. for spouses a subjective tax exemption of

500,000.00 Euro. In the canton Fribourg, specific transfers are completely tax free. All others do have a tax exemption of 5,000.00 CHF (~ 3,300.00 Euro). Transfers between spouses for example are completely tax-free.

When taking objective tax exemptions for the transfer of businesses into account, both countries offer interesting regulations. In Germany, the taxpayer may choose between the normal rebate and the optional one, if he/she fulfils the prerequisites. The normal rebate requires less than 50% administrative assets and results in an 85% tax free transfer of business assets. The heir is obliged to keep the payroll sum above 650% at the end of year seven and the business has to be continued for seven years. The optional way will result in a totally tax free transfer, connected to the obligations that the payroll sum is not beneath 1,000.00% at the end of year 10 and the business has to be continued for ten years. The prerequisite for this case is that less than 10% of the business assets are administrative ones.

The German regulations are nothing against the remarkable one of the canton Fribourg: "... the transfer can be completely tax free on application, if the company is in the economic interest of the canton...." In fact, there are no further regulations, directions or remarks to this regulation. As the inheritance tax law of Fribourg came into force only on the 1<sup>st</sup> of January 2008, there are also no cases, one can relate to.

The final major difference will be found when looking at the tax rates. In Germany, the rate is double-progressive as it considers the amount transferred and the degree of relationship between heir and decedent. The lowest tax rate is e.g. for spouses with a transferred amount of 750,000.00 Euro at 7%. In the canton Fribourg, the tax rate is linear, taking only the degree of relationship into account. Brothers and sisters for e.g. have a tax rate of 5.25%. Additionally, the communities are allowed to charge a surcharge of maximum 70% of the inheritance tax.

### *Valuation of Partnership Shares*

#### Germany

The fair market value is the basis for calculating the value of a business. The first step in order to determine this value is to check, whether there is a price from sale to third parties, which is not more than one year old. If such a value does not exist, then there are several ways to go. For businesses with an annual return of less than 32 million Euros, the simple return valuation procedure is to be applied. This method starts by taking the medial revenue of the last three business years. The medial annual return then will be taken times the capitalizing factor.

The capitalizing factor is seen very critical in Germany, as it consists of a regulated risk factor of 4.5% and the base rate being published at the beginning of the year by the German Central Bank. This risk factor is a flat, which has to be applied for every business and in every proceeding!

When having applied the capitalizing factor to the medial annual return value, one has to check whether the net asset value is higher. The value, which is higher, has to be considered for the following calculations. Subsequent, specific additions and deductions have to be made. Finally, one derives the value of the partnership share.

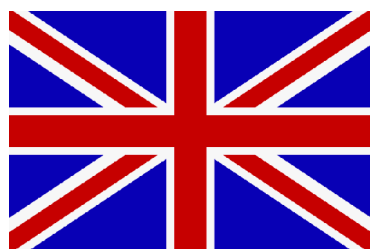
## Canton Fribourg

The major difference to Germany is that the canton Fribourg does not have valuation law as Germany does. Consequently the regulations are not as strict as the German ones. It is quite common for assessing SMEs to apply the “Swiss expert method”. This method calculates the business value as two times the return value plus the net asset value, divided by three.

### *Evaluation*

At a glance, it seems that the canton Fribourg offers very good possibilities to save a lot of taxes. In fact, this is not to be denied. On the other hand there are insecure points (e.g. objective tax exemption for business assets) and on top of the inheritance tax is the surcharge of the communities. Respective calculations have led to similar results for Germany and Fribourg.

Nevertheless, the not so strict regulations of Fribourg, especially in the field of valuation, offer a huge advantage to the taxpayer.



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## INSOLVENCY NEWS

### Cross Border “Bankruptcy Tourism”

The use of “forum shopping” has been a topic of great interest to practitioners in different jurisdictions for some time. The global problems with the financial markets have seen companies and individuals alike seek to exploit the differences between insolvency regimes in different jurisdictions.

In recent months, corporate entities have sought to incorporate subsidiary companies and try to manipulate rules relating to their centre of main economic interest and operation, with a view to using the bankruptcy laws of England and Wales to deal with debts of the group, and individuals have sought to claim residence in the UK, again with a view to using potentially more favourable laws to deal with their debts.

This article concentrates on the recent position for individuals, in relation to cross-border forum shopping, which has seen a surge in German and Irish nationals choosing to go bankrupt in England and Wales rather than their own country. Insolvency laws in Germany mean that it takes between six and nine years to “escape” debts after being made bankrupt.

Likewise a bankrupt in Ireland will normally remain an 'undischarged bankrupt for 12 years. However in England and Wales bankruptcy laws are more lenient, and in most cases the period of bankruptcy will last for 12 months, with the possibility of a bankrupt being discharged earlier.

This practice is now known as 'Bankruptcy Tourism' and appears to have gained recent popularity and is doing much to help the economic situation in the UK. The Insolvency Service in England and Wales has confirmed that it had identified many cases of people from Europe filing for bankruptcy after appearing to have been resident in the UK for less than 12 months with all or most of the debts being owed to creditors outside the UK. Under the current English system, there is no minimum time limit for a non UK national to be resident and be 'economically active' in the UK before applying to the Court for a bankruptcy order.

A director of '*Insolvenz Agentur*' based in Erith, a small town in Kent which is about 107 kms from the port of Dover, has been advising German and Austrian nationals on how best to take advantage of English bankruptcy laws. The director of *Insolvenz Agentur* said recently "they come from all over the European Union, and like the ... laws here as they are better than the ones in their country".

The company has provided assistance to management consultants, doctors, accountants, dentists and lawyers, helping them to resettle in the UK by facilitating the opening of bank accounts; obtaining a national insurance number; finding accommodation, and obtaining work placements or finding office accommodation. Possibly Napoleon was wrong when he said that 'England was a country of shopkeepers', it now appears to have found a niche in the rehabilitation of bankrupts.

There should be a word of caution to those who may have clients or contacts who they feel would be interested in making use of the existing difference between regimes. The Insolvency Service in England and Wales is now aware of this practice and is scrutinising applications from people who have been resident for less than 12 months. If there is evidence that the bankruptcy order ought not to have been made, they will report the matter back to the Court with a view to having the bankruptcy order rescinded.

A recent example is the case of *Vitas Anton Mitterfelde*, a café proprietor who incurred substantial debts in Germany before moving to England (he claimed) to start a new life. He petitioned in the Hastings County Court (77 kms from Dover). It was found that he had supplied some false information concerning his residence.

The Court concluded that although there were some factors that pointed towards the centre of main interest ("COMI") being within the jurisdiction of the Court, other factors indicated that it was fiction. For example, although he had a UK bank account it had never operated and he had flown over specifically for the purpose of opening it. He had also not given full information with respect to a forthcoming offer of employment. The Court annulled the bankruptcy order.

It should also be highlighted that, not only can the Insolvency Service of England and Wales appeal against a bankruptcy order, but so can a creditor. Whilst the stark differences exist between jurisdictions, the use of forum shopping is something that we can probably expect to continue, and we will probably see an increase in the number of challenges from disgruntled creditors to such bankruptcy applications.



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## WHAT IS GOING ON WITH BECKHAMS LAW?

Another (“fiscally”) good reason for moving to Spain

As most of you know, in June 2005 the Spanish Government approved Royal Decree 687/05 regulating a Special Tax Regime for Expatriates, modified by Royal Decree 439/2007, 30<sup>th</sup> March. The new regulation was aimed at qualified foreign workers, i.e. scientists, investigators, executives, etc. who felt interested in moving to Spain.

In application of this new regime, individuals who become tax residents of Spain can be taxed as non-residents under the Spanish Non-Resident Income Tax rule. This means they will only be taxed on their Spanish-source income and capital gains and not on their global income. For non-resident workers flat tax rates applicable are 24% on salary, 18% on interests, dividends and investment funds capital gains, and 35% on other capital gains.

This special tax regime is trying to compete with similar regimes in other countries, as Resident Not Domiciled in United Kingdom.

The most important requisites are having relocated to Spain, not having been resident in Spain in the last 10 years and working for a Spanish company by means of an employment contract in Spain. All work must be carried out in Spain.

Therefore an individual can take advantage of this regime and avoid being subject to a progressive tax scale up to 43% on worldwide income within 6 years.

“Why do I have to pay more taxes than Cristiano Ronaldo?”

Spanish Football Clubs were the first to take advantage of the special regime because they usually pay salaries net of taxes. For example, sterling’s decline and a flat tax rate of 24% allowed Cristiano Ronaldo to sign for Real Madrid CF last summer. Another foreigner applying for this regime was David Beckham, a famous British footballer from Manchester United that brought about the law’s nickname, when he joined Real Madrid CF.

It is not easy for middle-class Spaniards to understand why they are paying more taxes –in percentage- than Cristiano Ronaldo and other foreign football stars working in Spain, especially in this time of recession. Thanks to this question that everybody is talking about, the Spanish Socialist Government has recently found a perfect justification for one of their future rises in taxes.

More than a few critics are emerging, and not only from the football world. Even though footballers benefit the most by the Beckham Law other sectors of the economy have declared against the proposed law. The debate remains open.

#### Politics vs. Football: a legislation change

According to this unpopular situation, within the context of tax rates increasing, the Spanish Government is trying to modify Beckham Law. The aim is not abolishing the Special Tax Regime for Expatriates but raise the flat tax rate to 43% for those foreign workers earning more than 600,000 Euros per year.

This likely legislation change will enter into force on 1<sup>st</sup> January 2010 but will not be applied retrospectively. Thus the new regulation will not affect foreign workers who have signed their employment contracts before 31<sup>st</sup> December 2009 so tonight CR9 can sleep like a baby.

In conclusion, you should not be very distressed by the tax amendments for expatriates unless you earn more than 600,000 Euros per year. If not – you shouldn't either- you just have to hurry and come to Spain before New Year's Eve.



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## Transfer Pricing in China

Transfer pricing refers to the allocation of costs between different units among a large multinational company for the goods or services supplied. The overall transfer pricing audit case has been increasing in last couple of years, and foreign companies should ensure compliance to avoid a transfer pricing audit and penalty.

A survey organized by Guangzhou's municipal government released a report on tax avoidance and tax evasion by foreign-invested companies in Guangdong Province, a province that is one of China's richest regions. The survey investigated about 10,000 foreign-invested companies in the province, and determined tax evasion through transfer pricing or other illegal ways.

The scrutiny of transfer pricing has extended from Guangdong Province in South China such as the Pearl River Delta to Eastern and Northern China.

As a result, there is increasing demand on foreign-invested companies to formulate proper transfer pricing policies and document them.

The filing and disclosure guidance concerning related party transactions are laid down in a circular which is similar to those in the Organization for Economic Co-operation and Development (OECD) Guide.

The common documents required by most countries include the following:

1. An organization chart
2. Financial data of legal entity, identified by product or segment
3. A functional analysis that identifies the functions performed, the assets employed and the risk exposure
4. The transfer pricing method employed
5. Description of comparable data from uncontrolled transactions
6. Copies of all inter-company agreement and invoices

## 7. Other relevant information or items

The Chinese tax authorities use the data available from transfer pricing audits to build internal case data. With the increasing number of transfer pricing audits in China, proper policy and guides for documentation to be employed will emerge as a management tool for foreign-invested company to manage transfer pricing risks.

Comparison Between China and OECD		
	<b>PRC</b>	<b>OECD</b>
Regulations Rules and Guidelines	<ul style="list-style-type: none"> <li>● Taxation Administration Rules for Business Transaction Between Associated Enterprises</li> <li>● New Amended Taxation for Business Transaction Between Associated Enterprises</li> </ul>	<ul style="list-style-type: none"> <li>● Transfer pricing Guidelines for Multinational Enterprises and Tax Administration</li> </ul>
Definition of Related parties	<ul style="list-style-type: none"> <li>● More than 25% of direct / indirect ownership</li> <li>● Deemed effective control</li> </ul>	<ul style="list-style-type: none"> <li>● Direct / indirect in capital, control or management</li> <li>● Under common control</li> </ul>
Method & Accepted	<p><b>Traditional Method</b></p> <ul style="list-style-type: none"> <li>● Comparable uncontrolled price</li> <li>● Resale price method</li> <li>● Cost plus method</li> </ul> <p><b>Transactional profit method</b></p> <ul style="list-style-type: none"> <li>● Profit split method</li> <li>● Transactional net margin method</li> <li>● Comparable profit method</li> </ul>	<p><b>Traditional Method</b></p> <ul style="list-style-type: none"> <li>● Comparable uncontrolled price</li> <li>● Resale price method</li> <li>● Cost plus method</li> </ul> <p><b>Transactional profit method</b></p> <ul style="list-style-type: none"> <li>● Profit split method</li> <li>● Transactional net margin method</li> </ul>
Availability of Benchmarking	<ul style="list-style-type: none"> <li>● Use of comparables figures by tax authorities</li> </ul>	<ul style="list-style-type: none"> <li>● Not applicable</li> </ul>
Requirement of Document	<ul style="list-style-type: none"> <li>● No contemporaneous documentation</li> <li>● Provide information within 60/90 days upon Transfer Pricing Investigation</li> </ul>	<ul style="list-style-type: none"> <li>● Pricing policies should be properly documented and maintained</li> </ul>
Deadline to provide documentation	<ul style="list-style-type: none"> <li>● Within 4 months after the end of tax year ending for Form A-13/B13</li> </ul>	<ul style="list-style-type: none"> <li>● No particular deadline and within a 'reasonable' efforts</li> </ul>



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## Transfer Pricing in Argentina

The Argentine regulations on transfer pricing require that prices agreed in transactions between related companies (for goods, services, financing or use of intangible property) be consistent with prices that would have been agreed in similar transactions performed between unrelated parties (arm's length standard).

To test these transactions, the Income Tax Law introduced on December 31, 1998 by Law 25063 and further rules and regulations, a transfer pricing methodology which includes principles established in the Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines. General Resolution No. 1122/01 of the Argentine Internal Revenue Service (AFIP) requires the mandatory submission of a report to support, according to the methodology established by the Income Tax Law, transfer pricing between related companies or with unrelated parties located in tax heavens.

Applicable rules and regulations indicate that the most appropriate method to determine whether transfer prices are consistent with market practices on an arm's length basis is the method that best reflects the economic reality of the transactions under examination. For this purpose the selection of the most appropriate method should consider:

- the business structure,
- the quality and quantity of information available for justification and application,
- the most adequate degree of comparability of controlled and uncontrolled transactions and of the companies involved in such comparison,
- the number of adjustments necessary in order to eliminate the differences existing between comparable facts and situations.

To be comparable, the transactions under analysis should be those in which there are no differences affecting the price, the profit margin or the amount of the consideration referred to by the methods established by the rules in force, and when, if applicable, such differences are eliminated through adjustments that permit a substantial degree of comparability.

To select transactions and/or companies, it is stated that for selecting comparables the following elements –among others- should be considered:

- Characteristics of the transactions, including terms in connection with financing, provision of services,
- To have and to hold or sale of tangible assets, and,
- Exploitation or transfer of intangible assets.
- Functions or activities (such as design, manufacture, assembly, research and development, purchase, distribution, commercialization, advertising, transport, financing, management control and post-sale services), including assets used (use of intangibles, location, etc.) and risks assumed in the transactions by each of the parties involved.
- Contractual terms that may influence the price or the profit margin involved
- Economic circumstances (geographical location, size and type of markets, supply and demand levels and scope of the competitors)
- Business strategies, including those related to penetration, permanency and market growth.

In this sense, the rule concludes by clearly stating that when the business cycles or the commercial acceptance of a taxpayer's product extends beyond one fiscal period, the transactions of 2 (two) or more prior or subsequent years can be taken as comparable transactions.

In connection with the elimination of the differences resulting from the application of the comparability criteria, the rule stipulates that the following adjustment mechanisms should be considered, among others:

- Terms of Payment
- Volumes transacted
- Promotion and advertising
- Intermediation costs
- Reconditioning, freight and insurance
- Physical nature and/or contents
- Differences in the dates on which transactions are performed

Additionally, eventual fluctuations occurring in "commodities" prices should be considered through the local Stock Exchange quotations verified during the period. Section 15 of the Income Tax Law specifies that in order to determine whether transfer prices agree with market practices on an arm's length basis, the most appropriate method should be applied depending on the type of transactions involved. The regulatory decree of the Income Tax Law describes the basic concepts of each method. Below is a little more detail of the five methods provided for by the Law:

#### Comparable Uncontrolled Price

This method compares the price collected for goods or services transferred under a controlled transaction to the price collected for goods or services transferred under a comparable uncontrolled transaction performed in similar circumstances. If there are differences between the two prices, they may indicate that the commercial and financial relations of the related companies are not set on an arm's length basis and that the price of the controlled transaction must be replaced by the price of the uncontrolled transaction.

When it is possible to identify comparable uncontrolled transactions, this is the most direct and reliable method to apply the arm's length principle. However, a minor difference in the characteristics of the goods transacted in a controlled and uncontrolled transaction might materially affect the price, even if the nature of the business activity were similar enough so as to generate the same profit margin. We can then conclude that this is not the most reliable method.

### Resale Price

The resale price method considers the price at which a product that has been purchased to a related company is then resold to an uncontrolled company without substantially altering the product either physically or by the use of intangible property. This price (of resale) is reduced by an appropriate gross profit margin representing the amount by which the reseller shall cover its selling and operating expenses and, in the light of the functions performed (taking into consideration the assets involved and the risks assumed) obtain profits. The remaining amount after deduction of the gross profit margin may be considered, after making the adjustments for other costs related to the purchase of the product (e.g. Customs duties), as the arm's length price at which goods or services are to be acquired from a related company.

This is typically the most useful method to apply in transactions involving distribution companies. The adjustments required to improve the comparability of the products are less than those required under the comparable uncontrolled price method since little differences between the products will generate less material effects on the gross profit margins obtained if compared to those that would be generated in the determination of prices.

### Cost Plus

This method consists in adding the adequate profit mark-up that a comparable company could have obtained in an uncontrolled transaction to the costs and expenses incurred by a controlled company in manufacturing a given product or providing services. The price resulting from adding the profit margin to the costs and expenses incurred by the controlled company is the price at which such company should sell its products or services to a related company.

As in the resale price method, comparability under the cost plus method depends upon the similarity of functions performed, risks borne and contractual terms. Specific factors that may be relevant to this method include:

- complexity of the manufacture or assembly;
- production,
- process engineering;
- purchase and inventory control activities;
- test of functions;
- sales, overhead and administrative expenses;
- exchange risks and contractual terms.

### Profit Split

The profit split method eliminates the effects on the results of special conditions given or agreed in a controlled transaction through determining a distribution of earnings that uncontrolled entities would have expected as a consequence of the transactions under analysis.

This method consists of determining the global operating profitability of all the companies involved in the controlled transaction in order to distribute such profit among them as if they were unrelated parties, taking into consideration elements such as assets, costs and expenses. The comparability is also dependent upon resources employed, risks assumed and functions performed.

The profit to be distributed might be either the total results of the transactions or the residual profit, which is the profit that cannot be easily attributable to one of the parties involved, such as the profit generated by the exploitation of valuable intangible property.

#### Transactional Net Margin

By the transactional net margin method, the net operating profit of the related party under analysis is compared to the profit obtained by or with unrelated parties in comparable transactions based on profitability factors that take into account variables such as assets, sales, costs, expenses and cash flows. The transactional net margin method examines the net profit margin of the taxpayer relative to a controlled transaction. The results of the transaction should refer to the net profit margin that the same taxpayer would obtain in comparable uncontrolled transactions, considering the net profit margins that unrelated companies obtain under similar conditions.

An approach based on net profit margins may also be more tolerant of some functional differences between controlled and uncontrolled transactions than an evaluation at gross profit margin level. The differences in the functions carried out by the companies are normally reflected in variations in their operating expenses. Therefore, several companies that might have a broad range of gross profit margins might yet obtain similar result levels with a perspective of net profit margins.

Finally, the amendments to the Income Tax Law established by Law 25784, provide that in the case of import or export of goods for which the international price, publicly known, may be set up through transparent markets, stock exchanges or the like, such prices will be applicable for the purposes of determining the Argentine source net income.

In addition, this amendment establishes that in case of exports performed for related parties, of cereals, oil-seeds, other land products, hydrocarbons and their by-products, and, in general, any assets having a known quotation in transparent markets, involving an international intermediary who will not be the effective receiver of the goods, it shall be deemed as the best method for the purpose of determining the export's Argentine source income, the good's quotation in the transparent market on the date where the goods are loaded, without taking into account the price that would have been agreed with the international intermediary. However, if the price agreed with the international intermediary exceeds the quoted price in force on the date above, the first price should be considered for the transaction.

Nevertheless, the Law establishes that this method shall not be applied when the taxpayer gives conclusive evidence that the foreign intermediary complies with the following requirements:

- actual existence in the place of residence, i.e. it must have a commercial establishment for the conduction of its business and comply with the legal requirements of formation, registration and filing of financial statements.
- the assets, risks and roles assumed by the international broker must agree to the traded transaction volumes.
- its principal business must not involve the obtainment of passive income, or the intermediation in the commercialization of assets from or to the Republic of Argentina or with other members of the economically related group,
- its international trade transactions with other members of the same economic group shall not exceed thirty per cent (30%) of the total annual transactions arranged by the foreign broker.

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The **Global Update** is a quarterly publication of Integra International intended to keep its worldwide members and their clients informed about what's happening in business matters around the globe. The editor is Mag. Franz Schweiger and he can be contacted at: BF Consulting Wirtschaftsprüfungs-GmbH, Mariahilfer Strasse 32, AUSTRIA 1070 Wien, Tel. 0043 1 522 47 91, Fax. 0043 1 522 47 91 1, E-Mail: [office@bf-consulting.at](mailto:office@bf-consulting.at)  
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