

The logo for XLNC, featuring the letters 'XLNC' in a bold, white, sans-serif font inside a white rectangular frame with a double-line border. The background of the entire page is a network of glowing white and blue nodes connected by lines, with a hand reaching in from the right to touch one of the nodes. The overall color scheme is blue and white with orange highlights.

XLNC

GLOBAL PROFESSIONAL
EXCELLENCE

**XLNC Winter
Conference ONLINE
13 December 2021**

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MAGAZINE

Editorial

Dear XLNC Member,

The summer holiday season is over, and we hope that you have managed to take some well-deserved time off for a relaxing and pleasant vacation, and that you have returned in good health.

We are very excited and happy to announce our XLNC Winter Conference ONLINE, which will take place on 13 December 2021. In the absence of face-to-face meetings, we know this is the next best thing. We are excited to have Professor Beata Javorcik, Chief Economist of the EBRD, as our Keynote Speaker. Until we are able to gather in person, let's make use of this opportunity to connect with one another. Don't forget to also catch up with your XLNC colleagues all over the world through our scheduled webinars.

In this magazine, XLNC members have shared the latest news from their firms, so stay updated and read about what's happening. If you have any news to share from your firm for the next issue, just let us know – email Barbara Reiss (b.reiss@xlnc.org). There are a wide variety

of topics covered by XLNC experts in this publication:

Dr Francesco Mandalà (Global Sponsor Mbaer Merchant Bank AG, Switzerland) shares an interesting research on the current chip shortage. Matthew Czerwinski (KMB Law, Canada) updates you on amendments to Ontario Legislation which make business corporations more flexible and attractive to foreign corporations, while Alex Maistrenko (Eurofast Global, Ukraine) shares the latest tax and legal alerts from his region. Meet Nishopan Karunanithy (Gerald Edelman, UK). Stay informed on plans by the Georgian Ministry of Finance to introduce a new project involving automation of the income tax declaration process, as summarised by Irina Lopatina (Eurofast Global, Georgia).

Lise van den Heuvel and Puck Keurentjes (Vestius Attorneys at Law, The Netherlands) report on post-Covid home office policies, while Victor de Castro Esteller (PLANARTÚS, Spain) keeps you posted on significant changes to Spanish immigration policies. Elena Kostovska (Eurofast Global, North Macedonia) briefs you on reduced

VAT rates on electricity supplies. Oscar Torres (Bateman MacKay LLP, Canada) provides useful hints for foreign companies on the new GST/HST rules for digital economy businesses in Canada. Thomas Gernay and Guillaume Delfosse (Simont Braun, Belgium) update you on state aid in tax matters, while Slavica Zeljković (Eurofast Global, Bosnia & Herzegovina) shares information on VAT refunds for foreign legal entities.

From Argentina, Dr María Laura Rozental (Bercún Law Firm, Argentina) discusses digital developments in her country which have been accelerated by the pandemic. Michael Derin (Azure Group, Australia) highlights why Australia could be an attractive market for UK businesses, and last, but not least, Elena Korovina (Eurofast Global, Slovenia) updates us on support measures in Slovenia against economic instability.

We hope you enjoy reading this issue of the XLNC magazine.

May you, your families, and your friends stay healthy and safe!

Your XLNC Team

Contents

■ EDITORIAL.....	02
■ CONTENTS, CONTACT, DISCLAIMER.....	03
■ FOCUS GROUP UPDATES	
→ New XLNC Global Opportunities (GO) Focus Group established	04
→ XLNC Tax Focus Group (TFG): Death, life and taxes.....	05
→ XLNC Webinar Wealth Management & Estate Planning Focus Group.....	06
■ UPCOMING EVENTS	
→ XLNC Webinar: Technology Focus Group 26 October 2021	07
→ XLNC Webinar Avantgarde 01 December 2021	08
→ XLNC Webinar Wealth Management & Estate Planning Focus Group 09 December 2021.....	09
→ XLNC Winter Conference ONLINE 13 December 2021	09
■ XLNC INTERNAL NEWS	
→ Simont Braun welcomes a new tax team.....	10
→ Successful webinar on overcoming the hurdles of a value-generating carve-out	11
→ New Deputy Group CEO for Eurofast.....	12
→ Buchbinder admits two to partnership	13
→ Prominent new partner appointment: Former Mayor joins VCvF.legal....	14
→ Bellerage Alinga in the Top-3 of accounting providers in Russia	15
→ Schlecht & Partner appointed Sarah Kasper as Equity Partner	15
→ Studio Bogoni and Studio Antoniotti among "The Best Law Firms in the Territory 2021"	16
→ Eurofast: Top 10 Payroll Service Providers for 2021	17
■ COMMON INTEREST	
→ Chipless: the semiconductor shortage is here to stay.....	18
→ Amendments to Ontario legislation: Business corporations more flexible and attractive to foreign corporations.....	19
→ Ukraine: New tax and legal alerts, laws and proposals	21
→ Making learning and growth a priority.....	22
→ "Zero Window" project for taxes in Georgia.....	24
→ Work-at-home policy post-COVID-19.....	24
→ Significant changes in the regularisation process of immigrants in Spain ...	26
→ North Macedonia reduces VAT on electricity supplies	27
→ Does your e-commerce business need to register for GST/HST in Canada? ..	28
→ Update on state aid in tax matters – recent decision on the Belgian EPR ...	29
→ Bosnia & Herzegovina: VAT refund to foreign legal entities	31
→ Digital justice in Argentina – a change accelerated by the pandemic	32
→ Is Australia an attractive market for UK businesses to expand into?.....	33
→ Slovenia: support measures against economic instability.....	35
■ NEW XLNC MEMBER FIRMS.....	36

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Disclaimer

The information provided in this XLNC magazine came from reliable sources and was prepared from data assumed to be correct; however, prior to making it the basis of a decision, it must be double checked. Ratings and assessments reflect the personal opinion of the respective author only. We neither accept liability for, nor are we able to guarantee, the content. This publication is for XLNC internal use only and intended solely and exclusively for XLNC members.



4

New XLNC Global Opportunities (GO) Focus Group established

The goal of the new Global Opportunities Focus Group established by XLNC is to initiate and generate business between XLNC member firms, and to enable them (and their clients) to be introduced to other members' clients and vice versa.

The GO Focus Group is an exciting XLNC additional offering and, as a result, admission to this focus group is subject to meeting certain access requirements, such as being willing to actively participate in GO Focus Group activities and to provide a list of business development

contact information related to clients with cross-border needs, as well as potentially subsidiaries and operations in other jurisdictions.

Please click on the photo above to see a quick [🔗 presentation](#) about the new GO Focus Group, which summarises its objectives, scope and access requirements.

If you are interested in joining, please download this template, [🔗 XLNC GO Focus Group Business Development Template](#), and return a completed file to Marco Izzo

(izzo@xlnc.org). We will then review the dataset and reply with feedback. We fully acknowledge the sensitivities around GDPR and equivalents and hence we do not need the names of your individual clients.

Please also note that the most up-to-date list of GO Focus Group members will always be available on the [🔗 XLNC website](#).

We look forward to welcoming you to this exciting new Focus Group.

Tax Focus Group (TFG): Death, life and taxes

■ **By Graham Busch
and Dr Benjamin Cortez**

“Two things in life are certain
– death and taxes.”

The original version of this famous saying is generally attributed (incorrectly as it happens) to Benjamin Franklin, one of the Founding Fathers of the United States, in a letter he penned to French scientist Jean-Baptiste Leroy in 1789. In fact, *The Yale Book of Quotations* records that Christopher Bullock, an English actor and dramatist, uttered the following phrase during the 1716 comedic play, *The Cobbler of Preston*:

“’Tis impossible to be sure of
anything but Death and Taxes.”

The authors of *The Yale Book of Quotations* also add that playwright Edward Ward later paraphrased Bullock’s “death and taxes” quote in his 1724 work, *The Dancing Devils*.



Graham Busch

Benjamin Franklin’s exact words are in fact reported to have been the following (translated from the original French):

“Our new Constitution is now established and has an appearance that promises permanency; but in this world nothing can be said to be certain, except death and taxes.”

Today, we may expand the saying to:

“In this world, nothing is certain, except death and taxes. Sadly, in most cases, they don’t happen in that order!”



**Dr Benjamin
Cortez**

Therefore, we members of XLNC’s Tax Focus Group must grapple with our clients’ tax affairs while they are still very much alive. For as long as the effects and after-effects of Covid-19 are felt, which will be for many years, at the forefront of this era will be a raft of increased taxes around the globe to pay for government support on a scale never seen before, and at the same time a raft of fiscal stimulus measures needed to kick-start the world’s economies.

The TFG has busied itself with the consideration of many new, and some not so new, worldwide tax initiatives. During 2021 we have discussed numerous aspects of the OECD’s Base Erosion and Profit Shifting actions, including Tax on the Digital Economy, Permanent Establishments and the Multilateral Instrument. We’ve taken a hard look at the possible introduction of Wealth Taxes, the impact of the pandemic on Corporate and Individual Tax Residence, and interpretations of aspects of Double Tax Agreements (DTAs). Aligned to the changing face of world politics, we’ve had an enlightened address from our US associates Buchbinder Tunick & Co on the fiscal

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and economic changes introduced by the Biden administration while monitoring the somewhat aggressive but generally successful approach of Russia to required changes to certain of their DTAs perceived to be fiscally damaging to the Russian economy and developments regarding the G7 / G20 minimum global tax initiative. While this tax is intended to relate, at the outset, to very large MNEs only, we doubt many will bet against a wider roll-out in the years ahead.

Our September 2021 webinar featured as its central presentation a fascinating look at Estonia's innovative new e-residency programme. Estonia has for some

years now been seen as one of the world's digital leaders and e-residency has taken Estonia's international tax competitiveness to another level. The webinar also considered Tax Beneficial Jurisdictions for our High-Net-Worth Individual clients (we will expand on this theme in a future webinar), and International Tax Considerations for Due Diligence in Cross-Border M&A Transactions.

For now, our regular webinars are not only a valuable source of learning, they are also the only way that we as XLNC tax professionals can gather with our colleagues. We fervently and impatiently await the day when we can

assemble face-to-face to foster the already special relationships we enjoy on the XLNC platform.

As a final word, per The Grim Reaper in 1991's *Bill & Ted's Bogus Journey*:

"You might be a king or a little street sweeper, but sooner or later you dance with the reaper."

Until then, while we cannot help our clients avoid this dance, we will be doing our best to ensure that they continue to minimise their collective global taxes, even if they cannot disprove Christopher Bullock, Edward Ward and Benjamin Franklin.

6

XLNC Webinar Wealth Management & Estate Planning Focus Group

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Cécile Civiale Vuiller, TEP
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Date: Wednesday, 22 September 2021

Chair: Cécile Civiale Vuillier

Guest Speaker: Willem-Joost de Gier

We were delighted to have Willem-Joost de Gier (Founding Director at Cadell+Co, London UK) join us at

this inaugural meeting of the Focus Group to talk about "Art Sector Conflicts of Interest – Why they really matter to professionals".

Following this, several of the other participants – including Richard



**Cécile
Civiale Vuillier**



**Willem-Joost
de Gier**

Kleiner (Gerald Edelman, London, UK), Michael Reiss von Filski (XLNC Board Member, Zug, Switzerland) and Dr Alessandro Stradi (ABACO, Modena, Italy) – shared their experiences.

It was exciting to have such an interactive session for this new Focus Group, led by Cécile Civiale Vuillier. Cecile is, of course, the

new Global Chairperson of the XLNC Wealth Management & Estate Planning Focus Group.

If you would like to join the Focus Group, please email Cécile to let her know. Alternatively, you may also email XLNC Head Office (info@xlnc.org).

Past XLNC webinars

All recordings of past XLNC events are available. If you would like to access them, please contact Anita Szoeka at szoeka@xlnc.org.

We hope that you are keeping safe and well.

Coming out of the summer break, an interesting mix of webinars has been organised for you. It's worth checking the following so you know what to expect during the coming weeks.

As usual, our webinars continue to be FREE and they are open to all XLNC members. Please feel free to

invite any of your colleagues who might also be interested to register.

Keep checking the Upcoming Events on [our website](#) for the most up-to-date listings. We use Zoom for all our meetings. Meeting and login details will be emailed to you once you register. If you are unable to register, it might mean that we do not have you in our database. Please email Anita

Szoeka (szoeka@xlnc.org) so that we can add you to the invitee list.

If you wish to check the time in your time-zone, you might [click here](#).

Do let us know if you have any queries, otherwise, we very much look forward to seeing you online shortly!

XLNC Webinar: Technology Focus Group

Date: Tuesday, 26 October 2021
Time: 16:00 CEST | 10:00 EDT
Chair: [Gerald F. Paolilli](#)
Guest Speaker: [Jeremy Hyman](#)



Gerald F. Paolilli



Jeremy Hyman

Next Generation Practice Management

During this session, Jeremy Hyman will discuss the following:

- Why existing practice management systems have run out of steam
- What “next generation” practice management looks like
- Pitfalls to avoid
- Key requirements to include
- The benefits you can expect

...next page

About

Jeremy Hyman

Jeremy has worked for 25 years in the professional services sector. With a degree in law, and spells variously as IT manager, partner, software developer and management consultant, he has acquired a host of technical, practical and commercial skills.

Jeremy combines a thorough understanding of professional firms,

a sound grasp of technical disciplines, and a pragmatic and effective approach to provide IT leadership and guidance to more than 20 of the Top 60 accountancy firms in the UK.

REGISTER NOW

This webinar is for members of the XLNC Technology Focus Group and any XLNC members wishing to join the Focus Group.

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of the Technology Focus Group

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XLNC Webinar Avantgarde

Date: Wednesday, 01 December 2021

Time: 16:00 CET

Guest Speaker:

🔗 Michael Reiss von Filski

how to persuade and influence, in order to negotiate effectively.

Michael studied Law, and holds a diploma in "Negotiation and Influence" from MIT.

giving them the possibility of establishing new contacts – allowing them to grow as personalities and to generate more business whilst becoming more efficient leaders.

XLNC Avantgarde is the forum to ensure young lawyers, accountants, tax advisors and consultants can get to know one another, develop relationships and business lines, for the benefit of all XLNC member firms. The future of all accounting firms, law firms and consulting firms lays also in the hands of the younger generation. The sooner young professionals can benefit from an international exchange, from ideas, concepts and the broader understanding of global business, the better.

If you have young professionals in your firm, who would like to join the Avantgarde Group, we are pleased to include them in the programme. Just send us the names and email addresses of the young professionals in your firm that you would like to include in this new programme to [Anita Szoeka \(szoeke@xlnc.org\)](mailto:szoeke@xlnc.org).

Negotiation & Influence – Quintessential Tools

XLNC Avantgarde members are invited to join us for this webinar, with XLNC Board Member Michael Reiss von Filski. Drawing from his vast experience in leading organisations and working in the diplomatic service, Michael will share his knowledge so that you can better understand



**Michael
Reiss von Filski**

This webinar is for members of XLNC Avantgarde and any XLNC members wishing to join the Group.

What is XLNC Avantgarde?

XLNC Avantgarde provides a platform for the most important asset of XLNC member firms: the next generation of professionals. It furthermore is a great way to retain and motivate the talent in your firm, by creating more opportunities for young professionals. It also helps them to stay abreast of recent international developments in several business areas, while

REGISTER NOW

XLNC Webinar Wealth Management & Estate Planning Focus Group

Date: Thursday, 09 December 2021

Time: 16:00 CET

Chair: Cécile Civiale Vuillier

Panellist to date: [🔗](#) Tim Searle

This webinar is for members of the Focus Group and any XLNC members wishing to join the Focus Group.



**Cécile
Civiale Vuillier**

The next webinar for this Focus Group is a panel session that will look at the new trends of wealth planning post-Covid and the “Pandora Papers”. The topics covered will include:

- Importance of the right jurisdiction
- The structures that do work
- Trusts and Life insurance
- How to achieve robust & efficient asset protection

One of the panellists will be Tim Searle, Chairman of Global Eye. We will update you on the other panellists in due course.

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Tim Searle

[REGISTER NOW](#)

XLNC Winter Conference ONLINE



Date: Monday, 13 December 2021

Time: 17:00 CET

Keynote Speaker: Prof Beata Javorcik

When we planned our very first virtual conference in November

last year, we never thought for one second that we would be holding another one the following year. We are indeed Zoom-fatigued and looking forward to seeing all of our members in person. The vaccination

passport programmes are assuredly coming into play in many countries, allowing for the easing of travel restrictions across many borders. Certainly, the news that the US will

...next page

open its borders once again at the end of November 2021 brought a sense of optimism about the future.

With this in mind, roll on 2022. We are starting to reconfirm dates for in-person events and will let you know once registrations are available once again.

But until then ... just one more Conference ONLINE. The date and time are confirmed and we are very pleased to have Prof Beata Javorcik as our Keynote Speaker.

Prof Javorcik is Chief Economist of the European Bank for Reconstruction



Prof Beata Javorcik

and Development (EBRD) in London. She is on leave from the University of Oxford, where she is the first woman to hold a Statutory Professorship in Economics. She is also a Fellow of All Souls College, Oxford, and a Director of the International Trade Programme at the Centre for Economic Policy

Research in London. Before taking up her position at Oxford, she worked at the World Bank in Washington, DC, where she focused on research, lending operations and policy advice. She holds a PhD in Economics from Yale and a BA in Economics (Summa cum Laude) from the University of Rochester.

We will, of course, update you on XLNC and our plans for the future. Make sure you set aside the time in your diaries now.

Registration will be open shortly and all members will receive an invitation directly.

Simont Braun welcomes a new tax team

Simont Braun is delighted to announce the appointment of Thomas Gernay as Partner and Guillaume Delfosse as Counsel in our tax department. Together they will develop the tax practice with Jacques Malherbe, Of Counsel.

“We are pleased to have Thomas and Guillaume on board to lead the development of a dynamic tax team,” comment Béatrice Thieffry and Steven Callens, Simont Braun’s Managing Partners. “Their experience and ambition will be drivers to boost Simont Braun’s tax capabilities and better serve our clients.”



Thomas Gernay

With the combined expertise of Thomas Gernay and Guillaume Delfosse, Simont Braun will provide its Belgian and international clients with a yet more complete offering of services.



Guillaume Delfosse

Thomas and Guillaume both bring solid experience as tax lawyers in niche and international law firms. The core of their practice lies in advising companies and entrepreneurs on the tax aspects of their day-to-day activities and

in the context of restructurings, acquisitions and investments. They also assist and represent clients in

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tax audits and litigation matters. While Thomas has a particular focus on European and international tax matters, Guillaume has valuable expertise in wealth management.

"I am thrilled to join Simont Braun to build a strong and reliable tax practice," says Thomas. "I

am grateful for this exciting challenge and I am delighted to take it on with Guillaume."

"Our focus in the coming years will be to navigate through the complexity of tax law while providing our clients with practical and hands-on solutions," says Guillaume. "This is a big step

for my career and I would like to thank Simont Braun for their trust."

The appointment of Thomas and Guillaume will further strengthen the firm's tax capabilities in complex and strategic advisory, and in transactional and litigation work in a Belgian and international context.

Successful webinar on overcoming the hurdles of a value-generating carve-out

Under the topic, **Carve-out: Maximising Value, Minimising Risk**, Sarah Kasper and Dr Benjamin Cortez, both Partners at Schlecht und Partner in Germany, held a successful webinar jointly with colleagues from the law firm FlickGockeSchaumburg in June 2021.

While over the past decade market conditions have been particularly favourable for sellers, companies continue to face unique challenges. Extensive disruptions in markets, technological change induced by all-encompassing digitalisation and the growth of AI as well as

changes in societies have created a market environment that requires quick adjustments in business models, and high investments in new business models and technology. Within this context, markets have been increasingly characterised by uncertainty. This has dramatically increased in the wake of the Covid-19 pandemic since 2020 and has had a unique impact on the global economy. Ambiguous future prospects and turbulence in global markets further exacerbate these challenges, causing uncertainty in valuations.

In an environment of such uncertainty, divestment of assets or business segments from one company to another enables sellers to achieve a variety of strategic goals, such as (re-)focusing on core business or increasing cash liquidity, particularly in times of limited or restrictive debt financing.

Accordingly, since 2016 both overall carve-out deal volume as well as deal values have steadily increased and demonstrate the relevance of this form of divestment, particularly in uncertain times.

...next page



Carve-outs – the divestiture or sale of a division or business unit – are complicated transactions, and thus have to clear a higher hurdle for success than typical mergers and acquisitions. In particular, clients aspiring to unlock the values of carve-outs are faced with tax, accounting and legal challenges.

Attended by over 60 participants, the webinar addressed various issues associated with carve-outs. FlickGockeSchaumburg illustrated the legal aspects and considerations in a cave-out, and Dr Benjamin Cortez focused on the obstacles, challenges and concrete measures the tax environment of participating entities may pose. The tax-related issues are diverse and are particularly challenging in a multinational environment.

Sarah Kasper highlighted the unique accounting and financial issues that result from separating a business or segment out of an existing entity, thereby addressing the regulatory environment of the IFRS. Combined/ carve-out financials represent the

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basis for important analyses and evaluations and serve as a basis for decision-making within the carve-out process. The primary goal is to create transparency in order to minimise transaction risk and to maximise the success of the transaction.

The key take-away of the webinar is that a successful carve-out requires in-depth preparation and planning over all relevant fields, in particular covering tax, accounting and legal aspects. Clients should gather a team of experienced experts to guide them through the carve-out process.

We are convinced that carve-outs are an option too often overlooked by clients and their consultants. With XLNC and our unique network of highly qualified members, our clients can rely on a team of proven experts in complex, international carve-outs.

New Deputy Group CEO for Eurofast

XLNC member firm Eurofast is excited to announce the promotion of **Antonis Gavrielides** to the position of **Deputy Group CEO**.

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[✉ Antonis Gavrielides](#)

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Antonis has been part of Eurofast for more than 11 years and has contributed greatly to the company in his most recent role as a country manager and as a member of the Eurofast Board of Directors.

Antonis will oversee the strategic and operational direction of the organisation and exercise managerial responsibility for Eurofast's operations as he goes through the transitional process to replace CEO, Christodoulos Damianou.

"I feel honoured by the opportunity to become the Deputy Group CEO and the trust given to me



**Antonis
Gavrielides**

in outlining my own insight and culture within the organisation," says Antonis. "I'm very proud of our team and the way we overcome difficulties and obstacles, especially during the pandemic, proving we work as a whole. I'm sure the future holds many more innovative

ideas and practices that will take Eurofast a step forward.”

“I have great confidence that under Antonis’ leadership and the rest of our dream team, Eurofast will continue to lead the market,” says Christodoulos Damianou.

The Eurofast team would like to congratulate Antonis on his new promotion and wish him good luck for the future.

Antonis took office on 01 September 2021.

Eurofast is a regional business advisory organisation employing local advisors in over 23 cities in Southeast Europe and the Middle East (SEEME). Eurofast is uniquely positioned as a one-stop shop for investors and companies looking for professional services in Southeast Europe and the Middle East.

Buchbinder admits two to partnership

XLNC member firm Buchbinder Tunick & Company LLP is proud to announce Stella Deng and Matthew Simon were admitted as partners effective 01 July 2021.

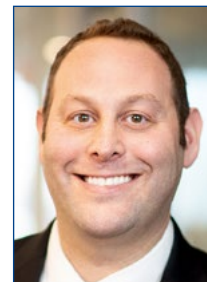
With 15 years of experience, Stella Deng, CPA, MS, MBA, provides audit and accounting services to not-for-profit organisations, labour unions, employee benefit plans, and privately held companies. In addition,



Stella Deng

she prepares and reviews various information returns, such as Form 990 and Form 5500. Stella helps clients comply with IRS and DOL rules and regulations, and introduces them to best practices, all guided by her high ethical standards. Above all, Stella takes great pride in delivering to clients comfortably within deadlines.

Matthew Simon, CPA, has over 15 years of experience providing audit and accounting services to not-for-profit organisations, labour unions, and employee benefit plans. He also prepares and reviews various information returns, such as Form 990 and Form 5500. As an active member of Buchbinder’s Not-for-Profit and Employee Benefit Plan Groups, Matt has a focused niche



Matthew Simon

that provides him with a deep depth of knowledge and clarity of his field, which is of benefit to his clients.

Stella and Matthew have been an integral part of Buchbinder since joining the firm in 2013 and 2010, respectively. Their professionalism and commitment to exceptional service are exactly what Buchbinder’s clients have come to expect and they will greatly contribute to the growth and lasting success of the firm.

National recognition

Buchbinder is proud to be acknowledged again by INSIDE Public Accounting as a “Top 200 Firm” for 2021.

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Prominent new partner appointment

Former Mayor joins VCvF.legal

Thomas Geisel has not had the typical career of a business lawyer. He studied Law and Political Science in Freiburg, Germany, and Geneva, Switzerland. He holds degrees in Government from Georgetown University and in Public Administration from

The Harvard Kennedy School. He started his career at an international business law firm, before joining the Treuhandanstalt, an agency of the German government, where he managed the restructuring and privatisation of the East German chemical industry. Thomas then worked for nearly 15 years in the energy industry, most of that time for the German company E.ON Ruhrgas, where he was responsible for major gas supply contracts. In 2014 he was elected Mayor of Dusseldorf, Germany's sixth largest city and one of the country's major business centres.



Thomas Geisel

was involved in many international projects. Thomas brings a wide range of special skills and is a great addition to the VCvF.legal team.

Read an interview with Thomas [here](#).

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Thomas served as Mayor of Dusseldorf for the last six years and during his time in office, he

Did you know that you can include Live Feeds from XLNC Updates into Your Firm's Website?

If you are looking at ways to advertise even more broadly your membership in XLNC, you might be interested in learning that we have implemented a feature which allows all XLNC members to add to their web pages live content published on the XLNC website. Namely, you can choose to show on your website live feeds from the [XLNC website News & Publications](#) section and/or from the [Archive](#) section. In order to implement this feature, please contact the XLNC Head Office at info@xlnc.org; we will be pleased to send you all the necessary instructions and guidelines to do so.



Bellerage Alinga in the Top-3 of accounting providers in Russia

XLNC founding member Bellerage Alinga moved up for the first time to the Top-3 of accounting and tax outsourcing firms in Russia, according to the newest RA-Expert rating.



Alexander Bykov

The [RA-Expert](#) rating is the only of its kind in Russia and is regarded as the authoritative classification by the outsourcing industry.

This achievement was made possible thanks to the merger with [INTERPONT](#) accounting practice.

We would like to thank all our clients and partners for their trust and support. They are the basis for Bellerage Alinga's further growth while maintaining price-quality leadership.

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Schlecht & Partner appointed Sarah Kasper as Equity Partner

XLNC member firm **Schlecht & Partner** is delighted to announce the promotion of [Sarah Kasper](#) to **Equity Partner**, effective 01 August 2021. This leadership promotion is just one part of the firm's growth strategy reflecting the rich panorama of Schlecht & Partner's international footprint, diversity and investment in the next generation of leaders.

Sarah joined Schlecht & Partner in August 2020, committing her time to deliver transaction and financial advisory services.

With an exceptional track record over 8+ years of experience in the Big Four professional services environment in Germany and the

...next page



Sarah Kasper

USA, Sarah offers extensive experience in delivering financial statement audits and advisory projects for public, multinational corporations, international financial services organisations and technology companies. Her main areas of focus are M&A, corporate finance, valuation and financial reporting. In her new role, Sarah creates value delivering advisory services across the transaction, CFO and board agendas of her clients.

Schlecht & Partner is honoured to have this young talent now in the role of partner and looks forward to Sarah's continued leadership and commitment to the firm's clients and stakeholders.

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Studio Bogoni and Studio Antoniotti among "The Best Law Firms in the Territory 2021"

Prestigious recognition received by two XLNC firms, following an independent study conducted among the best Italian professional firms.

XLNC member firms Studio Bogoni (Padua/Milan) and Studio Antoniotti (Turin/Milan) have been selected among the "Best Law

Firms in Italy 2021", according to the evidence collected by *PBV Monitor* and published in the magazine *Capital*, by Class Editori.

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In fact, the two firms are among the leading law firms, respectively, in the northeast and northwest of Italy – the most industrialised areas of the country – in the field of Tax Law, noting the significance of the transactions handled, both in terms of volume of business and number.

The inclusion of the two firms in this prestigious ranking is due to their particular activities of assisting in the preparation of restructuring plans, tax litigation, and consultancy

in corporate and insolvency law. These skilled and complex services are typically provided by both lawyers and accountants, so a comparative ranking of the two professions is often drawn up, limited to these activities.



**Dr Renato
Bogoni**



**Dr Giulio
Antoniotti**

Eurofast: Top 10 Payroll Service Providers for 2021

XLNC member firm Eurofast has emerged as one of the top 10 payroll service providers worldwide for 2021, according to [CIOLook's](#) annual survey.

With ongoing growth, Eurofast continues to prove that it is progressing successfully, showing respect to its customers and remains committed to its original goal – to give joy and satisfaction to its customers.



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“Our Dream Team is the driving force behind Eurofast and, thanks to it, Eurofast is driven to success. The market requires high-level services and we at Eurofast have the knowledge and the people who can achieve it,” says Christodoulos Damianou, Group CEO.

Eurofast is a regional business advisory organisation employing local advisors in over 23 cities in Southeast Europe & the Middle

East (SEEME). Eurofast is uniquely positioned as a one-stop shop for investors and companies looking for professional services in Southeast Europe & the Middle East. We have over 40 years of history, working with many global brands and leading institutions, operating in the manufacturing, retail, airline and professional services sectors.

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Or new offices? Or even new service offerings?
The deadline for inclusion in the next issue of the XLNC Magazine is 04 April 2022.

XLNC
MAGAZINE

Chinless: the semiconductor shortage is here to stay

■ **By Dr Francesco Mandalà**

"The Buddha, the Godhead, resides quite as comfortably in the circuits of a digital computer, as he does at the top of a mountain or in the petals of a flower", wrote Robert Pirsig in his *Zen and the Art of Motorcycle Maintenance*. Without delving into the metaphysical disquisition of whether a semiconductor is the hearth or rather the soul of a digital computer, we can certainly claim that computer chips are everywhere, in consumer electronics, cars, medical equipment and defense systems.

Chips are the core ingredient for the modern economies to operate, so the global chip shortage

disproportionately impacts the world economy. For example, despite the tiny weight (0.3%) of the semiconductor industry in the US output, 12% of the US economy embodies semiconductors in its products (see Chart below).

Adding to the chip shortage worries is the shortage in silicon metal, sparked by a production cut in China, which has sent prices up 300% in less than two months.

Small and in demand

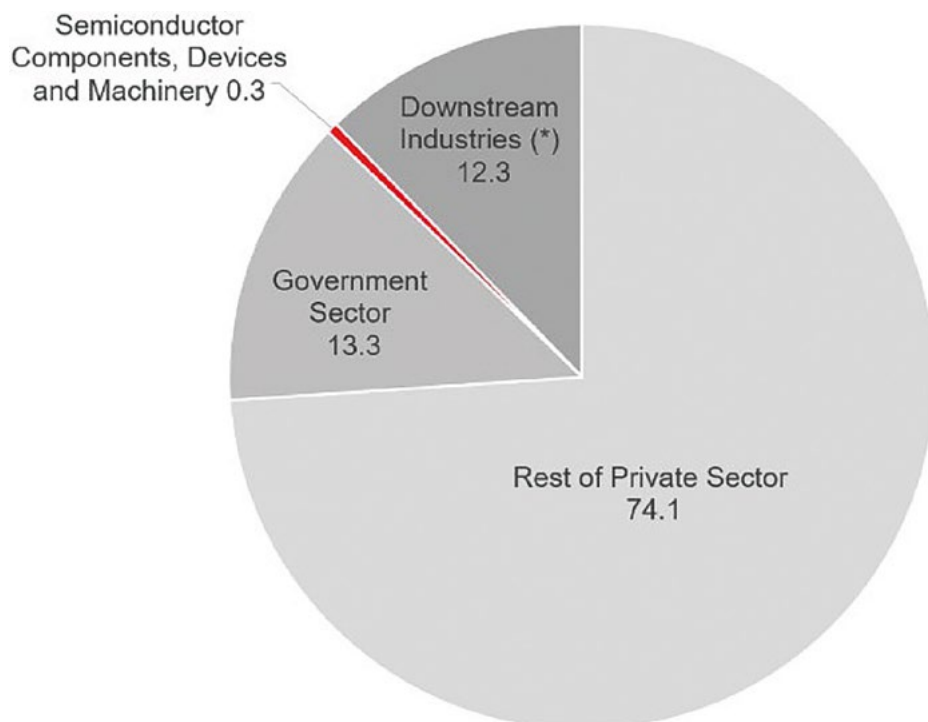
Automobile manufacturers cutting production and surging consumer electronic prices have



Dr Francesco Mandalà

been making headlines and got the world's attention. Nevertheless, the ramifications of the chip bottleneck are significant for inflation, employment and profit margins, causing alarm bells for politicians and policymakers. Economists think that some kind of market failure must lie behind the chip crisis: in fact, the reason is instead a combination of factors from both supply and demand sides.

First, the Covid-19 pandemic accelerated the demand for electronics for working from home, online learning and entertainment and this spike in demand absorbed a lot of the capacity for chips. Second, at the same time, demand for cars dropped, and automakers shut down plants during the acute months of global lockdowns. So, when the car factories re-opened towards the second part of last year, car manufacturers faced a scarcity of chips, as a lot of that capacity was already utilised or stockpiled by other industries. Third, natural disasters and power outages including a [❏](#) winter storm in Texas, an [❏](#) earthquake in Japan and a [❏](#) power dip at the Taiwanese chip giant, forced semiconductor producers to temporarily shut down operations, creating bottlenecks across final users of chips.



Chip production is negligible but essential for the US economy.

(*) Industries for which input spending on chips exceeds 1% of value added or of total inputs consumption. Source: Goldman Sachs (GIR), 21 April 2021.

Myths and realities of chip self-sufficiency

Policymakers in the [US](#), [EU](#) and [China](#) are intensifying efforts aimed at boosting chip manufacturing through policy support and various initiatives. However, government intervention may not help solve the current chip crisis, as shortages are a natural part of the semiconductor industry. Chipmaking has peculiar features such as the complexity of its global supply chain¹, the geographic concentration of the production of advanced chips in Taiwan and Korea and the long time lag (up to 2 years) for a new plant to start producing chips after starting construction. Perhaps a more reasonable approach would be to ask whether companies

really need government help to navigate supply-chain turbulences. Or, alternatively, if they could address supply chain fragmentation by regionalising production and developing additional safety stocks as suggested by [Willy Shih](#), an operations management expert.

Is chip shortage the new oil shock?

The sobering parallel between the 20th century Strait of Hormuz for oil shipping and the 21st century concentration of tech parks in Korea and Taiwan keeps central bankers on their toes. Already worried about the recent surge in inflation in both US and Europe, central bankers were quick in commenting that the current chip shortage will ease in 2022 and inflation will cool off as the recent readings are mainly driven by the re-opening of the economies after the pandemics.

The extraordinary demand for electronics driven by the pandemic coupled with an acute shortage of chips for various industries will not be addressed soon. Together with the silicon price surge, the chip crisis will be cascading through economies in multiple ways, ultimately impacting the global economic growth negatively and contributing to keeping inflation well above central banks' target of 2% for this year and in 2022.

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1) A semiconductor product could cross international borders nearly [70 times](#) before finally making it to the end customer.

Amendments to Ontario legislation:

Business corporations more flexible and attractive to foreign corporations

■ **By Matthew Czerwinski**

Ontario is the economic engine of Canada, offering a wealth of opportunities for foreign corporations seeking to establish a company or

subsidiary in Canada. However, before the most recent amendments to the *Business Corporations Act (Ontario)* ("OBCA"), Ontario corporations were subject to specific residency thresholds for their boards of

directors. Now that the *Better for People, Smarter for Business Act, 2020* is in force, there are two significant changes to the OBCA:

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- (i) eliminating the requirement that at least 25% of directors be resident Canadians; and
- (ii) lowering the threshold in privately-held corporations for approving an ordinary written shareholders resolution to a simple majority of shares entitled to vote on the resolution.

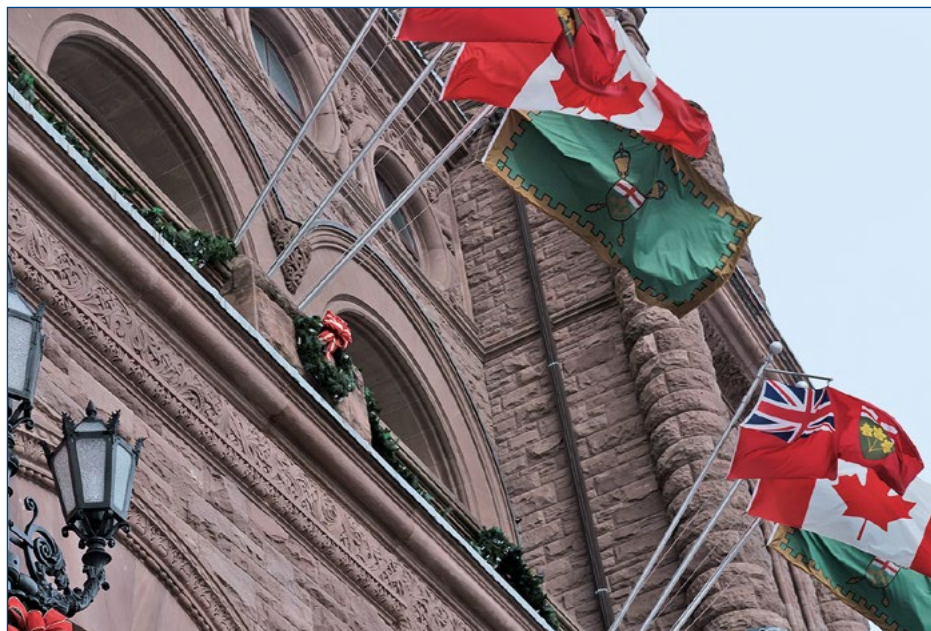
These much-welcomed changes make Ontario a more attractive jurisdiction to start a business or attract an existing Canadian business from another part of the country.

Removal of residency requirements for directors

As of 05 July 2021, the former requirement for Ontario corporations to maintain a minimum of 25% "resident Canadian" directors on their boards has been repealed.

All directors of an Ontario corporation may now be non-resident Canadians. This change provides Ontario businesses with an opportunity to revisit and reform their board composition, and removes a challenging burden that many foreign businesses faced when establishing a subsidiary in Ontario.

Prior to the OBCA amendments, corporations that could not meet the director residency requirement would often incorporate in another Canadian province, such as British Columbia or Nova Scotia, that did not have similar director thresholds. This cumbersome process however would lead to extra costs and corporate filings to continue the corporation in Ontario, and lead to a corporation having a head office outside the province where it conducted most of its business activities.



Matthew Czerwinski

Eliminating the residency requirement is an attractive amendment to multinational and foreign businesses who are now provided with flexibility in selecting their directors, being able to focus on merit and expertise instead of residency. These amendments make incorporating and conducting business in Ontario easier and more efficient.

Going forward, Ontario corporations, foreign corporations looking to incorporate an Ontario business, and corporations who predominately conduct business in Ontario but are incorporated in another Canadian province, should consider the benefits of the removal of resident Canadian requirements for board composition and evaluate the opportunities these changes provide. Such opportunities include incorporating in the province where you conduct most of your

business operations and simplifying corporate filings and fee payment.

Lower threshold for approving certain resolutions

Under the previous OBCA provisions, private Ontario corporations could only pass certain written resolutions, in lieu of a shareholders meeting, if it was signed by all of the shareholders of the corporation entitled to vote on that resolution. With the new OBCA amendments, private Ontario corporations can now pass ordinary written shareholders resolution when signed by shareholders holding at least **a simple majority** of shares entitled to vote on that resolution.

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Under this method, the corporation is required to provide, within 10 business days of the resolution passing, written notice of the passed resolution to all shareholders who did not sign.

These lower thresholds allow for a more efficient process for routine business decisions and

avoids added time and costs associated with obtaining consent from smaller shareholders.

Looking forward

The amendments to the OBCA provide opportunities and greater

flexibility to those seeking to establish a business in Ontario. Whether it is focusing on a director's capabilities rather than their residency, or streamlining the approval of shareholder voting, Ontario corporations have been provided a long-awaited update.

Ukraine: New tax and legal alerts, laws and proposals

■ By Alex Maistrenko

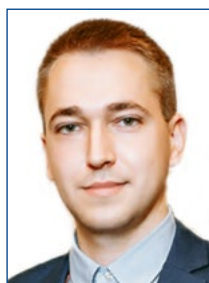
July was literally "hot", not only because of the record temperatures but also because of the high attention being paid to the new laws and proposals regarding taxation in Ukraine. According to officials more transparency and clarity must be brought in Ukraine.

Law 1525-IX, known as "Tax on Google"

Effective 01 January 2022, non-resident companies that supply e-services in Ukraine and do not have a permanent establishment (PE) will have to pay 20% Value-Added Tax (VAT).

Types of affected e-services:

- paid access to e-books, images, texts, video and other information
- access to search engines and databases;
- online teaching, virtual courses & classes;
- cloud-based solutions & remote software;
- marketing and advertising.



Alex Maistrenko

The new law will mostly affect big IT companies: Google, Apple, Booking, Netflix, Coursera and others. However, it will not have an impact on companies that

distribute their services through local, permanent establishments.

Draft Law 4572 about the Fund of State Property reform

On 15 July 2021 in the first reading, the Parliament adopted the new Reform of the State Property Fund allowing the following operations:

...next page

- Primary Public Placement (IPO) for state companies;
- privatisation of state companies, the indebtedness of which exceeds 50% of assets.

Draft Law 5798 that will reward for video fixation of accidents

On 16 July 2021 the Verkhovna Rada registered Draft Law 5798 according to which witnesses of wrongdoings can receive a 10% reward via Dija. The government application will allow photo and video fixation of wrongdoings.

Draft Law 5600 about real estate VAT & land tax

Even though it was sent to refinement, this draft law was one of the hottest discussions this summer as it will introduce several changes for:

- Real estate owners (18% tax on sale instead of 5%)
- Agricultural owners (new tax – minimum tax liability)
- Accountants (past year losses will be repaid gradually, no more than 50% per year).

For further information on how you or your business can prepare for the new standards or to discuss your potential actions, please contact our Kyiv Tax and Legal Department at kyiv@eurofast.eu.

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Making learning and growth a priority

Meet [🔗](#) **Nishopan Karunanithy**, Manager in Gerald Edelman's tax team. Nish works with clients on personal and corporate tax matters and manages a team within the tax department. For Nish, his main goal when becoming a manager at Gerald Edelman was to create an environment that allowed his team members to take on responsibility and have room to grow into the individuals they wanted to become. In Gerald Edelman's latest team story, Nish talks about how Covid-19 has impacted their team, Gerald Edelman's commitment to trainees and those early in their careers, and how guidance and support are at the heart of the firm.

What is your current role?

My current role at Gerald Edelman is as a tax manager. In addition to my

everyday client work, I manage the tax team which includes training, staff welfare, and recruitment together with ensuring that sufficient tax processes are in place. My main focus area is personal and corporate tax, which includes everyday compliance matters, as well as delivering tax advisory reports and ad-hoc advice to clients.

What do you enjoy most about your role at Gerald Edelman?

As a whole, I really enjoy the managerial side of my role. Supporting my team and pushing them to be the best they can possibly be. As a leader, you are always balancing delegation and team development with your own development and I'm a big believer that you should never stop learning – hence why I'm looking to



Nishopan Karunanithy

complete another qualification very soon. It's a challenge, but one that I enjoy and find extremely rewarding.

Have you always wanted to work in tax? If not, what motivated you in your current career path?

I have always been good with maths and numbers, so when my father asked my younger self what I wanted to be when I grew up, an accountant was the clear pathway.

It starts with You!



I studied accounting and finance at university and again, really loved the courses and could see myself being an accountant. After leaving university, I was primarily looking for accountancy roles but considered a few tax roles, having completed tax modules within my degree. I ended up accepting a tax trainee position and really enjoyed it. I found tax fascinating because it was so relatable and not tangible. As such, instead of working towards being an accountant, I made my way up the tax ladder.

Why did you choose Gerald Edelman?

I have worked in a variety of firms of different sizes. I started at a smaller mid-tier firm and did my training days there, which was great. I then started looking at bigger firms to challenge myself both in terms of work and clients, and gained expertise working for a Top 20 and then one of the Big Four firms. But then, since joining

Gerald Edelman, I could see this mid-tier firm was where I could really excel, and have not looked back since. Prior to Gerald Edelman, I specialised in private client tax and advising high and ultra-high-net-worth individuals and their families. I also worked in the Channel Islands on a six-month private bank project. I'm sure others have said the same, but in the larger firms, you are often bottlenecked into a narrow path, whereas at Gerald Edelman, I was given so much more opportunity and more importantly, responsibility.

Since joining Gerald Edelman, I've been exposed to a mixed tax surrounding where I could work on a combination of tax projects and understand where my skills lie, which has been great for my personal development.

What do you enjoy most about working at Gerald Edelman?

The size of the firm means it's easy to build great working relationships and friendships with your team. In my smaller tax team, I encourage everyone to be part of the group, arrange social events and team catch-ups – which has been more important throughout the pandemic to keep the team connected.

What have been your biggest challenges so far?

When starting in my managerial role I was determined to improve team dynamics. At Gerald Edelman, we have a very flatline culture where it doesn't matter what your position

is; you will always be valued and heard – this also comes with being in a mid-tier sized firm. I really wanted to extend this into my smaller team, by regularly communicating at a human level, as well as encouraging personal development. For me, this is the most important part of my role.

What has been your greatest achievement?

This ties in with my previous answer, but being able to see members of my team grow into the person they want to be. It's just a fantastic feeling.

What are your goals for the future?

I would like to build the private client area within the firm. To assist with this, I'm looking to study the STEP Trust Qualification.

What advice would you give others who are seeking to pursue a career in tax?

Those who are good with numbers and enjoy maths often think of accounting as the first career path – I'm guilty of this too! But people very rarely consider a career in tax because it sounds mundane, when in fact it's a path that is – in my opinion – the most interesting area of accounting and finance.

To those who are considering moving into tax (firstly, that's great), but remember that in this field you'll never be the finished article. Tax is changing all the time so always be open to learning and developing your skills.

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“Zero Window” project for taxes in Georgia

■ **By Irina Lopatina**

Tax revenues are one of the largest sources of income within the Georgian budget. At the same time, tax administration itself



Irina Lopatina

is simpler than ever thanks to the “one window” principle.

The Georgian Ministry of Finance has launched the implementation of the “zero window” project. This project involves the complete automation of the income declaration process, which involves the automatic declaration of amounts received on the accounts of business organisations. This will free taxpayers from the routine procedures previously required for filling out declarations and paying taxes.

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After the introduction of the new system, it is expected that the risk of errors will be reduced to zero, and the number of tax evaders will decrease.

24

Work-at-home policy post-COVID-19

■ **By Lise van den Heuvel**
 and [Puck Keurentjes](#)

Since the Covid-19 pandemic began in 2020, working from home has increased significantly, not in the least because many European governments made working from home mandatory. It is estimated that approximately 40% of workers within the European Union (EU) started working from home as a result of the pandemic, while only 15% of European workers had ever worked from home before the pandemic. In most European countries, the government-imposed



Lise van den Heuvel

work-from-home mandate is slowly being relaxed or removed. However, many employees and employers have enjoyed the benefits of working from home. Although most European countries do not yet have regulations in place to govern working from home, it is



Puck Keurentjes

likely that working from home will be facilitated within various member states either through statutory legislation or by social dialogue and collective bargaining. Of course, in anticipation of the aforementioned developments, employers can also draw up their own work-at-home

policies. In this article, we describe a number of factors (under European law) that deserve attention when developing a work-at-home policy.

1. Working conditions and duty of care

The European Framework Directive on Safety and Health at Work (Council Directive 89/391/EEC) stipulates that employers in EU member states are obliged to ensure good and safe working conditions. This framework directive also applies to working from home. It is important that home offices for employees are ergonomically designed in order to prevent employees from becoming unfit for work. Employers must monitor this and if the workspace does not meet these requirements, they must ensure the availability of appropriate equipment, such as an ergonomic chair, an adjustable desk and/or other equipment, such as a separate mouse and keyboard. The directive does not explicitly state whether the employer is obliged to cover the costs of furnishing a home office when the work is carried out there at the employee's request, nor the effect on any other compensation and/or tax consequences. This can be different in each EU member state.

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As the employer has no control over his home-based employee, it is important that clear instructions on the ergonomic furnishing of the home office are included in the work-at-home policy. Issuing such instructions once is generally not sufficient. Employers should continue to draw the attention of at-home workers to this issue on a regular basis. This can be done, for example, by periodically providing an overview of the requirements that an ergonomically furnished home office must meet, by providing specific checklists and by sending out specific instruction videos. To ensure that the home office has been set up correctly, the employer can also offer the employee the opportunity to contact an occupational health expert or an ergonomics consultant, if the employee has doubts about the correct set-up of the home office.

In guaranteeing good and safe working conditions, consideration should also be given to pursuing a proper policy regarding the psychosocial workload. The division between work and private life is affected by working from home, and research in the Netherlands has shown that employees experience more stress as

a result of working from home. It is up to the employer to limit the pressure of work and to pay specific attention to this in the work-at-home policy. Recommendations in this regard are to proactively engage with employees on a weekly basis about how they experience work pressure, so that, if necessary, action can be taken in time to ward off negative impacts.

2. Employee's privacy and performance monitoring

Although recent experience has shown that working from home does not generally impair employee productivity, many employers will still feel the need to monitor the performance of employees working from home. This generally will be the case only for employees whose productivity cannot be measured from available data (e.g., billable hours, sales scores). All sorts of software are available to monitor the performance and productivity of employees. Before implementing such software within the company,

...next page

the privacy of employees must be taken into account. According to the European General Data Protection Regulation (GDPR) and case law of the ECHR, the following conditions must be met:

- The employer must have a **legitimate interest** in monitoring its workforce;
- The deployment of monitoring/control systems must be **necessary**; in other words, the purpose cannot be achieved in any other less intrusive way;
- The **data minimisation principle** should be observed (data collection should be limited to a minimum and data will not be kept longer than strictly necessary);
- Employers should **inform** employees that control/monitoring is possible and how it is done, and communicate clearly about what is and is not allowed;
- Employers should take into account employees' **right to confidential communication**;

- Before any large-scale data processing and/or systematic monitoring of personnel can be deployed, a **data protection impact assessment ("DPIA")** should be performed.

Only when these conditions are met should monitoring software be implemented. The home-working policy should inform employees about the software and concisely explain how applicable conditions are met.

3. Data security

In addition to the privacy of employees, the employer's data (including personal data of third parties) must also be protected. Working from home creates extra risks in terms of data security. The employee working from home could lose his work laptop somewhere, family members could overhear confidential telephone calls or gain unauthorised access to confidential data, and/or a device or home network could be insufficiently secured. In short, working from home involves an increased risk of

a data breach. It is important that employers and employees are aware of this. Data security and a clear "mandatory notification data breach" procedure therefore deserve special attention in the work-at-home policy.

Conclusion

Working from home (part-time) is 'the new standard' in today's European society and working from home is more likely to increase than decrease after current government mandates are lifted. Employers who want to offer the option to work from home should implement a clear work-at-home policy to set out the rules for employees who are allowed to work from home. This article describes aspects of working from home that are roughly the same across Europe. In addition to the issues covered in this article, agreements can also be made about items that may vary from country to country, such as allowances. Finally, it should be noted that the employee representative body (e.g., works council) within the company may have to be involved in developing the work-at-home policy, or at least certain aspects of it.

Significant changes in the regularisation process of immigrants in Spain

By Víctor de Castro Esteller

One of the ways to acquire a residence permit in Spain was and is the so-called "Arraigo Laboural", for which

it was necessary to demonstrate the employment relationship by judicial means. This necessarily meant that the labour authority was made aware that the company had incurred an

infraction and therefore this ultimately led to a sanction for the company. The impact of this procedural obligation was that this method of applying for a residence permit

fell very much out of use because clients did not want to damage their relationship with their employer.

This year the Spanish Supreme Court issued various judgments that

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allowed the employment relationship to be demonstrated by means of evidence other than a court ruling, such as by a contract or salary sheets. Of course, this must be added to the rest of the requirements, such as providing evidence that the employment relationship is longer than six months, for at least 30 hours a week and paying at least the minimum interprofessional salary, in the corresponding proportion.

It should be noted that the immigration office has the power to contact the labour authority in these cases to confirm that the employment relationship took place. Therefore, despite the fact



Víctor de Castro Esteller

that this new direction of the courts may seem an open path to process the "Arraigo Laboural" without the need to sue the company, this does not mean that the company will not be sanctioned when the labour authority becomes aware of a fraudulent employment relationship, going against the interests of our clients.

North Macedonia reduces VAT on electricity supplies

27

✉ **By Elena Kostovska**

In July 2021, the North Macedonian Government adopted amendments to the VAT Law. The amendments affect the supply of electricity to final consumers – a supply which has until now been subject



Elena Kostovska

to the standard rate of 18%. As of 16 July 2021, and up to 30 June 2022, a reduced rate of 5% will apply to the supply of electricity, while starting from 01 July 2022 and until 30 June 2023, the supply will be subject to a slightly higher but still preferential rate of 10%.

The legislation changes stipulate that as of 01 July 2023, the standard rate of 18% will be put back into effect.

The application of the reduced VAT rates is planned to offset at least partially the expected price hike, following pressure by key energy market players to

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increase the price of electricity due to 2020 reported losses.

Does your e-commerce business need to register for GST/HST in Canada?

■ By [Oscar Torres](#)

If you have over CAD 30,000 in revenue from goods or services sold in Canada, regardless of where you are located, you may need to register, collect and remit Goods and Services Tax (GST)/ Harmonized Sales Tax (HST).

First announced in the Canadian federal government's [2020 Fall Economic Statement](#), the new rules on [GST/HST](#) for digital economy businesses came into effect on 01 July 2021. These new rules require foreign vendors as well as digital platform operators, such as online marketplaces that do not have a physical presence in Canada, to charge GST/HST to Canadian consumers. Sales taxes must be applied on the sale of digital products and services, goods sold by foreign vendors that utilise fulfilment warehouses within Canada, and accommodations provided through short-term accommodation platforms.



These rules are only applicable if sales to Canadian consumers exceed CAD 30,000 over any 12-month period beginning on or after 01 July 2021.

There are two different GST/HST regimes: normal registration and simplified registration. Under the proposed simplified regime, non-residents would not be required to collect GST/HST from customers registered for GST/HST. However, they also would not be able to claim input tax credits to recover the GST/HST paid on expenditures. A business that is required to register under the simplified registration may, if it meets certain conditions, voluntarily apply to register for normal registration.

The four types of businesses that are impacted by these new rules include:



Oscar Torres

1. **Cross-border digital products or services:** Non-resident vendors or distribution platform operators that supply digital products or services may need to register under the simplified system.
2. **Goods supplied through fulfilment warehouses:** Non-resident vendors/distribution platforms who make supplies of goods that are located in a fulfilment warehouse in Canada

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or shipped from a place in Canada to a purchaser in Canada may need to register under the normal GST/HST system.

3. **Third-party fulfilment**

warehouses: These businesses should already be registered and are now required to notify the Canada Revenue Agency (CRA) that they are carrying on such a business. They must also maintain records regarding their non-resident clients and the goods they store on their behalf.

4. **Short term accommodation suppliers and platforms:** May now need to register under the normal GST/HST system.

In addition to these federal GST/HST changes, there are also specific changes to provincial sales tax in British Columbia, Saskatchewan, Quebec and Manitoba regarding online marketplaces and accommodation platforms. These changes for digital and foreign vendors are wide-ranging and

complex. A 12-month “transition period” for businesses that have taken reasonable steps to comply but cannot meet their obligations will be addressed with a “practical approach” to compliance by the CRA. If you have any questions about the new GST/HST rules and if they may impact your business or if you have any questions about other Canadian taxation matters, please reach out to your Bateman MacKay LLP business advisor.

Update on state aid in tax matters – recent decision on the Belgian EPR

■ [✉ Thomas Gernay](#)
and [✉ Guillaume Delfosse](#)

Just a few years back, state aid in tax matters was a new topic. It was unprecedented how the European Commission applied the state aid rules in tax cases like Starbucks, Apple, Fiat, Amazon and others, such as the Belgian “Excess Profits Rulings” case (“EPR”). Today, the topic seems to have moved somewhat to the background compared to everything else that is going on in the international tax field (to name a few: BEPS, ATAD, Pillar I & Pillar II, DAC 6 etc.). However, state aid in tax matters is still in motion. On 16 September 2021, the European Court of Justice ruled on the Belgian EPR case. The Court of Justice found that this regime is a ‘scheme’ within the meaning of the state aid rules. As a result, the case goes back to

where it comes from: the European General Court, to further examine whether there is illegal state aid.

In the meantime, other cases are pending before the European Court of Justice, after earlier decisions by the General Court. This ongoing evolution is the reason to address the topic in this contribution.

Background

For those less familiar with state aid in tax matters, or state aid altogether, it is based on the Treaty of the Functioning of the European Union, which prohibits certain forms of state aid. Four criteria are key: state aid is prohibited if a (i) selective (ii) advantage is offered (iii) through the resources of a Member State (iv) in a way that distorts competition.



Thomas Gernay



Guillaume Delfosse

The state aid rules are applicable in any field or sector, but only in the last decade they have been

...next page



stretched quite a bit to cover a variety of tax measures as well, and in particular tax rulings. This made the European Commission investigate many individual situations to conclude that Starbucks, Apple, Fiat, Amazon etc., benefited from illegal state aid. Appeals against those cases before the General Court led most cases to conclude that there was no illegal state aid. A notable exemption is the Engie case regarding financing structures in Luxembourg, where the General Court agrees with the European Commission that there is illegal state aid.

State aid, however, is not limited to individual cases. It can also be collective when it is granted through a “scheme” that is open to

a certain number of taxpayers. In contrast to the other state aid cases in tax matters, this is exactly what the Belgian EPR case is about. The Belgian tax legislation provided for a regime under which part of the profits of a Belgian company of a multinational enterprise is exempt from Belgian income tax through a downward adjustment. The exempt part is the “excess profit”, which is the profit that is deemed to be realised through synergies within the group. To benefit from this particular regime, the Belgian group company should obtain a tax ruling in which the tax authorities confirm the details and calculations of the excess profit.

Judgment of the European Court of Justice of 16 September 2021

The European Commission challenged the EPRs on a collective basis (“aid scheme”) and did not examine each ruling individually at first. The General Court annulled this decision as it noted that the conditions for an aid scheme were not met. After that decision, the European Commission has decided to attack the individual

excess profit rulings as individual aid. Those cases are currently pending.

The Court of Justice has now overruled the judgment of the General Court and confirmed the concept of a “scheme” does include an established administrative practice of the authorities of a Member State when that practice reveals a “systematic approach”. The European Commission substantiated that there was such a systematic approach through the examination of a sample of rulings.

The judgment of the European Court of Justice does not include a final judgment on the existence of illegal state aid. After this judgment, which only confirms that there is an aid scheme in the Belgian EPR, it is now up to the General Court to further examine whether that aid scheme constitutes lawful or illegal state aid.

Against that new decision by the General Court, another appeal before the Court of Justice is possible (and can certainly be expected, irrespective of the decision of the General Court). It is only at that moment that the Court of Justice will rule on the lawful character of the aid scheme, by answering the key questions (i) whether there is an advantage and (ii) if so, whether

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such advantage is selective. By that time, the Court of Justice should have ruled on other state aid cases in tax matters that are currently pending, which will already shed a light on the Court's interpretation of a selective advantage in tax cases.

Conclusion

When the pending state aid cases in tax matters are dealt with by the Court of Justice, gradually, its interpretation

of a selective advantage in the pending tax cases will emerge. However, the technical details of that interpretation are not all that matters. As a result of the endeavors of the European Commission in state aid, countries and companies have already drastically changed their tax policies and structures, irrespective of the details of the expected judgments by the Court of Justice.

This is a wider evolution in the international tax framework, where

the implementation of BEPS (mainly through the MLI) and the increased attention by policymakers and by the public are factors that put pressure in the same direction. With the debate on digital taxation (including the emergence of digital taxes, the OECD's Pillar I and Pillar II proposals and the work at the level of the EU) and an increased focus on environmental taxes, it is clear that the evolution of international taxation is far from over. Interesting but challenging times are ahead!

Bosnia & Herzegovina: VAT refund to foreign legal entities

By [Slavica Zeljković](#)

Foreign citizens or legal entities who bought certain goods or services in Bosnia and Herzegovina have the legal right to a VAT refund for those goods or services provided that certain conditions are met.

According to the law on VAT refunds, the manner and conditions of exercising the rights of foreign legal entities for returns were insufficiently defined. With the entry into force of the Rulebook on the Application of the Law on Value Added Tax ("Official Gazette of BiH", No. 44/20), this has changed.

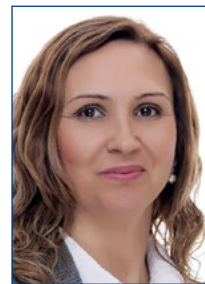
Legal entities registered abroad are entitled to a VAT refund when the following conditions apply:

- A foreign legal entity must be registered as VAT taxpayer

in the country where it has established business;

- A foreign legal entity is not registered and has no obligation to register for VAT in BiH;
- It does not have a residence, business unit or other form of permanent of business in BiH;
- A foreign legal entity must appoint a registered VAT payer in BiH as its representative before the ITA for the purposes of exercising the right to a VAT refund;
- A foreign legal entity must be previously registered in the ITA records and have a record number for the purposes of return;
- A VAT refund can be requested only for purchases for which (if it were a domestic taxpayer

...next page



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operating in BiH) there would be a right to deduct input tax;

- A foreign legal entity must have original copies of invoices for the procurement of goods and services in BiH, issued in accordance with Article 55 of the Law;
- The request for a VAT refund must be submitted by the legal entity no later than 30 June of the current year for any procurement from the previous year, and the same cannot be submitted for a period shorter than three months and longer than 12 months during one calendar year.

When it comes to refunds, the minimum amount to be refunded is BAM 800, except in cases where the application is submitted for the entire calendar year. In that case, a lower amount of VAT refund can be realized, but not lower than BAM 100.

Digital justice in Argentina – a change accelerated by the pandemic

■ By [Dr María Laura Rozental](#)

In the last decade there have been very important advances in technology and the Argentine courts were not immune to the process. Our justice system incorporated some of the benefits of the use of technology to judicial processes through laws that regulated the different issues involved.

Judicial informatics is a fundamental part of the process of modernising justice that was accelerated with the advent of the Covid-19 pandemic, creating a new paradigm of justice

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service through the use of new technologies that have allowed us to redesign judicial processes in pursuit of various benefits and improvements. These improvements included increasing the speed and effectiveness of procedures, streamlining processes, implementing electronic signatures with identical legal effectiveness and probative value, reducing costs, minimising the use of paper, etc. But there have been some drawbacks.

The new challenge for these technological processes in Argentine justice is to preserve due process and prevent technology from deviating from the norms provided by our legislation. It is essential that technical security and document authentication mechanisms are implemented that allow the electronic judicial file to be a technological, innovative and useful opportunity to de-bureaucratise the traditional litigation system; to facilitate the access of all judicial interveners to the same documentation



Dr María Laura Rozental

and files simultaneously, while avoiding making paper copies of procedures that consist of a high number of pages.

This process must be gradual, the change to the electronic judicial file implies an organisational and cultural change that requires appropriate change management, where education and training play an essential role. A change in the model, in the mentalities of judges, lawyers and the public in general is essential. In short, it is developing an understanding of the importance of being digital, thinking about digitalisation and the benefits that it provides, but using a cautious, little by little approach.



Is Australia an attractive market for UK businesses to expand into?

33

■ By [Michael Derin](#)

Many foreign companies which have registered a business in Australia in the last two years are growing steadily. In 2020 the Australian government instituted measures to protect businesses during the Covid-19 pandemic. As a result, the **Australian economy entered 2021 very well-placed and it is set to become the world's 12th largest economy in 2021**, up two places from 2019, according to the International Monetary Fund.

Australia is among the countries with the largest GDP worldwide, and thus one of the largest economies. In 2020,

GDP in Australia amounted to about **AUD 1.9 trillion (GBP 1.02 trillion)**.

Australia is home to just 0.3% of the world's population, but accounts for **1.6% of the global economy**. Though only 25 million Australians live in 3 million square miles (more than three hundred times the size of the UK), **Australia is the gateway to the Asian and Pacific markets, including China**. The major Australian exports of minerals, wool, cotton, meat and rice are exported to Japan (Australia's largest export market), China, the United States, the Republic of Korea and New Zealand. That's hundreds of millions of potential consumers.

There are so many good reasons why UK companies should consider expanding into the Australian marketplace.

What's the attraction of Australia for a UK business?

Starting a business on the opposite side of the planet can be a gamble at the best of times. Apart from the financial risks, there are issues of cultural adaptation, language barriers and differences in business *...next page*

etiquette to consider. However, selecting Australia as your new business environment will let you bypass these problems altogether.

In addition to an abundance of natural resources and a world-class transport and telecommunications infrastructure, Australia boasts enviable weather and is isolated from many of the world's diseases, plant infestations and social problems.

Thanks to our common history, **the UK and Australia share common legal systems, language and societal structures.** The two countries are also politically and economically linked and are close partners in international affairs. The UK sells more to Australia than to India or China, and **Australia is the UK's 5th largest market for goods** outside the EU. **Materials and communications require little adjustment** as technical standards are often similar, which is particularly important for the engineering and industrial areas. "Australia and the UK have a strong trade and investment relationship, and it's not a historic or traditional relationship but very much a contemporary and growing one. **About 22 per cent of the UK's foreign direct investment offshore goes to Australia,** and over the last three years **the UK was the second biggest growing investor** in Australia, remaining our second biggest investor." – **David Crook**, Senior Trade and Investment Commissioner, Austrade UK

Business opportunities

Across industry sectors, people and businesses from the UK are involved in investment and trade in Australia. Australia has an extensive and diverse economic market offering substantial opportunities



Michael Derin

for British companies expanding or licensing a business in Australia.

- **Agriculture:** Wheat has the greatest production and value to the Australian economy. The high rainfall zone of Tasmania may offer opportunities in dairy and beef production.
- **Mining:** More than half of Australia's exported iron ore goes to China. Nickel, gold, diamond, uranium, zinc and coal are developed markets of interest. Particularly noteworthy areas are the Goldfields and Pilbara regions in the southeast and northwest of Western Australia respectively. The sector is highly technologically advanced – services, equipment and technology exports are over AUD 2 billion annually.
- **Oil and gas:** Australia is the 28th largest producer of petroleum in the world. Natural gas extraction is expanding.
- **Information and communication technology:**

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Due to the continent's vast distance between population centres, Australians have been investing in this sector for a long time, and it is now a driving force behind the Australian economy. The Australian Information Industry Association (www.aiia.com.au) provides companies with tools, advisory services and market intelligence to accelerate business growth.

- **Biotechnology:** There is a dramatic increase in interest in the potential of this industry. Australian scientific research has pioneered breakthroughs in many fields.
- **Creative and media:** Highly qualified personnel and a competent audience suggest that Australia can be a valuable market to test products.
- **Marine and railways:** Again, Australia's vast distance between population centres has driven growth in these sectors since the arrival of the British in 1788.
- **Food and drink:** This sector continues to grow due to its world-class wine industry, non-GM foods and boutique alcohol and farming businesses.
- **Recreation and leisure:** With its steady, temperate to tropical climate and its outdoor culture, Australia's recreation and leisure sector is an ideal one to invest in.
- **Aerospace:** The Avalon Australian International Aerospace and Defence Exposition is a signal that the aerospace sector is expanding.

Where to Invest?

The majority of the Australian population inhabits just eight urban centres situated on the coast and these are the **best places to start your business in Australia.**

Sydney (NSW) is the largest city in Australia, closely followed by **Melbourne** (VIC); **Brisbane** (QLD), **Perth** (WA) and **Adelaide** (SA) are the next largest. Mining regions are Goldfields and Pilbara, the Hunter Valley, the Bower Basin and Latrobe Valley.

What are the challenges?

The commercial environment is regarded as exceptionally friendly

and attractive to international companies starting a business in Australia, with room for growth. The challenges are those of any business in Western countries.

You shouldn't have to alter your business mindset too much when expanding into Australia – you may just have to learn to appreciate Vegemite!

Australia does have its own standards and not all products as they are used in the UK are suitable for Australians. **"Australianise"** is the

keyword used to explain how to successfully resolve your product/service for the Australian market.

It is also important to consider the pandemic and the world we live in today. After almost two decades of continuous economic growth, recovery from the international crisis may be slow and fragile. **Be prepared to invest for the long haul, and timing is essential.**

[Download our guide to setting up in Australia.](#)

Slovenia: support measures against economic instability

■ By [Elena Korovina](#)

The European Commission has approved a Slovenian scheme of EUR 22.8 million to support companies in various sectors affected by the Covid-19 pandemic and has taken measures to reduce the spread of the virus.

Public support in the form of direct grants will cover the costs corresponding to salary



Elena Korovina

compensation for annual leave of employees.

This action will benefit companies of all sizes active in the sectors most affected by the outage and restrictive measures due to the pandemic, such as tourism and entertainment. Financial, agricultural and aquaculture sectors will be excluded.

Companies that record at least a 20% drop in annual turnover this year compared to 2019 or 2020 will be eligible for financial aid.

According to the Commission the measures are in line with the conditions set out in the temporary state aid framework adopted for the pandemic. The aid does not exceed EUR 1.8 million per beneficiary and will be granted by 31 December 2021.

The Commission considers the measures necessary, appropriate and proportionate; and thus consistent with the objective of remedying the serious disturbance to the economies of the EU member states caused by the pandemic.

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New XLNC Member Firms

We present the new member firms that have joined our alliance since the previous issue of this Magazine.
We warmly welcome all of them!

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