

An aerial night photograph of a city skyline, likely Bangkok, featuring a wide river, a multi-lane bridge with light trails from traffic, and numerous illuminated skyscrapers and buildings under a dramatic, orange-hued sunset sky.

XLNC Magazine

No 12 | Autumn 2023





Welcome

– from our Chairman, Richard Kleiner



Summer Conference

09 - 11 June 2023
Amsterdam, The Netherlands

Welcome

Welcome to the Autumn 2023 edition of our XLNC Magazine with wonderful articles from all across the globe, just in time for our upcoming XLNC Autumn Conference in Bangkok, Thailand. We are looking forward to meeting our members there – do not miss this splendid opportunity to broaden your personal network.

In this issue, you will find all the latest details of the upcoming conference. Turn to the XLNC Focus Group pages to read summaries of the planned Focus Group meetings that will be held during the conference and, in the same section, you will also find Focus Group updates, outlooks, and topical articles.

As always, we love to shine a spotlight on you, our members, and we hope you enjoy reading the achievements and news from



your XLNC colleagues.

We thank all authors for sharing their expertise with us:

[Christian Scali](#) ([Scali Rasmussen](#), USA) gives guidance on a [significant change in the](#)

[automotive industry – the shift to electric vehicles](#). [Andreas Lang](#) ([Schlecht & Partner](#), Germany) updates us on [German transfer pricing regulations](#). [Oscar Torres](#) ([Bateman MacKay](#), Canada) provides information on [Canadian underused housing tax implications for non-Canadian owners](#), while

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.

[Inge Bisinella](#) and [Emanuele Artuso](#) ([Studio Bogoni](#), Italy) share information on [income taxation of sales of art](#).

[Shawn P. Wolf](#) ([Bilzin Sumberg](#), USA) delves into [a case currently before the US Supreme Court involving a recent law affecting certain individual taxpayers who own shares in controlled foreign corporations \(CFCs\) and are therefore subject to a transition tax under that law](#). [Meritxell Mont](#) ([OBN &](#), Spain) draws your attention to [fintech companies in Spain and what you need to know about licensing and authorisation](#).

[William Abell](#) ([Gerald Edelman](#), UK) explores [whether the global M&A slump can present investment opportunities](#), and [Ted Schama](#), Managing Partner at [Shelley Sandzer](#), [analyses the London and UK market regarding attractions to international hospitality businesses](#).



We wish you an enjoyable read, and if you are interested in having your voice heard or have interesting company news you want to contribute, please [get in touch](#).

We look forward to seeing you in Bangkok.

[Richard Kleiner](#)
XLNC Chairman

A satellite image of Earth showing the continent of South America, primarily Brazil, in the center. The land is depicted in shades of green and yellow, indicating vegetation and terrain. Surrounding the land is the deep blue of the Atlantic Ocean, with white, swirling cloud patterns visible. The curvature of the Earth is evident at the top and bottom edges of the frame.

**Meet our new member
firms**

A warm welcome our new XLNC members!

We present the new member firms that have joined our alliance since the previous issue of this Magazine (*in alphabetical order by company name*).



XLNC member firm

[LCW CPAs](#)

Boston, MA, USA

T: +1 978 689 8822

[Contact Mark J. Alaimo](#)

Audit, Accounting, Tax



Mark J. Alaimo



XLNC member firm

[Smart Accountants Services LLP](#)

Ahmedabad, India

T: +91 98256 51541

[Contact Vivek Shah](#)

Audit, Accounting, Tax, Corporate Finance,
Strategy, Management Consulting,
Fiduciary



Vivek Shah



XLNC Focus Groups

– stay informed on the latest updates

Keeping you in the loop

Discover what's new in our Focus Groups and read what to expect during the upcoming Focus Group meetings in Bangkok.

Focus Groups have been listed in alphabetical order by group name. For those meeting in Bangkok, we have only listed the Meeting Chair(s) rather than the Global Chair(s).

Audit & Assurance

Meeting Chairs [Andrea Gianni](#) & [Oscar Torres](#)



Andrea Gianni



Oscar Torres



During our Bangkok session we have the following topics on our agenda:

- Discuss the survey that was emailed in September to member firms and what we're hoping to achieve with the ability to compile a profile of the member firms in XLNC that have attest engagements.
- Discuss the results that have been received thus far from the survey.
- How to maximise networking opportunities for the Focus Group and more broadly into the XLNC network.
- AI and its impact on Attest Engagements and audit efficiencies.



Following the latest amendments introduced in 2023 in the Spanish "Beckham Law" legislation, the number of impatriate employees applying for inclusion in this Spanish tax regime has increased during the year, in order to take

advantage of the flexibility and the extension of tax benefits granted by the Spanish Government. One of the main beneficiaries of these changes is the collective of digital nomads, a figure that has been on the rise

Expatriate Tax & Global Mobility Services

Global Chair [Inmaculada Pineda](#)



Inmaculada Pineda

over the last few years, which can now opt for this special regime and its tax benefits in the Spanish Personal Income Tax.

A similar and attractive tax figure in the Iberian Peninsula can be found in Portugal, with its Non-Habitual Residents tax regime. However, in contrast to Spain (which has extended the benefits of its tax regime to attract more talent), the Portuguese Government has recently published that it will proceed to the elimination of this special tax regime, as we know it, as of the year 2024.

In January 2024 we will be holding a webinar where we will address the above-mentioned changes and developments for expatriates for the new year, and we will have the chance to discuss other relevant amendments in the European Union that may affect displaced employees. Don't miss the opportunity to participate in this webinar and keep up with the latest changes in the Expatriate Tax & Global Mobility Services field.

GO Global Opportunities

Global Chair [Meritxell Mont](#)



Meritxell Mont

The Global Opportunities (GO) Focus Group is intended to be a platform for the exchange of insights and business projects among XLNC members. The purpose of this Focus Group is to encourage business referral, improvement of our international services and overall, creating this place to discuss and exchange ideas related to business opportunities and networking.

Even if we are lawyers, accountants or tax advisors, we must take into account that we are also business people who need to face lots of complex challenges in today's professional

services market. Whether if you need to establish connections with other members for potential collaboration on a project, or if you need to share ideas and find a colleague in another jurisdiction to assist a client on cross-border services, the GOFG is designed to ensure the utmost quality and excellence in your endeavors and for your clients.

Remember that to join our Focus Group, you only need to share a



(blind) list of 20 clients with international presence. Do not hesitate to contact me or the XLNC team to learn more about the list template or any question you may have about it.

While we won't have an in-person session in Bangkok on this

occasion, stay tuned for updates on upcoming online activities that will be announced soon!

We encourage you to participate so as not to miss out!



We are looking forward to meeting with a motivated and elite group of you at the XLNC Conference in Bangkok. After a very interesting Legal Focus Group (LFG) meeting in Amsterdam and a lot of very interesting interactions among the members, it will be the perfect opportunity for all of us

Legal

Meeting Chair [Markus Kircher](#)



Markus Kircher

"Opportunity is missed by most people because it is dressed in overalls and looks like work."

[Thomas Edison](#)

not only to get to know each other better but we want to make you even more excited about joining the LFG.

The Legal Focus Group is, despite the name, open to all the members of whatever profession who have an interest in gaining business from cooperation, so

please take note that this Focus Group is not just for professionals in the legal field – even if the world needs more lawyers in times like this – to bring opportunity and success to your clients.

As part of cooperation spirit, Meritxell Mont, Global Chair of the XLNC Global Opportunities (GO) Focus Group (FG), and we are happy to notice an increasing number of participants in our Focus Groups and also active feedback from you, with regards

to the development in joint business among the members of the network. To enhance this traction, and to reward your effort in participating, Meritxell and we have chosen to cooperate between the Focus Groups, and cause more opportunities for members. To get this shoulder closure done in the short time between Miami conference and Bangkok conference and have it actually proposed for Bangkok conference is a huge success for GO and LFG, and compliments your active participation, as well as the flawless organisation of XLNC Team. More of the idea will be revealed in Bangkok.



As of now, we will meet again in Bangkok, and I hope to see all of you there, because an active participation is key to our network growing, and your individual success inside XLNC.

If you are not attending the conference, you are still very welcome to join the Legal Focus Group. Please [email Anita Szoeki](#) at XLNC Head Office to ask her to add you to the group.

Furthermore, in order to enhance the possibility of working together even closer, Marco Izzo has finally closed a deal with Dealsuite, that XLNC members get a 20% discount on the use of

the tool. I am pretty sure that XLNC members will stand out on this legal tech platform for interest in Opportunities and Deals. We will have an opportunity to thank Marco in

person for his commitment and assertiveness to the benefit of the members. Kindly [check with Marco](#) about the opportunity to get the discount, and he will advise you how to apply.

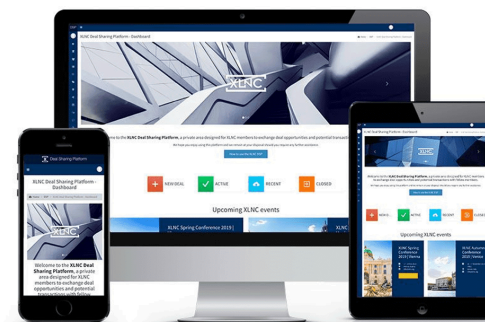
M&A & Corporate Finance

The XLNC M&A Focus Group will meet again in Bangkok in occasion of the upcoming XLNC Autumn Conference.

The objectives of this focus group are:

- to exchange best practices and experiences on deal-making activities;
- to share M&A opportunities with fellow XLNC members; and
- to discuss M&A market insights and updates from various jurisdictions.

In occasion of the upcoming meeting in Bangkok, Richard Kleiner (Gerald Edelman), Chairman of XLNC, will provide an overview on the M&A landscape in the UK. Following Richard's presentation, Marco Izzo will show the features and benefits of the XLNC Deal-Sharing Platform, as well as its internal Global Opportunities database. The rest of the meeting will feature a roundtable with all the participants to discuss active M&A opportunities, projects, challenges and updates.



XLNC DEAL SHARING PLATFORM



Have you joined the XLNC Deal-Sharing Platform?

All XLNC members can request log-in details to access the XLNC DSP (<https://www.xlnc.deals/>).

The DSP enables users to find existing deals, post new opportunities and communicate with M&A and corporate finance professionals within XLNC and worldwide. The DSP helps make the complex world of M&A deals simpler, more efficient and cost effective, and provides an efficient website internal area with private forum, events information and documents sharing area.

The Global Opportunities Focus Group database is also accessible from the DSP under the menu tab "External data".

Tax Focus Group

Global Co-Chairs [Dr Benjamin Cortez](#) & [Sonal Shah](#)



Dr Benjamin Cortez



Sonal Shah

In the TFG, our main focus is to forge relationships, collaborate, share knowledge and find ways of working with each other. After a successful session in Amsterdam where we introduced Speed Networking, giving everyone the opportunity to get to know one another, ignite fruitful discussions and identify ways of building a pipeline of mutual clients to work together or simply tapping into knowledge and

experience, we will kick-off in a similar fashion in Bangkok, where everyone will have an opportunity to introduce themselves and highlight areas of expertise.

We will then dive into a panel discussion – with different countries being represented from Canada, New Zealand, India, UAE, Hong Kong and the UK, we will concentrate our discussions on the different tax regimes for

HNWIs in the respective countries, opportunities, pitfalls and finally concluding on which country has the most advantageous tax regime for private individuals.

We strongly encourage fellow XLNC members with a focus in taxation to join us at the TFG in Bangkok. The in-person sessions offer the best possibility to get to know each other and engage on current topics in international taxation.

In addition, the TFG publishes a newsletter for all the members known as the TFG Newsflash. Designed to be a comprehensive snapshot of all things tax related, the TFG Newsflash will provide bitesize information on trending topics and latest global developments in a compact format based on contributions by



the TFG members.

If you would like to contribute to the TFG Newsflash or are interested in joining the TFG, please feel to [contact Sonal](#) and [Ben](#).

We look forward to seeing you in Bangkok for what will be an interactive and informative session.

Wealth Management & Estate Planning

Global Chair [Cécile Vuillier](#)

A changing financial landscape and a global turmoil have led wealthy individuals to review succession, purpose, tax and global mobility. Our Focus Group is here to address these issues and review key elements.



Cécile Vuillier

The XLNC Autumn Conference in Bangkok will provide a unique opportunity to all our XLNC members interested in recent developments to learn and interact with our Wealth Management & Estate Planning Focus Group.

Our session will discuss **succession plans in 2023**, importance of involvement of the next generation going forward,

the **global footprint of wealthy families** and how **appointing the right advisor** is essential to monitor the evolving family circumstances and tax position.

Wealthy individuals always have a range of issues to deal with – but a number of key drivers have made them focus on four key areas.

Ongoing changes to tax policy and increased mobility are also making these individuals take a global view of potential tax liabilities.

• **Prioritising succession and generational wealth transition**

Succession is often on the minds of matriarchs and patriarchs within wealthy families, but typically it isn't a priority. Managing investments, running the family business and general

everyday matters often supersede any concerns about succession and wealth transition.

More often than not, succession only comes to the fore when there is a change of circumstances, an event or a crisis – such as a marriage or birth, a death in the family or the sale of a business. Similarly, it could be as a result of an external event, such as a shift in the political landscape in an individual's home country, a stock market crash or, as has been seen recently, a global health crisis.

• **An enhance sense of purpose**

For many wealthy families, purpose and legacy play a large role in not only how they run their businesses but also the way they interact with both local and global communities. Purpose, however,



can mean very different things to different private clients and their families.

- **Needing to stay ahead of tax reform and transparency obligations**

The global tax picture for high-net-worth individuals is made

more complicated by the fact that tax policy can be introduced globally as well as being implemented domestically. For families with international footprints, this creates all kinds of complexity, with significant penalties for failing to report accurately.

- **Navigating residency and mobility**

With the global economic and geopolitical landscape in a state of flux – and the tax picture constantly changing – it comes as no surprise that navigating residency and mobility is a concern for wealthy families.

Wealthy individuals are clearly juggling a whole range of concerns right now, and that is understandable in the light of the global financial picture and the fact the world is facing multiple wars and is just emerging from a devastating pandemic.

If you require any additional information relating to Wealth Management & Estate Planning, [please contact Cécile Civile Vuillier](#), and please join our XLNC Wealth Management & Estate

Planning Focus Group!!

Looking forward to welcoming all my XLNC friends and meeting new members.

Women in Business

Global Chair [Sonal Shah](#)

Inspired by the need to create role models, the Women in Business Focus Group was created as a platform for likeminded female professionals and entrepreneurs to share their stories, achievements and struggles to inspire each other and create deep connections. We launched the Focus Group in May 2023.

After a successful in person session in Amsterdam followed by a webinar in September, we are looking forward to yet another in person session in Bangkok, chaired by [Sonal Shah](#) (Partner, Gerald Edelman).

The Focus Group will focus discussions on:

- How to build a successful career
- The importance of confidence
- How to stand out in a crowd
- Have you found any new methods of role-modelling for women and growth and business development that have brought particular success?
- What works and what does not work?
- Are there any formal or informal DEI or women's affinity group that helps women in these areas?



Sharing personal experiences in such a close-knit group can only benefit each other and we look forward to welcoming you to our luncheon panel discussion.

The Focus Group has also run two webinars this year to allow those that are not able to attend the conferences in person to participate and contribute. The Women in Business Focus Group will run two webinars and two in person sessions per year.

Chaired by [Sonal Shah](#) and co-chaired by [Louise Lecanda](#) (Partner, Advodan) and [Inmaculada Pineda](#) (Partner, B Law & Tax), the Focus Group invites everyone interested to participate and contribute to meaningful discussions.





Event Previews

– read all about our upcoming events

Diary of Upcoming XLNC Events

XLNC Autumn Conference
Bangkok, Thailand
02 – 04 November 2023

XLNC Summer Conference 2024
Dusseldorf, Germany
13 – 15 June 2024

XLNC Autumn Conference 2024
Oslo, Norway
24 – 26 October 2024

XLNC Autumn Conference Bangkok, Thailand 02 – 04 November 2023

Our annual Autumn Conference is now a mere few days away. We are very excited to meet with our long-standing XLNC members, as well as several new ones. We very much look forward to catching up with each one of you in the typical extraordinary yet familial XLNC atmosphere. Over the years we have gained so many enriching memories through joint experiences. We know that Bangkok will certainly provide us with more.

According to Lonely Planet, it's Bangkok's contradictions that provide the "City of Angels" with its complex, multifaceted personality. Here, air-conditioned megamalls sit side by side with 200-year-old village homes; golden-spired temples share space with neon-lit strips of provocative entertainment; slow-moving traffic is bypassed by long-tail boats plying

the canals and riverways. Buddhist monks dressed in saffron robes shop for the latest smartphones, and streets lined with food carts are overlooked by restaurants perched at the tops of skyscrapers. As Bangkok races towards the future, these contrasts are only poised to increase and intensify, even while supplying the city with its unique and ever-evolving notion of Thai cosmopolitanism.



Martin Sharpe

We are honoured to welcome [Martin Sharp](#) as a Keynote Speaker to our conference. Martin served as an officer in the British Royal Air Force with a career spanning 30 years encompassing operational flying and managerial appointments. This included

working extensively at the strategic level and on international assignments with military leaders, diplomats, politicians, civilian agencies and humanitarian organisations around the world. After his military career, Martin was selected to the CEO of a global association of professional service firms, working with colleagues in more than 100 countries. He has travelled extensively for both business and leisure, and having lived and worked in many countries, he has gained considerable experience of doing business across diverse cultures and dealing with people from varying backgrounds.

Martin's presentation is entitled “**Bridging cultural diversity for competitive advantage**”. Cultural diversity brings challenges to cross-border business, and this talk will explore how we can turn these challenges into opportunities. Drawing on his extensive experience working with multicultural and multinational organisations, Martin will provide an in-depth analysis of cross-cultural dynamics and offer practical suggestions at both the



individual and organisational levels.

You will have already read the Focus Group meeting summaries earlier on this magazine. These meetings provide an excellent opportunity for members to share their

experiences and best practices with colleagues from all over the world.

During this conference, there are some amazing excursions planned, starting already on Thursday, 02 November, pre-



conference, with the "Highlights of Bangkok". Participants will depart from the hotel by express boat to the Grand Palace, the most important shrine in Thailand since it was established in 1782. The complex not only houses the Royal Residence and Throne Halls, but also government offices and the renowned Temple of the Emerald Buddha.

Following this, there will be another cruise along the Chao Phraya River to see the heart of Bangkok and the klongs (canals). Is it the "Venice of the East"? You will have to decide for yourself. Finally, the boat will stop at the Temple of Dawn "Wat Arun", a major riverside landmark which is one of Bangkok's earliest temples, beautifully decorated with

porcelain from China.

On Saturday, early birds will enjoy a compelling excursion to the Railway and Floating Markets. We have talked about this excursion already in the [last edition of our XLNC Magazine](#).



**XLNC Summer Conference
2024
Dusseldorf, Germany
13-15 June 2024**

You may save the dates for next year's events now, as the contracts have been signed!

Get ready to elevate your professional network and open doors to new possibilities at our XLNC Summer Conference 2024 in the dynamic city of Dusseldorf, Germany. As all

our events, this conference is designed to connect XLNC professionals, foster collaborations, and create a platform for meaningful conversations.

The conference will be held at Living Hotel De Medici in the heart of Dusseldorf's historic

old town.

Dusseldorf, North Rhine-Westphalia's state capital, known for its rich history, vibrant culture, and thriving business scene, provides an exceptional backdrop for our XLNC conference. We will explore jointly some of the city's treasures during our excursions. Let's jointly explore the blend of modernity and tradition, amazing architecture, cosmopolitan lifestyle at the Rhine. Enjoy the renowned hospitality of the city and our two host firms, forge connections in a dynamic environment, and create lasting memories.

In September 2021 you might have met [Thomas Geisel](#), [VCvF.legal](#), by reading his [Partner Portrait](#). He's former Mayor of Dusseldorf and we are convinced, that he can reveal some information which you would not get without this insider connection.

So don't miss this splendid opportunity and save the dates in your calendar.
Registrations will open shortly.

Our XLNC Autumn Conference will be held in Norway's vibrant capital, Oslo. We know that you will love this city!

Oslo offers a wealth of attractions and experiences to enjoy. From its stunning natural landscapes and architectural wonders to its rich cultural heritage and vibrant culinary scene, Oslo has something for everyone. Take advantage of your visit to the city by exploring its iconic landmarks, immersing yourself in the local culture, and enjoying the warmth of Norwegian hospitality.

Don't miss out on the opportunity to expand your network, foster collaborations, and elevate your professional journey. **Save the dates, and plan to join us in Oslo. Registrations will open shortly.**

XLNC Autumn Conference 2024 Oslo, Norway 24-26 October 2024



XLNC Internal News

– updates from our member firms

Get the latest news highlights from our global community

(in alphabetical order by company)

- The Azure Group continues to expand its partner program
- Recent firm highlights from Scali Rasmussen

Do you have some news to share from your firm with the XLNC community? [Email Barbara](#).

The Azure Group continues to expand its partner program

In early 2022, the Azure Group launched its partner program, leveraging the strong relationships that the firm's leadership team has built over the last 20 years to deliver more value to their international clients.

Together, this network of trusted partners offers a full range of professional services to assist with entering the Australian market and ongoing operations, from providing legal advice and representation to financial infrastructure to support global transactions.

The Azure Group Partner Program has continued to grow this year, with the firm welcoming a number





of new, internationally recognised partners into the fold. Each new partner is invited to showcase their specialist services and industry expertise at Azure Group's quarterly partner program events, allowing them to connect with clients, other partners, and the firm's broader network.

Most recently, Azure Group co-hosted an event with National Australia Bank (NAB), which offered valuable insights into the Australian economy and potential opportunities for offshore clients looking to establish a local Australian presence.

Learn more about the Azure Group Partner Program [HERE](#).

Recent firm highlights from Scali Rasmussen

May 2023 – Scali Rasmussen attorneys [Colleen O'Brien](#) and [Jasmin Bhandari](#) were selected as honourees by *Los Angeles Business Journal* recognising the city's most influential women attorneys. The [Women of Influence: Attorneys](#) list recognises women lawyers who have been recognised for exceptional legal skill and achievement across the

full spectrum of responsibility, exemplary leadership as evidenced by the highest professional and ethical standards, and for contributions to the Los Angeles community at large.

June 2023 – Scali Rasmussen attorney Bert Rasmussen spoke at the Auto Dealers Office Management Association (ADOMA) annual conference in Las Vegas on

the topic “Taking Stock of Dealer Franchise Rights: Past, Present, and Yet to

Come”. The firm also participated in the vendor faire.



June 2023 – Scali Rasmussen founder and XLNC delegate Christian Scali presented on “Unique Issues in Auto Buy Sells” at the Excellency Conference in Amsterdam.

July 2023 – Scali Rasmussen attorney [Jasmin Bhandari](#) was listed in the first [Lawdragon 500 X – The Next Generation](#) guide. The guide honours burgeoning legal talent infusing traditional and innovative practices with fresh energy and forward-thinking perspectives.

Scali Rasmussen attorneys and XLNC delegates [Christian Scali](#) and [Jeffrey](#)



XLNC member firm
Scali Rasmussen, PC
Los Angeles, CA, USA
T: +1 213 239 5622

Legal, Corporate Finance

Christian Scali



Erdman were recognised as 'Legal Visionaries' in the *Los Angeles Times* third annual *Business of Law Magazine*. The list names standout attorneys who are some of the most impressive professionals in the region.

Scali Rasmussen attorneys Jasmin Bhandari and Julie Pearson have been selected as nominees for the *Los Angeles Business Journal's Women's Leadership Awards*. The

2023 Women's Leadership Awards honour accomplished and impactful women business leaders in the Los Angeles community.

The Los Angeles County Bar Association (LACBA)

recognised Scali Rasmussen attorney and XLNC delegate Christian Scali as an LGBTQ Pride Month Honouree. With over 16,000 members, the LACBA is one of the largest bar associations in the United States, dedicated to

promoting equity and inclusion and the representation of those in the legal community who often struggle to be recognised.



General Interest Articles

The global M&A slump – can the slump present investment opportunities?

William Abell

The global M&A slump – can the slump present investment opportunities?

by [William Abell](#)

GERALD
EDELMA

XLNC member firm
[Gerald Edelman](#)
London, England, UK
T: +44 20 7299 1400

Audit, Accounting, Tax,
Corporate Finance,
Strategy, Management
Consulting

[Contact William](#)



The recent slump in global M&A activity has been widely reported, with Reuters claiming that global dealmaking in Q1 2023 fell to its lowest level in over a decade. Bloomberg reports that Q1 and

Q2 of 2023 held the second- and third-lowest quarterly deal volumes since 2017; only Q2 2020, when we were in the throes of the Covid-19 pandemic, was worse.

WTW data reveals that deal activity in transactions of over USD 100 million slowed significantly around the world during the first half of 2023, with a total of 280 deals completed compared to 441 during the same period in 2022. This represents a 37% drop in volume and the lowest figure for the first half of a

year since 2009. It certainly feels like a long way from the record-breaking deal activity of 2021.

The reasons for the slump in activity are well documented. The rise in interest rates across the globe has resulted in the end of cheap credit. The increased cost of debt has naturally curbed M&A activity. Increased borrowing costs have been felt particularly hard by the private equity sector where leverage is at the core of the business model. The first quarter of 2023 marked the fifth in an unprecedented string of

William Abell is a Director with **Gerald Edelman**. Most of his work focuses on transactions, such as undertaking buy-side financial due diligence in connection with a corporate acquisition, negotiating and advising on a sales purchase agreement on the sell-side, and everything in between. Other areas of practice include forensic accounting and expert witness support, preparing financial models and valuations and, more recently, technical IFRS accounting support (including the preparation of UK listed IFRS accounts), which builds on his previous Big 4 experience.

consecutive quarterly pullbacks in private equity investment. According to Bloomberg data, no other drop in the aggregate volume of PE-backed deals has ever run longer than three quarters. This comes despite the huge amounts of unspent capital that many private equity funds continue to sit on in the wake of the Covid-19 pandemic.

The other significant factor impacting M&A activity is global geopolitical turmoil, including Russia's war with Ukraine and the deteriorating relationship between China and the US, amongst other factors. Such turmoil undoubtedly increases uncertainty and reluctance amongst buyers to proceed with transactions.

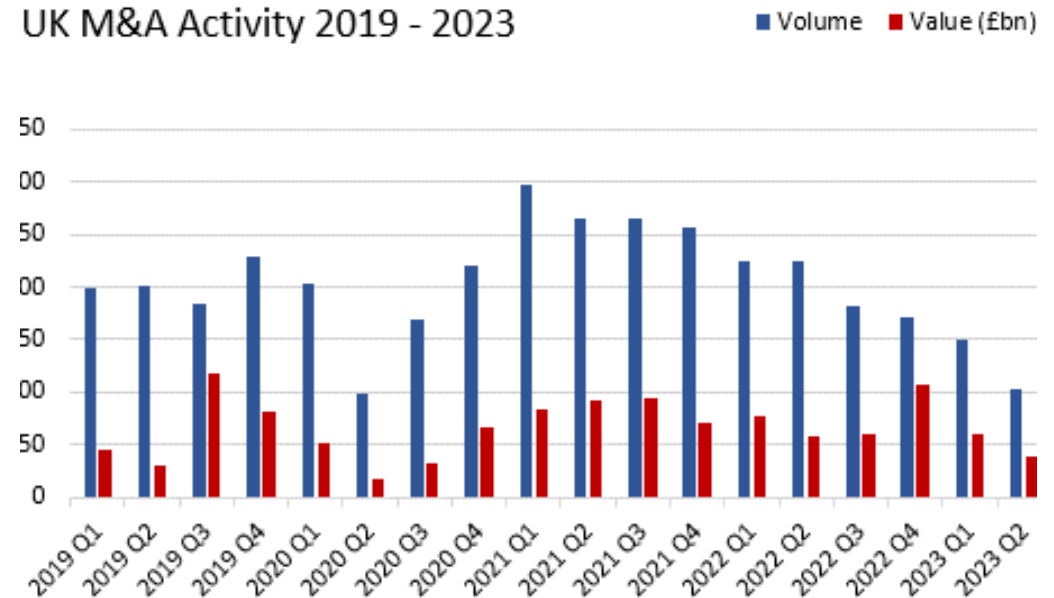
As Michael Aiello, chairman of the corporate department of law firm

Weil, Gotshal & Manges LLP, remarked recently, "Global uncertainty is what is impacting M&A most – it just makes people uncomfortable. It's easier to say, I'll pass on a deal – nobody gets

fired for passing on a deal. But we all talk about the deal that never should have happened."

The UK M&A trend mirrors global trends, where transaction

UK M&A Activity 2019 - 2023



Data: M&A of UK Companies where transaction size exceeded GBP 1million

Source: Pitchbook, collated by Gerald Edelman LLP

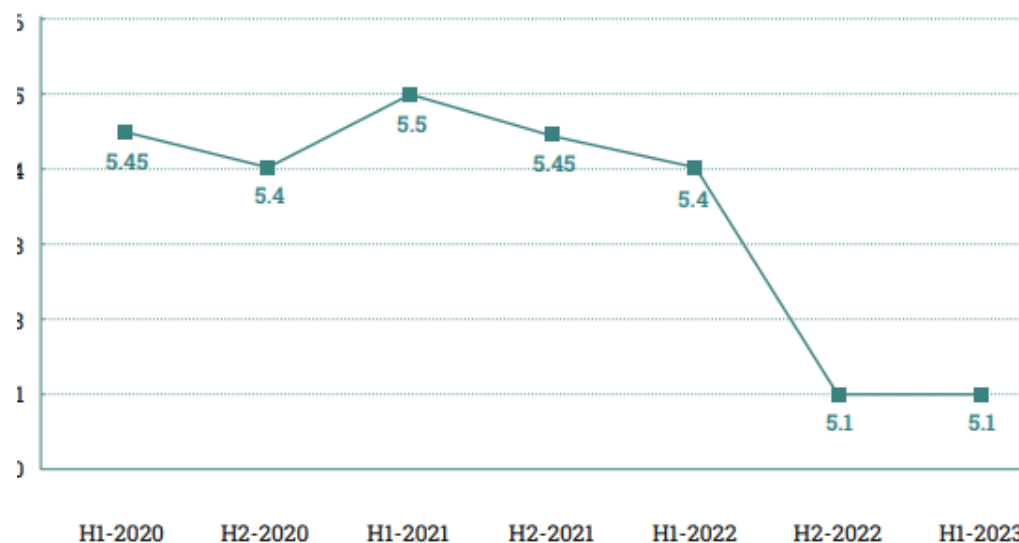
volumes have steadily declined since 2021.

Whilst there has undoubtedly been a slowdown in M&A activity, can the slump present opportunities?

UK multiples are down

The average EBITDA multiple paid in UK M&A transactions has fallen from a peak of 5.5x in 2021 to 5.1x in the past 12 months.

Reduced M&A activity has inevitably resulted in lower valuations, presenting an opportunity for potential buyers with the financing in place to move swiftly.



Data: Average EBITDA multiple paid in UK M&A 'mid-market' transactions

Source: Dealsuite

Distressed sales

The United Kingdom is also grappling with economic turmoil as businesses face financial difficulties amidst high inflation, increased energy costs, and a

decrease in consumer confidence resulting from the ongoing cost-of-living crisis. The aftermath of Covid-19 has left many companies burdened with substantial debt, leading to a surge in insolvencies. Total UK

insolvencies in 2022 were 57% higher than 2021 and H1 2023 numbers continue to indicate another tough year for the corporate sector as business insolvencies trend 16% higher than in H1 2022.

This crisis is significantly impacting certain sectors more than others. Sectors such as construction, manufacturing, and hospitality, among others, are particularly impacted. An October 2022 report indicated that 35% of hospitality businesses expressed concerns about potential collapse by year-end. The situation is unlikely to improved significantly by then given that inflation, interest rates, and cost of living pressures remain heightened, further dampening consumer sentiment.

In the construction sector, rising

energy and raw material costs, unpaid bills, labour shortages, supply chain disruptions, and inflation have created a "perfect storm" for businesses, with financial experts at Red Flag Alert warning of over 6,000 insolvencies across the sector in 2023, and 32,000 insolvencies across all sectors.

Against this backdrop, there are ample opportunities for financially robust buyers to acquire distressed companies at low valuations. They can choose to wait for economic stability to return or invest to help struggling businesses achieve immediate growth. For instance, a wave of insolvencies could reduce the pool of construction companies vying for contracts, potentially offering significant opportunities for businesses in the sector that have managed to survive the

recent turbulence.

Distressed M&A is not limited to the UK alone, as concerns about recession, rising prices, supply chain disruptions, and inflation are affecting businesses worldwide, especially in Europe, the region most impacted by Russia's ongoing conflict in Ukraine. In a recent survey by CMS, 20% of European dealmakers expressed their motivation to pursue acquisitions in the coming year due to the opportunities arising from high levels of business distress.

Low valuations and financial distress are likely to continue driving substantially distressed M&A in the current year. However, another significant factor impacting inbound M&A in the UK in 2023 is the weakness of the British pound.

GBP weakness

The UK pound took a battering during 2022 – at one point falling to an all-time low of 1.03 against the US dollar. While the end of Liz Truss' disastrous tenure as Prime Minister gave sterling a lift, the depressed GBP currency valuation still puts UK-based buyers at a disadvantage to overseas parties who have already begun pouncing on distressed businesses and assets amid the ongoing economic upheaval.

What is the outlook?

According to PricewaterhouseCoopers' recent Global M&A Industry Trends 2023 mid-year update report, a significant number of dealmakers in the UK are biding their time, waiting for the right opportunity as valuations decrease and capital

begins to circulate once more.

"But that's not to say that the market will look the same as before," the Industry Trends report said. "This is no doubt a challenging market, but we remain optimistic that the coming months will see new opportunities for those that have prepared well. The days of riding valuation multiples are over – and that means putting value creation at the heart of every deal."

A close-up portrait of a man with short brown hair, a light beard, and thick black-rimmed glasses. He is looking directly at the camera with a neutral expression. The background is blurred, showing hints of green foliage and red vertical elements.

**I'm calling it:
the market is back**

Ted Schama

I'm calling it: the market is back

by [Ted Schama](#), Managing Partner at Shelley Sandzer

I'm calling it: the market is back. To explain how I now feel able to draw this conclusion, unfortunately I have to mention Covid again. Yawn, I know, but I cannot escape just how useful that point in our history was for defining and contextualising how we got here.

PreCovid, we all operated in a market that really knew itself. Valuations had meaning, and market forces were at play in a rational way. That's not to say everything was rosy, we had only just come out of the looming shadow of the global recession, but there was a systematic

understanding of how things worked, and positivity reigned.

Peri-Covid, chaos prevailed. Despite anxiety around the acronym, CVAs taking place under the radar did allow businesses to negotiate recovery packages that for many are the only reason they are still standing today. What we didn't have during this period, and for all the renegotiations that took place throughout, was the informal rule book we had pre-Covid. Everything changed, and the needs of every business became atypical and completely bespoke in a way we'd not seen before.

What that meant was a fragmentation of the market when we began to emerge from the most difficult moments of the pandemic. All parties were determined to make deals work, but the crippling impact of Covid on finances meant landlords were unable to dip into their pockets in a meaningful way, which was often frustrating in the face of a deal we all would have jumped at in a pre-Covid world.

As things started to settle down post-Covid and there was a better understanding of the financial limitations within the market, the invasion of Ukraine struck and



Shelley Sandzer
London, UK

Contact Ted
T: +44 20 7291 9607
M: +44 7973 834 306

suddenly inflation sky-rocketed. Hospitality operators skipped from one problem to another, the feeling that they had managed to consolidate – even fractionally –

shattered by ongoing resource challenges amplified through inflationary pressure. Were it not for the dedication and innovation that naturally exists among our best people in hospitality and property, the market would be in a dark place.

All of this makes me think back to life before Covid. Not because I'm desperate for a return to the past, nor because I think they were glory days never to be replicated. It is precisely because I think they can be replicated, and it gives me a sense of pride every time I see the old ways in play – updated for the present context.

Forward-thinking landlords pre-Covid helped to realise great places. They did this by creating an environment that enhanced their assets, and they were never afraid of taking on a more

equitable deal where appropriate, or where a deal was seen to deliver both tangible and intangible benefits to the place. It was forward-thinking landlords



only back then, now that thinking has matured into the mainstream.

Likewise, savvy restaurant operators often saw opportunity in fitted units, albeit the premiums required were sometimes prohibitive. Now,

we're seeing more opportunities where landlords have taken possession of fitted restaurants, with no premium required at all.

Even on lease assignments, there is an acceptance that the availability of a good quantity of properties means premiums have had to soften.

I completely appreciate at this point that I've done the bad thing and brought the word Covid back into your life, purely because it suits the flow of my argument. But what do these comparisons actually mean for the hospitality market?

Firstly, we have fluidity again, something I've been craving for what feels like an eternity. There was a strong element of flexibility infused into the pandemic, forced by the very nature of the chop-and-change dynamics. Where that was almost entirely at the operational level, we now have a property market that is bending and flexing in the right ways to

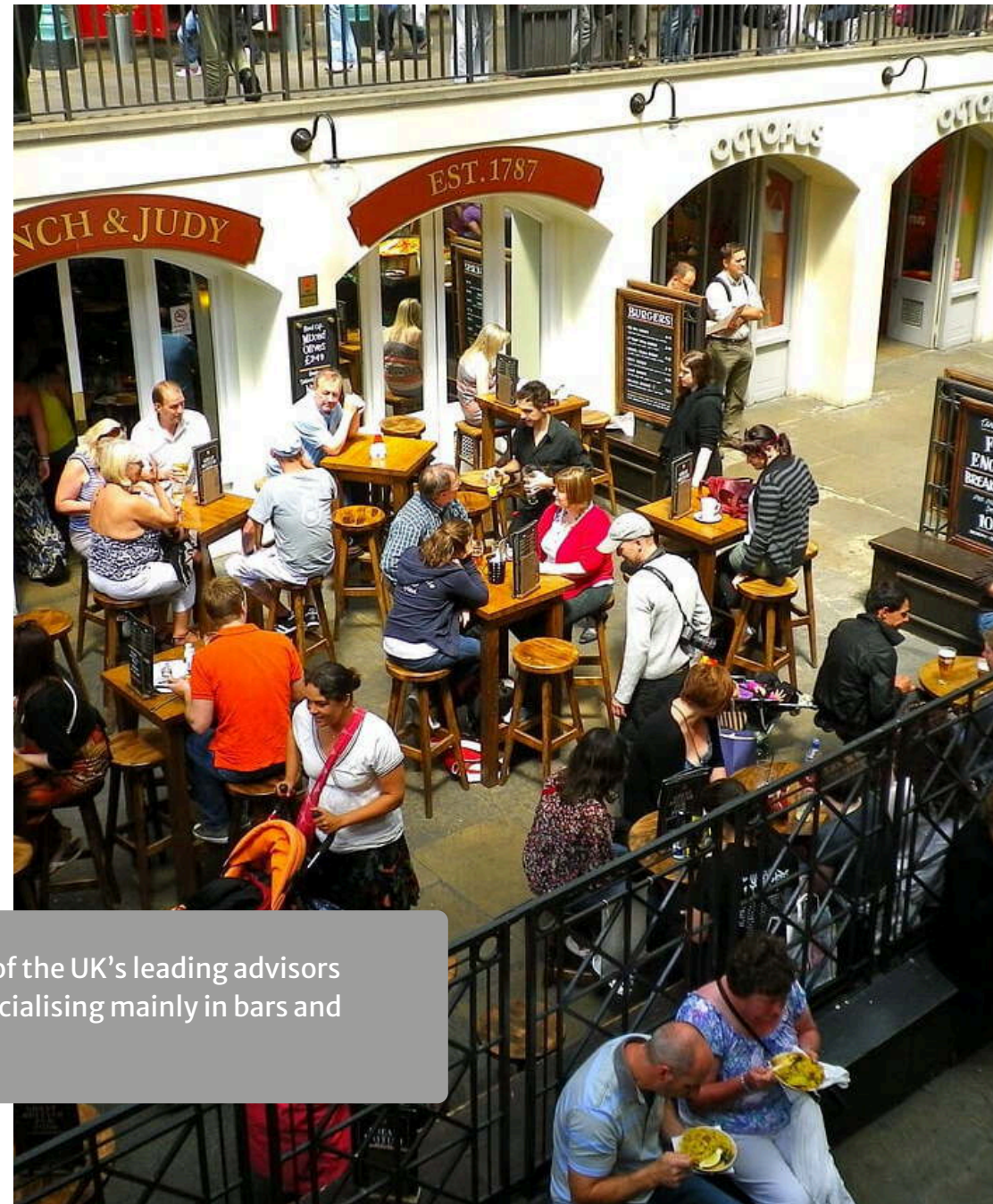
achieve the best result possible for landlord, tenant, and customer.

Most importantly, the market has rediscovered itself. Things aren't exactly the way they were before, but there's no reason they should be. The evolution in thinking and decision making is finally getting us to a stage where we don't have distrust or second guess.

Challenges remain. Inflation is high, as are wage demands and interest rates, while staff availability and the propensity to spend for lower and middle affluence is still on the low side. However, spirit and confidence are on an upward trajectory, and I can once again finally make sense of the market.

Ted has over 30 years experience and is joint managing partner at Shelley Sandzer. He heads up the leasing department acting primarily in London for some of the most well respected public and private property companies as well as some London Estates.

Shelley Sandzer is known as one of the UK's leading advisors within the hospitality sector, specialising mainly in bars and restaurants.





Redefining what it means to be a supercar in an electrified era

Christian Scali

Redefining what it means to be a supercar in an electrified era

by [Christian Scali](#)



ScaliRasmussen
AHEAD OF THE CURVE

As countries around the world move forward with plans to phase out the internal combustion engine, luxury and high-performance brands (Lamborghini, Aston Martin, Rolls-Royce and Bentley, among others) are coming to grips with perhaps the most significant change in automotive history – the conversion to electric vehicles

(EVs). This change has aroused feelings of frustration and grief, but also anticipation and excitement in manufacturers, dealers, and customers alike.

For enthusiasts, EVs represents a significant shift in customer preferences that have been central to the identities of high performance and luxury brands.

The roar of a combustion engine – often associated with power, performance, and excitement – has long emotionally connected drivers and their vehicles and it is a difficult shift to lose this sensation. To tackle this challenge among enthusiasts, luxury and performance manufacturers are employing technology. Earlier this year, Ferrari filed a patent for a system that reproduces the sounds of an internal combustion engine which can be synced to the acceleration of an EV's electric motor.

Dealers must be prepared to adopt a multifaceted approach to deal with electrification and identify avenues for new revenue streams. New charging stations to sell and service EVs, high-voltage tools, new diagnostic and safety equipment, and technician and sales associate training must be addressed. EVs generally have drivetrains with fewer components prone to wear and tear, which reduces service and maintenance needs and significantly cuts into a dealer's service revenue stream.

Scali Rasmussen represents a variety of businesses associated with the automotive industry, especially through this transformative period. The firm's attorneys regularly work with dealers to maximise EV incentives available from governmental agencies and electric utilities, negotiate EV infrastructure deals

with manufacturers to prevent dealers from overpaying, navigate the EV infrastructure build-out process by dealing with building codes and contractors, and protect a dealer's overall investment from EV revenue changes by negotiating adjustments to capital requirements.

XLNC member firm
[Scali Rasmussen, PC](#)
Los Angeles, CA, USA
T: +1 213 239 5622

Legal, Corporate Finance

[Christian Scali](#)
[Contact Christian](#)



Overview and updates of German transfer pricing regulations

Andreas Lang



Overview and updates of German transfer pricing regulations

by [Andreas Lang](#)

On 06 June 2023 the German Ministry of Finance issued updated administrative principles on transfer pricing, clarifying and specifying German transfer pricing regulations as per the German Foreign Tax Act.

Because transfer prices are increasingly a major issue in German tax audits not only of large multinational groups but also of small and medium-sized businesses, this article provides a general overview of Germany's transfer pricing regulations as well as the updated principles recently issued.



Every organisation doing business in Germany through a corporation or a permanent establishment is strongly encouraged to analyse potential transfer pricing risks and be prepared for a respective tax audit.

[Andreas](#) is an International Tax Manager at [Schlecht & Partner](#) in Stuttgart, Germany. Specialising in transfer pricing and international tax advisory, he worked at a Big4 firm in Germany and Canada as well as for multinational automotive firms in international tax.

Parties and transactions subject to German transfer pricing regulations

According to the German Foreign Tax Act, transfer pricing regulations apply to business transactions between **associated enterprises**.

Enterprises are deemed associated if one has a direct or indirect interest in the other at **least 25%** of the subscribed

capital, membership rights, participation rights, voting rights or assets (substantial interest), or if a third person has a substantial interest in both. In addition, two enterprises are also considered associated if one is able to exercise (directly or indirectly) a **controlling influence** on the other (or a third person on both), or if one is able to exercise an influence over the other in agreeing to the terms of a business relationship that is

based outside that business relationship, or if one of them has an owning interest in the other resulting in income.

Permanent establishments are also considered enterprises according the principles above, and are therefore also subject to transfer pricing regulations in Germany.

Transfer pricing regulations and transfer pricing methods in Germany

In Germany's tax legislation, the arm's length principle is defined in section 1 of the Foreign Tax Act. Additional references in the Corporate Income Tax Act and the Income Tax Act, as well as multiple ordinances regarding these legal provisions are provided by the German Ministry of Finance.

Further, the administrative principles issued by the German Ministry of Finance explicitly refer to the OECD transfer pricing guidelines.

As per the German Foreign Tax Act and German transfer pricing administrative principles, as well as the OECD transfer pricing guidelines, the following transfer pricing methods are explicitly accepted:

Standard methods

- Comparable uncontrolled price method
- Resale price method
- Cost plus method

Transfer pricing documentation requirements in Germany

In general, there is no legal requirement in Germany to prepare an annually updated documentation of arm's length prices of transactions between related parties (= transfer pricing documentation).

Transfer pricing documentation typically only has to be provided

to the German tax authorities **upon request** (usually during a tax audit). In this regard, the taxpayer has a legal obligation of cooperation. Once requested, the deadline for providing transfer pricing documentation is 60 days, with only 30 days for exceptional business transactions.

An exception to the general transfer pricing documentation requirements exists if:

- The sum of the remuneration for the delivery of goods or products resulting from transactions between related parties during the financial year is less than EUR 6 million; and if
- The sum of the remuneration for other transactions between related parties during the financial year is less than EUR 600,000.

An exception to the so-called Master File (“overview of the type of business activities conducted by the enterprise group and of the transfer pricing method used by the group”) exists if the enterprise’s revenue in the previous financial year totalled less than EUR 100 million.

Since the deadline to prepare a transfer pricing documentation report in the case of a tax audit is only 60 days, organisations are advised to annually prepare and maintain transfer pricing documentation if the general

exception mentioned above does not apply in order to be able to meet the tax audit deadline.

Consequences if a transfer pricing report is not prepared, or transfer prices are not in accordance with the arm’s length principle

If enterprises do not comply with the legal obligation of cooperation regarding the preparation of a transfer pricing report (e.g. if a transfer pricing report is not provided, if it is provided late, or if it is deemed

unusable), German tax authorities may:

- Estimate higher taxable profits;
- Exploit existing ranges of transfer prices to the taxpayer’s detriment; or
- Impose penalties.

Transfer prices which are not in accordance with the arm’s length principle may be corrected, and taxable profits assessed in a way that arm’s length parties agree upon. Further, potentially additional correcting regulations like hidden contributions or

hidden profit distribution may be applied.

Cross-border relocation of functions

Germany has specific regulations regarding the relocation of functions between related entities within a multinational enterprise. This relocation of functions typically involves the shift of valuable business functions, assets, and risks from Germany to another jurisdiction between associated entities (including permanent

XLNC member firm
Schlecht und Partner
Stuttgart, Germany
T: +49 711 40 05 40 30

Auditing & Accounting, Tax

Contact Andreas Lang

Schlecht und Partner bundles different specialisations and forms a powerful team in complex consulting assignments. They advise entrepreneurs, companies and individuals in all business and tax matters and conduct audits for medium-sized companies. Based on their broad technical and industry expertise, they have a vast experience in SME consulting.



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establishments).

If functions are relocated in the above manner, Germany levies a tax on the so called “transfer package” since future taxable profits potentially generated through the relocated functions and assets are being moved to another tax jurisdiction.

German Ministry of Finance updated administrative principles

Amongst others, Germany’s recently issued updated administrative principles on transfer pricing include the following key changes:

1. Cross-border relocation of functions

Until now, the separately issued administrative principles

regarding the cross-border relocation of functions have been included in the administrative principles on transfer pricing.

The Ministry of Finance comments and specifies, among other things, on the determination and relocation of a function, the transfer package, as well as the determination of the value of the transfer package.

To help, a number of examples concerning the determination of value during the relocation of a function have been added to the guidelines.

Additionally, the German Ministry of Finance continues to follow a restrictive view on some aspects not regulated by law. Specifically, the new guidelines do not include a de minimis rule and certain other aspects that

were previously helpful in practice. This further tightens the application of transfer of function rules for taxpayers.

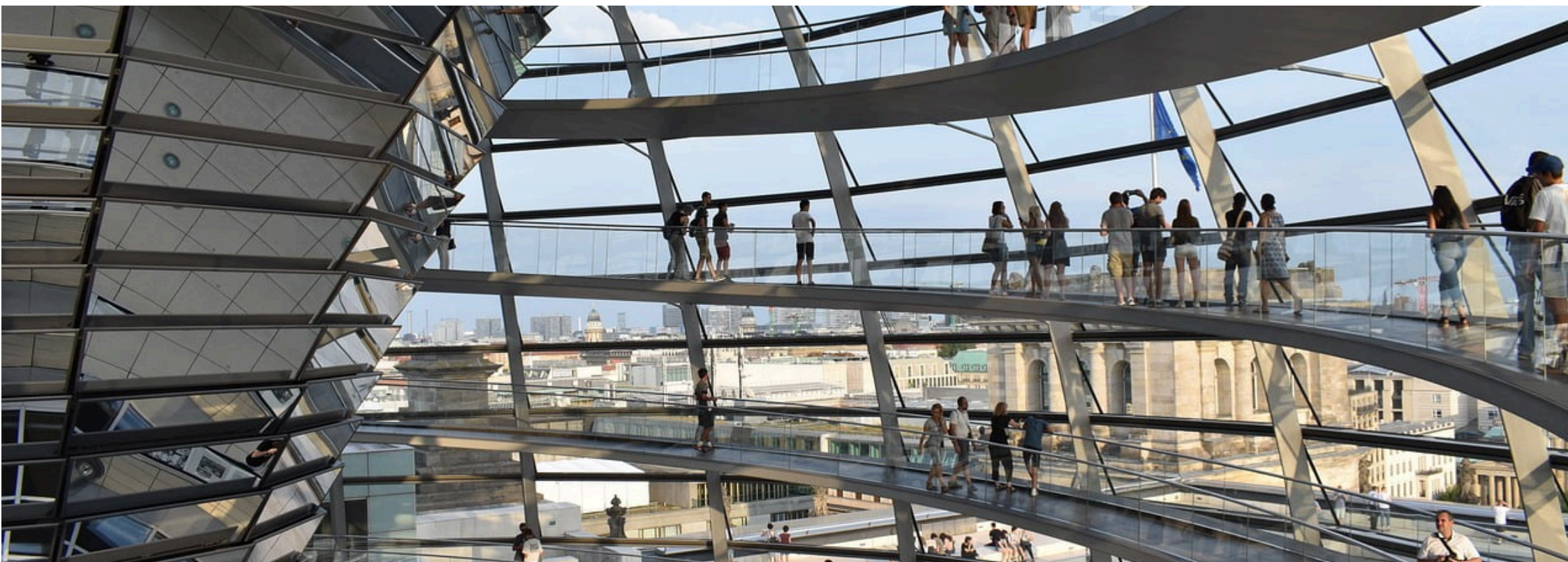
As a result, the new guidelines regarding the cross-border relocation of functions (approximately 10 pages in length), are significantly shorter than the previously issued stand-alone guidelines which totalled more than 70 pages.

2. Intercompany financing transactions

With respect to intercompany financing transactions, the German Ministry of Finance aligns its interpretation on the examination of income allocation between entities involved in these transactions with OECD transfer pricing guidelines as well as with recent German

jurisprudence of the federal fiscal court on determining intercompany interest rates for intercompany loans.

In addition to previous acceptance of considering support from the corporate group when assessing the subjective default probability of the borrower, the Germany Ministry of Finance update guidelines explicitly address the “advantage of knowledge lead” due to influence based on corporate law and control possibilities that can have an impact on interest rates. When evaluating the lack of security for group loans, the following should be taken into account: (i) whether a risk premium is possibly charged; (ii) which alternative actions are available to related parties; and (iii) whether these would have led to more favourable terms for the



debtor.

The German Ministry of Finance no longer generally expects the cost-plus method to be used for intra-group loans from financing companies, but refers now to the same within the framework of the "best method" approach.

However, if the cost-plus method is deemed the most appropriate method, remuneration should be based on proven and directly attributable operating costs.

We highly encourage any business active in Germany to conduct a thorough review of their transfer

prices and underlying strategy.

Also, the specific documentation requirements should be reviewed, and even though no annual documentation report is required, we highly recommend preparing at least a simple report in order to be prepared for a potential tax

audit. While the period of 60 days to prepare a report sounds adequate, real-life experience shows that this is very often not sufficient.

With our focus and expertise on international tax, we are happy to assist.



Canadian underused housing tax Implications for non-Canadian owners

Oscar Torres

Canadian underused housing tax Implications for non-Canadian owners

by [Oscar Torres](#)

The underused housing tax (UHT) must be filed for the first time in 2023, and all residential properties owned by non-resident non-Canadians, as well as private corporations, trusts or partnerships must file a return for each property, regardless of tax owed.



First announced in the [2021 Canadian Federal Budget](#), the [Federal Underused Housing Tax \(UHT\)](#) came into effect in 2022, and UHT returns must be filed with any UHT owed and paid for the first time in 2023. The UHT imposes a tax of 1% of the value on any residential property declared as vacant **and** owned by **any non-resident non-Canadian**. The tax is calculated as

1% of the greater of the property's assessed value for the year for property tax purposes and the most recent sale price. Additionally, the UHT requires non-resident, non-Canadian individuals, corporations, trusts and partnerships that own residential real estate to file a return, even if paying the tax is not required.

There are two separate and distinct components to understand your requirements regarding the UHT filing: (i) whether a UHT return filing is required, and (ii) if there is an obligation to pay the UHT.

- Non-resident, non-Canadian owners of residential real estate in Canada must file a UHT return even if there is no

UHT obligation.

- This refers to individuals who are not citizens or permanent residents of Canada. Therefore, an individual can be a resident for income tax purposes, and still be subject to UHT if they are not a citizen or permanent resident of Canada.
- Private corporations, trusts and partnerships that own

residential real estate must file a UHT return even if there is no UHT obligation.

The 1% UHT is determined to be owed or not based on the four exemption categories below. Generally, if the property is not used by you or your spouse/ common-law partner, is not rented, or is only rented short-term, UHT will likely apply. For a comprehensive list of exemptions, [visit this Government of Canada website](#).

- Owner – aims to exempt Canadians and Canadian corporations with greater than 90% Canadian ownership.
- Availability – aims to exempt property that is under construction or renovation, or is seasonally inaccessible for several months.
- Occupant – aims to provide



exemptions for properties with occupants with written contracts.

- This category makes specific exemptions for international students who use the

property as a primary residence while attending a designated learning institution.

- Location – aims to exempt vacation properties located in

an eligible rural area of Canada, and occupied by the owner or spouse or common-law partner for at least 28 days in the year.

If you are still unclear if the UHT applies to you and your residential properties, [this reference chart](#) may help you determine if you need to file and pay the UHT and how to calculate the tax.

The UHT return filing deadline is 30 April of the following taxation year, resulting in 30 April 2023 being the first UHT return filing deadline for the 2022 taxation year. Although the UHT return and payment deadline is 30 April 2023, the Canada Revenue Agency (CRA) will not impose penalties or interest for UHT returns or payments received prior to 01 November 2023. Penalties for failure to file a UHT

return are severe, including a minimum of CAD 10,000 for corporations and a minimum of CAD 5,000 for individuals. While the UHT return filing deadline happens to coincide with Canada's personal income tax return filing deadline, it is an entirely separate tax return and must be filed separately. If you have questions about the UHT or any other personal and/or corporate tax return filing obligation, [reach out to a tax expert at Bateman MacKay](#).



[Bateman MacKay](#) is one of the only full-service accounting firms for owner-managers in the west GTA with offices in Mississauga and Burlington. The CPA firm's focus on high quality work, relationship building and the use of secure and forward thinking technologies are just some of the reasons they are able to proactively advise and position clients for success.

XLNC member firm
[Bateman MacKay](#)
Burlington, ON, Canada
T: +1 905 632 6400

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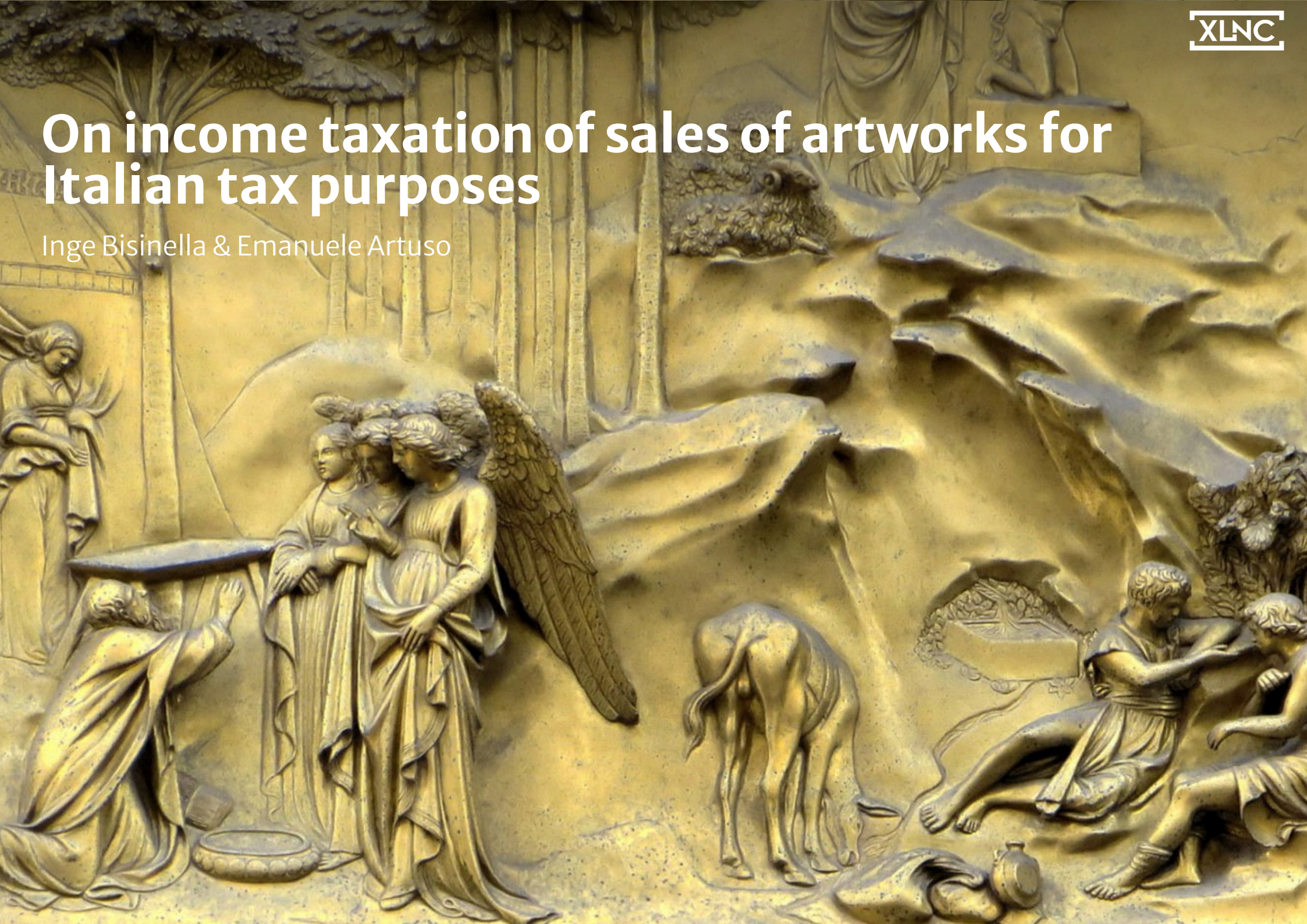
[Contact Oscar Torres](#)



A chartered professional accountant and a licensed public accountant, [Oscar Torres](#) earned his Bachelors of Commerce (Accounting and Finance) from Ryerson University. He is leading [Bateman MacKay](#)'s assurance and advisory team, offering his clients a wide range of services including accounting, assurance, taxation, and business advisory services.

On income taxation of sales of artworks for Italian tax purposes

Inge Bisinella & Emanuele Artuso



On income taxation of sales of artworks for Italian tax purposes

by [Inge Bisinella](#) & [Emanuele Artuso](#)

Considering Italy's artistic heritage, it is important to ask whether and how tax leverage can affect the relevant sector, specifically by investigating whether or not, for the purposes of direct taxation, taxable income is generated from the sale of an artwork.

While faced with such an apparently simple question, the answer, however, is not unequivocal.

An analysis of ministerial and jurisprudential guidelines in

recent years has led to a “trptych” of subjects in relation to the seller of an artwork:

1. the collector (with no taxable income for direct tax purposes);
2. the occasional seller (with taxable income for direct tax purposes, as other income);
3. the art dealer (with taxable income for direct tax purposes, as business income).

It is difficult to distinguish an art collector from an art dealer, as



Inge Bisinella

the *discrimen* is exquisitely factual. However, drawing on the most authoritative approaches in doctrine and jurisprudence, the following can be stated schematically:

On one hand, there is the professional art dealer who carries out intermediary activity



Emanuele Artuso

in the circulation of artworks, purchasing art for the purpose of resale on the market and making a profit. From the moment of purchase, the artwork is intended for an external destination.

On the other hand, there is the art collector who does not engage professionally in intermediary

Inge Bisinella practises in Padova as partner in Studio Bogoni, specialising in consultancy services for businesses including M&A transactions, direct and indirect taxation at both a national and international level, and assistance in the management of inheritance issues and asset protection.

Emanuele Artuso has worked for Studio Bogoni since 2009, and has also practised at a number of important legal and tax firms based in Milan and Padova. He deals mainly with corporate tax liability, providing consultancy and advisory services connected with direct taxation, and also represents his clients in proceedings before the competent tax commissions and in out-of-court procedures before the tax authorities.

activity in the circulation of artworks, and whose transactions are primarily aimed at satisfying an exquisitely personal desire. The purchase is not preordained for subsequent resale on the market and therefore assumes a purely private destination to the extent that the artwork can be considered a part of the

collector's personal assets.

From a tax point of view, art. 55 TUIR on business income is applicable to the art dealer. Regarding the collector, it is worth noting that the non-taxability of a sum that, from an economic point of view, undoubtedly constitutes an

increase in assets does not seem to be inconsistent. It should be noted that the Italian legislator has preferred to “carve out” taxable cases in a casuistic manner (particularly for other income), and has declined to identify a unique rationale to the effect, already taking into account possible loopholes understood as forms of enrichment that escape taxation.

It should be pointed out that in an intermediate position between collector and art dealer is the occasional seller, whose sales generate other income.

Over the course of time, concrete cases dealt with by case law have highlighted a number of heterogeneous “indicators of commerciality” (badges of trade) such that the activity of selling artworks falls (or not) within the

domain of the art dealer or the collector. These indicators include:

- The contingent purpose of the sale (e.g. asset disposal for liquidity needs);
- The time span between the purchase and resale of the same goods (e.g. in the same tax period);
- The completion of a preordained purchase “upstream” (vs. inheritance);
- The number of buyers;
- The number of transactions;
- The complexity of the activity (multiplicity of stages);
- Previous experience in the sector;
- The amount of the investment;
- The carrying out promotional or advertising activity, etc.; and
- The existence of an organisation in the strict sense of the word (employees, means

XLNC member firm
Studio Bogoni
Padua, Italy
T: +39 049 8754643

Accounting, Tax,
Corporate Finance,
Strategy, Management
Consulting, Fiduciary

Contact Inge Bisinella

Contact Emanuele Artuso

of transport, website, etc.).

In some recent cases, the tax authorities have attempted to overcome the simplistic dichotomy between the art collector and the art dealer, ascribing the profit realised by the collector with the sale of an artwork no longer to business

income but to different income, derived from “commercial activities not habitually carried out” (Article 67, paragraph 1, letter i), TUIR). In this, the Italian Tax Authority emphasises the existence of a series of activities aimed at purchase and resale, thus finding a “preordination” between the previously mentioned phases as operations characterised by their functional combination; moreover stressing the concept – far from being obvious – of “valorisation”. In this respect, the sale of the artwork could give rise to an income taxable for income tax purposes for the art collector who would be raised to the status of “occasional speculator”.

According to such a reconstruction, however, capital gains obtained from the sale of artworks received free of charge

(i.e. by inheritance or donation) should not be taxed. In such situations, the subject (heir or donation recipient) does not carry out a particular, pre-arranged purchase operation “upstream”, so that in reselling they would not carry out any commercial activity (albeit of an occasional nature), but rather perform an act of simple asset disposal.

* In a country like Italy, rich in artworks that the whole world envies, we hope that the upcoming tax reform will address this confused regulatory framework and introduce clear provisions that provide greater certainty to art collectors, and make the Italian taxation system competitive with that of other European states.



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A transition to what? SCOTUS set to decide the fate of IRC 965

Shawn P. Wolf

A transition to what? SCOTUS set to decide the fate of IRC 965

by [Shawn P. Wolf](#)



The US Supreme Court (SCOTUS) has decided to hear a case (*Moore v. U.S.*, [No. 22-800](#)) where individual taxpayers owned shares in a controlled foreign corporation (CFC) and were subject to the so-called

“transition tax” of IRC Sec. 965. As many commenters have noted, the issue presented to SCOTUS is whether the transition tax represents an unconstitutional wealth tax.

For those who do not know, IRC Sec. 965 was created as part of the Tax Cuts and Jobs Act of 2017 (PL 115-97), and applies generally to US taxpayers (both corporate and individual) who own 10% or more of the stock of a CFC as of 31 December 2017. This one-time

tax was designed to make these taxpayers pay tax on their pro rata share of a CFC’s accumulated (and otherwise properly tax-deferred) earnings, but at a reduced rate of tax – 15.5% on cash and other liquid assets and 8% on non-liquid assets – rates that were drafted in terms of corporate taxation but were able to be computed for individuals.

With this in mind, and given that the tax in question is called a transition tax, it is important to

understand to what the law transitioned. Conceptually, IRC Sec. 965 was designed to transition foreign corporations to a territorial tax system. This was achieved by: (a) disallowing indirect foreign tax credits for eligible corporate owners (changing IRC Sec. 902); and (b) not taxing dividends received from a foreign corporation by eligible corporate shareholders through the creation of a dividends received deduction (creating IRC Sec. 245A).

As a result, in the context of a domestic parent and a foreign subsidiary, the income of the foreign subsidiary would “only” be taxed in the jurisdiction in which it was located (assuming other anti-deferral tax regimes, including GILTI as introduced in 2017, do not otherwise apply). As the changes in the law did not

Shawn P. Wolf counsels foreign and domestic high net worth individuals, families and closely-held companies wherever they need international and domestic tax, estate planning, and pre-immigration and expatriation planning and strategies.



“transition” individual owners of foreign corporations to similar rules – remember, the transition tax was written in the context of corporate tax rates – many commenters have questioned the congressional intent in the context of individuals.

Based on the above, many individual taxpayers (such as the Moores in the case before SCOTUS) were subjected to the transition tax, and, in some situations, those individuals were unable to receive any cash from the foreign corporation in order to pay the tax due. This simple

situation is a clear example of how the issue before SCOTUS can be phrased such that the transition tax is a form of wealth tax, as it can be argued that there was not a “realisation event”, such as an actual distribution, yet there was taxation based on ownership of a company.

Putting aside the constitutional, fairness and equitable arguments, an issue of which SCOTUS may not be aware, or may not consider in the analysis, is the administrative issue that may result from a determination that IRC Sec. 965 is unconstitutional. In this regard, finding IRC Sec 965 to be unconstitutional will raise the following questions (and many more):

- How many refund claims will arise? How much will have to be

refunded (plus interest)?

- Are some or all of the refund claims barred by the statute of limitations? How will those taxes paid be treated?
- Should protective refund claims be filed?
- How will cash actually repatriated (which was repatriated tax-free after the application of IRC Sec. 965) be taxed?
- How will this impact filed and pending streamlined or other voluntary compliance submissions?
- How will this impact other aspects of the CFC taxation regime?
- How does this impact outbound

tax planning for structures in the interim?

- Could this have an even broader impact on US federal tax law?

As it is impossible to know how SCOTUS will rule, taxpayers and their advisors would be prudent to consider the potential impact of a ruling that IRC Sec. 965 is unconstitutional. We would be glad to discuss our views on the issues raised above if you have, may have, or are otherwise in need of assistance in this regard.



XLNC member firm
[Bilzin Sumberg LLP](#)
Miami, FL, USA
T: +1 305 374 7580

Legal

[Contact Shawn P. Wolf](#)

Bilzin Sumberg counsels clients whose business and legal opportunities and challenges span the United States, Canada, Europe, Latin America, the Middle East, and Asia. Bilzin Sumberg lawyers concentrate on services at the heart of both regional and international commerce, including real estate, land development and government relations, environmental, construction, corporate and securities, finance, joint ventures, domestic and international tax and private wealth planning, antitrust, business litigation, and public-private partnerships.

Licensing and authorisation for Fintech companies in Spain: What you need to know

Meritxell Mont



Licensing and authorisation for Fintech companies in Spain: What you need to know

by Meritxell Mont

Operating a fintech company in Spain requires a thorough understanding of the licensing and authorisation requirements imposed by the regulatory authorities. This article provides important information about the licensing and authorisation process for fintech companies in Spain.

Regulatory authorities: The primary regulatory authorities responsible for overseeing fintech activities in Spain are the

Bank of Spain (*Banco de España*) and the National Securities Market Commission (*Comisión Nacional del Mercado de Valores, CNMV*). These authorities are responsible for ensuring compliance with financial regulations and protecting the interests of consumers and investors.

Types of licences: The specific licences and authorisations required for fintech companies in Spain depend on the nature of



their activities. Some common licences applicable to fintech companies include:

- **Payment services licence:** This license is required for fintech companies offering payment initiation services, electronic money issuance, or account information services.

- **Crowdfunding licence:** Fintech companies operating crowdfunding platforms or providing crowdfunding-related services must obtain a specific licence from the CNMV.
- **Investment services licence:** Fintech companies engaged in investment-related activities, such as portfolio management or investment advice, may require an investment services licence.
- **Virtual currency Licence:** If your fintech business involves virtual currencies, such as cryptocurrencies, you may need to obtain a virtual currency licence from the Bank of Spain.

Application process: To obtain a licence or authorisation, fintech companies must submit a comprehensive application to the

relevant regulatory authority. The application typically includes detailed information about the company, its management team, business activities, risk management procedures, compliance policies, and financial statements. The regulatory authorities review the application and may request additional

OBN &

XLNC member firm

OBN &

Barcelona, Spain

T: +34 93 459 36 00

Legal, Tax, Advisory

Contact Meritxell Mont

documentation or clarification before granting the licence.

Capital requirements: Fintech companies in Spain may be subject to specific capital requirements depending on the type of licence. Capital requirements aim to ensure the financial stability of the company and its ability to meet its obligations to customers and investors. Specific capital requirements vary based on the licensed activity and are determined by the regulatory authorities.

Ongoing compliance: After obtaining the licence or authorisation, fintech companies must adhere to ongoing compliance obligations. These obligations include reporting requirements, maintaining adequate risk management and



OBN & has tax advisors, accounting experts, financial experts, and specialists in labour issues, all to grow their clients' business. Their multi-disciplinary specialisation ensure comprehensive coverage of (almost) all client needs. OBN& specialists always strive for excellence, offering close, complete and efficient advise that responds to the specific needs of each individual client.

compliance frameworks, implementing anti-money laundering (AML) and know-your-customer (KYC) procedures, and complying with data protection and privacy regulations.

Regulatory sandbox: Spain has established a regulatory sandbox framework that allows fintech companies to test innovative products or services in a controlled environment. The regulatory sandbox offers a streamlined process for testing new ideas while providing regulatory oversight and consumer protection. Participation in the regulatory sandbox may require a separate application process.

Collaborative approaches: Fintech companies can also collaborate with established

financial institutions in Spain to provide innovative financial services. Such collaborations may involve partnerships with banks, payment institutions, or insurance companies. Depending on the nature of the collaboration, additional regulatory considerations, such as risk-sharing agreements or technology partnerships, may need to be addressed.

Navigating the intricate landscape of licensing and authorisation for fintech companies in Spain is undeniably complex, yet it underscores Spain's commitment to ensuring a robust, transparent, and secure fintech ecosystem. As the sector continues to evolve, both established players and newcomers must remain vigilant in understanding and adhering to the regulatory requirements set

forth by the Banco de España and the CNMV.

The diverse range of licences, coupled with innovative frameworks like the regulatory sandbox, highlights Spain's proactive approach in fostering innovation while safeguarding consumer and investor interests. Collaborative ventures with traditional financial institutions further underscore the dynamic nature of Spain's fintech scene, offering a blend of traditional expertise with cutting-edge innovation. In essence, while the path to authorisation may be rigorous, it paves the way for fintech companies to operate with credibility and trust in one of Europe's most vibrant financial markets.



Event Review

XLNC Summer Conference 2023

XLNC Summer Conference Amsterdam, The Netherlands 09–11 June 2023

XLNC continues to grow – for our Summer Conference in Amsterdam more than 80 members from all around the world gathered in order to strengthen their personal networks, exchange ideas and experiences and foster business among each other. It was fantastic to meet again so many familiar and new faces in this vibrant city and jointly discover Amsterdam's secrets.

XLNC is so much more than just a business network – we share so many joint memories: laughter,

hugs, Dutch food, and shots ... yes, we had them all. But we do also work hard and exchange ideas on experiences, international trends,

developments, rules and regulations. We just never forget to have lots of fun, and to share good food and wine. We are so proud of all our members who



help to create this excellent spirit and atmosphere. What a solid base for trust and mutual work this builds.

Early arrivals on Friday afternoon were able to go on a **culinary walking tour**, which gave a first overview of the city's sights and tastes. It was a pleasant way of getting to know each other better.

At the same time, the new Focus Group **XLNC Women in Business**, initiated by Sonal Shah (Gerald Edelman, UK), held its first in-

person session over an interactive luncheon. The idea for holding luncheons prior to the start of the main event was to ensure that women are able to connect before the busy-ness of the conference itself.

Local Dutch firms [STP Tax](#) and [Vestius Attorneys at Law](#) kindly invited all of us for a welcome happy hour at their premises. In the evening the sociable atmosphere continued during Welcome Dinner at Mama Makan Restaurant.

Keynote speaker [Prof Jacob Soll](#) fascinated the audience with his speech on “**The Dutch Golden Age and Lessons for Wealth Creation**”.

[Richard Collins](#), second keynote speaker, updated the audience on the importance of **social**

responsibility and how this can drive your successful business forward.

Both speeches provided food for thought, so there were lively discussions to be had during the breaks and fringe events.

The Focus Groups were an excellent way for everyone to engage on a more personal level, one-to-one, whilst sharing the latest updates and best practices.

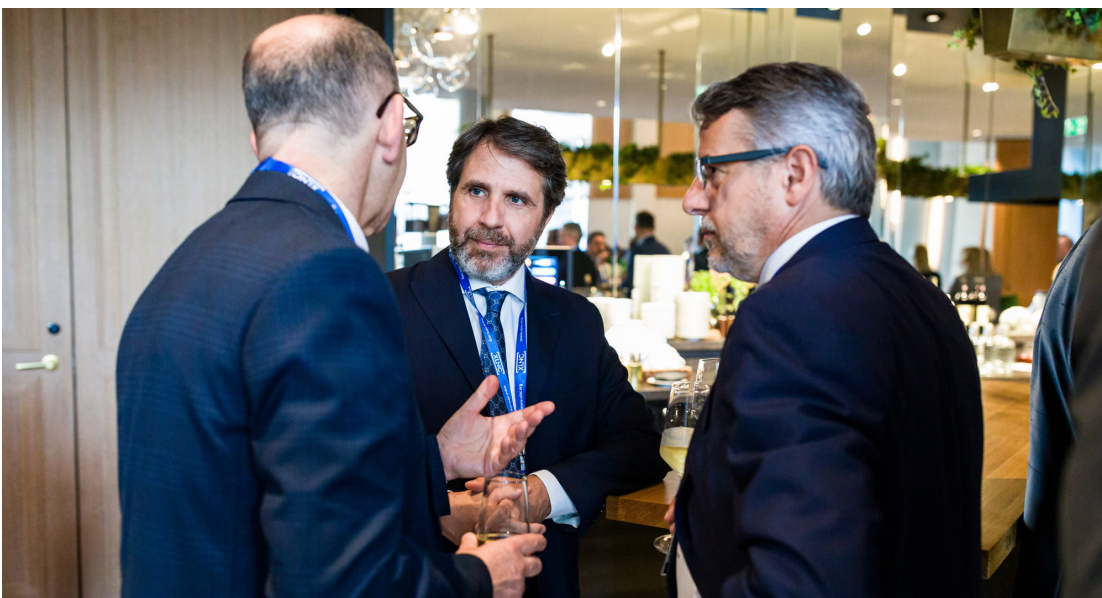
Finally, the Dinner at Pompsation was a wonderful way to close this fabulous and intense

conference.

Interactions were amazing and we enjoyed spending the weekend with XLNC counterparts. We're looking forward to meeting in a couple of days in Bangkok for another weekend to remember.









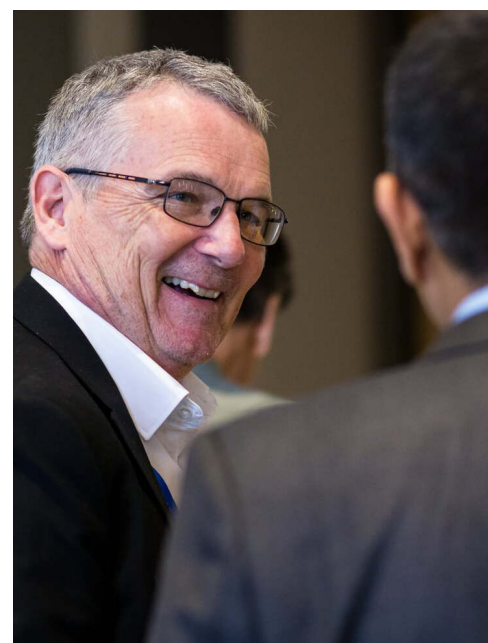






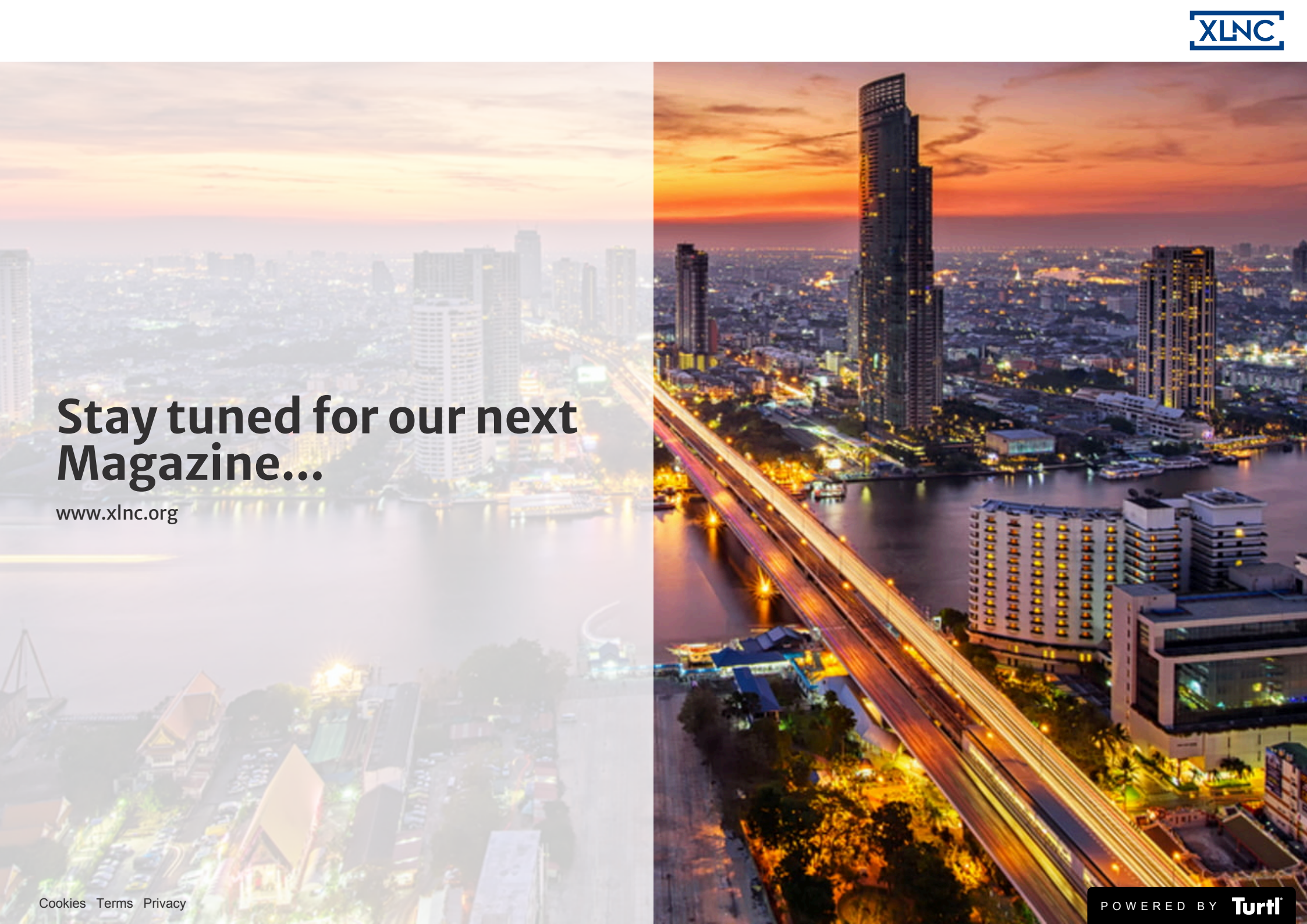










The background is a composite image. The left half is a faded, light-colored aerial view of a city with a river and various buildings. The right half is a vibrant, high-contrast night view of a city skyline, featuring a prominent skyscraper and light trails from a highway bridge over a body of water.

Stay tuned for our next Magazine...

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