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## Global Debt Restructuring Survey

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# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Argentina</b></p>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor. It is uncertain whether forgiven interest is taxable income for a debtor if the interest was not previously deducted for income tax purposes.</p> <p><b>Creditor:</b> Depending on each case, the creditor may deduct the forgiven debt based on certain conditions.</p> <p><b>Debt-for-equity:</b> Conversion of debt principal into capital is not subject to income tax. Conversion of interest into capital is regarded as a taxable “payment” of interest.</p> <p><b>Rescheduling:</b> The withholding tax exemption on interest in respect of withholding tax-exempt negotiable obligations is preserved when such obligations are exchanged for new negotiable obligations.</p>	<p>In general, no VAT on debt forgiveness.</p> <p>In general, no VAT on the conversion of debt principal into capital. VAT on capitalized interest could apply.</p> <p>Tax on debits and credits in banking accounts could apply if the payments flow through Argentine banking accounts.</p>	<p>Stamp duty could be applicable depending on the jurisdiction involved. Tax rates vary from 0.5% through 4% depending on the type of transaction.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Australia</b>	<p><b>Debtor:</b> Amount of forgiven commercial debt reduces (in order) revenue losses, capital losses, depreciation basis, cost basis in certain non-depreciable assets. Remaining forgiven debt balance will not result in income for the debtor.</p> <p><b>Debt Parking:</b> The commercial debt forgiveness rules apply if a debt is assigned in a debt parking arrangement.</p> <p><b>Debt-for-equity:</b> Debt-for-equity swaps are considered debt forgiveness.</p> <p><b>Rescheduling:</b> Rescheduling will only have tax implications if there is a resulting value shift between certain debt and equity interests.</p>	No GST implications on issuance or exchange of “financial instruments” (such as a debt obligation).	No stamp duties.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Brazil</b></p>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor.</p> <p><b>Creditor:</b> The forgiven amount of the debt is considered a non-deductible expense.</p> <p><b>Rescheduling:</b> Debt forgiveness does not occur on a debt rescheduling or restructuring if one debt is exchanged for another having the same principal amount, even if the new debt is arguably lower in value due to a longer term or lower interest rate.</p> <p><b>Note:</b> In cross-border transactions, debt forgiveness may trigger withholding tax.</p>	<p>No GST implications on issuance or exchange of “financial instruments” (such as a debt obligation).</p> <p>Rescheduling or restructuring may trigger additional payments of IOF (Income on Financial Transactions) because it may change the applicable rate.</p>	<p>No stamp duties.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Canada</b>	<p><b>Debtor:</b> Forgiven amount reduces (in order) non-capital losses, capital losses, depreciation basis, cost basis in certain non-depreciable assets. Remaining forgiven amount will generally result in income for the debtor.</p> <p><b>Debt Parking:</b> Non-arm's length acquisitions of debt may result in a deemed forgiveness of the debt under debt parking rules.</p> <p><b>Rescheduling:</b> Debt forgiveness does not occur on a debt rescheduling if one debt is exchanged for another having the same principal amount, even if the new debt is arguably lower in value due to a longer term or lower interest rate.</p>	No GST implications on issuance or exchange of "financial instruments" (such as a debt obligation).	No stamp duties.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Chile</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor.</p> <p><b>Creditor:</b> If the debtor is a Chilean resident, capital gains on the transfer of a loan to a resident or foreign company are taxable. Several formal requirements must be met to take a deduction for bad debts, otherwise a write-off will be considered a non-deductible expense.</p> <p><b>Note:</b> Debt forgiveness may trigger withholding tax if creditor is a non-resident.</p>	No VAT implications.	Although loan agreements are subject to stamp duty at a minimum rate of 0.1% to a maximum rate of 1.2%, debt forgiveness is not subject to stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Cyprus</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor.</p> <p><b>Note:</b> Related party transactions should be made at arm's length. It is uncertain whether forgiven debt between related parties may be taxed all together or partly.</p>	No VAT implications on issuance or exchange of "financial instruments" (such as a debt obligation).	Stamp duty may apply, depending on nature of agreement. Stamp duty ranges from 0.15% to a fixed € 17,086, depending on contract value.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Denmark	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor, unless the creditor owns more than 50% of the debtor's capital.</p> <p><b>Debt Parking:</b> Assignment of debt without payment of consideration is treated as debt forgiveness for tax purposes. Debt restructuring within a group is generally tax neutral. However, if a group-related creditor can deduct a loss upon the forgiveness of a Danish debtor's obligation, the debtor will be subject to capital gains taxation.</p> <p><b>Rescheduling:</b> Special rules apply to debt conversions, amendments to terms and conditions, refinancing of old debt by new debt, waivers of debt and/or interest, suspension of payments and bankruptcy and assignments of loans, depending on whether you look at the creditor or the debtor and whether the parties involved are group-related. Special rules apply if the debt forgiveness is part of a "general scheme". A general scheme is defined as a scheme including at least 50% of the unsecured debt and all major creditors.</p>	<p>No VAT implications on issuance or exchange of "financial instruments" (such as a debt obligation).</p>	<p>No applicable stamp duty unless security in real estate.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Finland</b></p>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor. However, debt forgiveness by a parent company could also be treated as capital investment (conversion of debt into equity), resulting in no taxable income or deductible cost. Debt forgiveness by a subsidiary could result in taxation on the basis that the forgiveness is a hidden distribution of dividends.</p> <p>If a debt receivable can be regarded as worthless to the creditor due to the debtor's insolvency, no taxable benefit arises for the debtor. In addition, if the forgiveness concerns accounts payable or other unpaid purchase price, it may be possible to treat the forgiveness as reduction of the purchase price, resulting in adjustments but not in taxable income for the debtor.</p> <p>Transfer of loans should occur at fair value. Under- or overpricing may result, for example, in transfer pricing adjustments.</p> <p><b>Rescheduling:</b> Debt forgiveness does not occur on a debt rescheduling if one debt is exchanged for another having the same principal amount, even if the new debt is arguably lower in value due to a longer term or lower interest rate.</p>	<p>Normally no VAT issues.</p> <p>Adjustments to purchase prices affect the related VAT.</p>	<p>No transfer tax for sale of receivables or otherwise (unless the debt instrument entitles the holder to share in profits or the interest is based on the annual profits or amount of dividends).</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>France</b></p>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor.</p> <p><b>Creditor:</b> If the debt forgiveness is motivated by commercial considerations, it is fully deductible. Debt forgiveness motivated by financial considerations is only deductible up to the negative equity of the subsidiary, and the excess is generally deemed to be a capital contribution.</p> <p><b>Rescheduling:</b> If it only leads to a modification of the duration or the interest rate, the debt rescheduling or restructuring is tax neutral. If the principal of the debt is modified the debt forgiveness rules will apply.</p> <p><b>Debt-for-equity:</b> Conversion of debt into equity capital is not a taxable event.</p>	<p>Loan interest is VAT-exempt. For the creditor, this has an effect on input VAT deductions where interest is charged to EU or French debtors, but an input VAT deduction can be taken for a loan granted to a non-EU borrower.</p>	<p>No applicable stamp duty.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Germany</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor.</p> <p><b>Note:</b> Debt forgiveness from shareholders is treated as contributions in the amount of the debt's fair market value. To the extent the fair market value of the debt is lower than the amount of the debt forgiveness, the difference is treated as taxable income.</p>	No VAT implications.	No stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Greece</b></p>	<p><b>Debtor:</b> Forgiven amount is generally taxable income to the debtor. Debt settlement pursued in the context of bankruptcy procedures is generally not considered debt forgiveness resulting in taxable income to the debtor. Assumption of debt without consideration triggers for the debtor/beneficiary the imposition of gift tax (at an average rate of 40%) rather than income tax.</p> <p><b>Creditor:</b> In principle “bad debt” provisions at a percentage of either 0.5% of the total amount of sales and services invoiced to business clients or 1% on retail sales on credit of specific consumption goods and sales by natural gas companies, telephone companies and others, are tax deductible. In case the above bad debts for which provisions have been recorded have not been realised within a specific period they are subject to corporate income tax at the applicable rate. Additional bad debt amounts are tax deductible in case there is specific evidence for the realization of the bad debt (e.g. bankruptcy of the debtor). Special provisions apply to taxpayers operating in specific industries (e.g. banks, leasing companies, etc).</p> <p><b>Note:</b> No special rules apply for intra-group debt restructuring, given that there are no tax consolidation rules in Greece.</p>	<p>No VAT implications on debt forgiveness. Assumption of debts against consideration falls within the scope of VAT, as a supply of service, however it is VAT exempt.</p>	<p>In principle no stamp duty applies, unless the debt forgiveness relates to transactions that were in principle subject to stamp tax, yet no stamp tax at a 2.4% rate had been paid in this respect.</p> <p>Debt refinancing may be subject to stamp duty in principle in the rate of 2.4% if it effected by means of loan arrangements executed in Greece.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>India</b></p>	<p><b>Debtor:</b> Where the forgiveness of a debt relates to interest that was previously claimed as a business deduction (on accrual basis), such interest would be taxable income for the debtor. Generally, a forgiven principal amount is not taxable income to the debtor, unless the debtor is in the business of borrowing or lending money.</p> <p><b>Creditor:</b> A creditor may claim a business deduction for: (i) principal forgiven, and (ii) forgiven interest that was previously taxable on an accrual basis.</p> <p><b>Rescheduling:</b> Prospective rescheduling (without any waiver of principal/interest component) does not trigger any tax implications for the creditor or debtor.</p> <p><b>Debt-for-equity:</b> Partial or full conversion of an existing debt into equity shares, preference shares, or equity-linked instruments, without any forgiveness of principal or interest is a taxable transaction from a creditor's standpoint to the extent that the value of equity or preference share exceeds that of the debt instrument. Conversion of bond or debenture into equity shares of that company is a tax-exempt transaction.</p>	<p>Fee-based income, if any (in the form of loan foreclosure charges, processing fees, documentation charges, etc.) accruing to the creditor during such debt restructuring process will attract service tax (currently at the rate of 12.36%).</p>	<p>Stamp duty implications will be dependent on the nature of the instrument executed for such restructuring.</p> <p>For example, an amendment to an existing loan agreement may attract nominal stamp duty while fresh debt may attract higher stamp duty (say as a percentage of the loan, subject to a ceiling). Specifics will also depend on the State where the instrument is executed. For example, a new loan agreement executed in the State of Maharashtra would attract stamp duty at 0.1 % subject to a ceiling of INR 1 million and INR 0.5 million, for unsecured and secured loans respectively; an amendment to an existing agreement will attract stamp duty of INR 100.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Indonesia</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor.</p> <p><b>Debt Parking:</b> Purchase of accounts receivable by a related party, or by another party at an unreasonable price, is considered debt forgiveness.</p>	No VAT.	Stamp duty is only Rp. 6,000 (US\$ 0.50) per document.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Ireland	<b>Debtor:</b> Forgiven amount is generally taxable income for the debtor if it has previously been deducted by the debtor in calculating its trading profits or gains.	No VAT.	No stamp duties on debt forgiveness.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Italy	<p><b>Debtor:</b> Forgiven amount is generally taxable income to the debtor, including trade debt forgiveness, except where the debt forgiveness takes place within an insolvency proceeding or in a debt-for-equity swap.</p> <p><b>Creditor:</b> Forgiven amount is generally non-tax-deductible to the creditor. If debt is forgiven by a shareholder of the debtor (debt-for-equity swap), the forgiven amount does increase the cost of the shareholding for the creditor. In case of an insolvency proceeding, the creditor is entitled to entirely write-off its credit, and such a write-off is tax deductible.</p> <p><b>Rescheduling:</b> Debt rescheduling has no tax implications.</p> <p><b>Note:</b> In cross-border transactions, the forgiveness of the debt relating to interest may trigger withholding tax.</p>	<p>No VAT implications for debt forgiveness.</p> <p>In case of insolvency proceedings, the creditor is entitled to reduce the VAT taxable amount</p>	<p>No stamp duty.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Japan	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor. If debt forgiveness occurs under the Corporate Rehabilitation Law, a previously expired tax-loss carry forward may be applied to absorb the income inclusion.</p> <p><b>Creditor:</b> The forgiven amount is normally not tax deductible to the creditor. However, it will be tax deductible if it occurs according to the procedure under the Corporate Rehabilitation Law or in connection with the rescue of a financially troubled related party or business partner in accordance with a reasonably arranged rehabilitation plan.</p> <p><b>Non-residents:</b> Gains on investment in the nonperforming loans by foreign investors are generally taxable in Japan.</p>	No VAT implications.	Depending on the type of agreement, but the possible stamp duty is only Yen 200 (US\$ 2.00)

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Korea	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor. However, if debt is forgiven by a financial institution under the Debtor Rehabilitation and Bankruptcy Law or the Corporate Restructuring Promotion Law, the inclusion of the debt forgiveness income will be deferred for 3 years and will begin to be recognized in years 4-6 in equal amounts.</p> <p><b>Creditor:</b> The forgiven amount is generally not tax deductible to the creditor until recognized as uncollectible under the normal recognition rules, except in the case of debt forgiven by financial institutions in corporate restructuring pursuant to the Corporate Restructuring Promotion Law, in which case the amount forgiven is deductible by the financial institutions. Under the normal recognition rules, debt becomes uncollectible and thus deductible if the amount of debt is reduced or declared uncollectible by court proceedings under the Debtor Rehabilitation and Bankruptcy Law.</p> <p><b>Rescheduling:</b> If debt is restructured, any income (for accounting purposes) recognized to the debtor under the Korean GAAP for the difference between the book value and the present value of the debt obligation is not recognized for tax purposes.</p>	No VAT implications.	Depending on the type of instruments, but generally debt obligation instruments will carry stamp duties of KRW 400 (US\$.30).

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Luxembourg</b></p>	<p><b>Debtor:</b> Forgiven amount is taxable profit in the hands of the debtor, which can be offset by current year losses or by tax loss carry-forwards, if available. Article 52 Income Tax Law attempts to avoid the taxation of debt waivers by allowing the underlying gain to be deducted from the taxable result of the debtor provided the waiver is granted with the intention of re-establishing the debtor's financial position. This exemption is, however, only permissible where the debtor's result of the period is a profit or has become a profit through the debt forgiveness.</p> <p><b>Creditor:</b> A distinction between related and unrelated parties needs to be made and the question of whether or not the transaction is motivated by commercial reasoning is of importance. In third party relationships, the waiver of the principal of the debt will lead to a tax-deductible expense for the creditor of the loan, even if the debtor benefits from the tax regime under Article 52.</p> <p><b>Waiver of debt by a subsidiary in favour of its parent:</b> This is, as a general rule, not considered as arm's length and is therefore treated as a hidden profit distribution with potential withholding tax consequences (max 15%). No formal rules apply to a waiver of debt in the case of related parties as the tax administration regularly has the means to control these transactions ex post.</p> <p><b>Waiver of debt by a parent in favour of its subsidiary:</b> Any non-arm's length advantage which leads to an increase in its assets or a decrease in its liabilities is considered as a hidden contribution. From a shareholder's standpoint, the advantage granted will be added to the acquisition price of the shareholding (and is not a deductible charge).</p>	<p>Transactions concerning debts are exempt from VAT, with the exception of debt collection. For the creditor, there is a negative impact on its input VAT deduction right if the transactions take place with counterparts established within the European Union. Input VAT incurred in relation to transactions concerning debts with counterparts established outside the European Union is however deductible.</p> <p>Debt collection services are taxable at the rate of 15%.</p> <p>With respect to bad debts, a specific provision of the Luxembourg VAT legislation states that where it can be reasonably proved that the customer, whether or not a taxable person for VAT purposes, will not pay or will pay less than the invoiced amount for a supply of goods or services, the supplier is allowed to adjust the VAT reported on his VAT return.</p>	<p>No stamp duty consequences.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Malaysia</b>	<p><b>Debtor:</b> Interest on forgiven debt that was previously claimed by the debtor as a deduction will be deemed to be taxable income. The principal amount of forgiven debt is not taxable, unless a tax deduction has been claimed for the debt as a whole (e.g., trade debts) in which case the forgiven amount will be taxable. Additionally, if debts are forgiven in respect of amounts on which a capital allowance has been claimed, the forgiven amount will be taxable.</p> <p><b>Creditor:</b> If a creditor forgives a debt that is capital in nature, the amount forgiven will not be deductible. To the extent that the creditor has recognized the interest income, there will be no relief for the interest forgiven, unless the interest income comprised a business source of income to the creditor. Where the creditor is in the business of lending, relief would generally be available.</p>	<p>No VAT.</p>	<p>Although loan agreements are subject to ad valorem stamp duty, debt forgiveness should not give rise to stamp duty issues.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Malta	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor if the debt is considered to be of a trading or revenue nature. Debt forgiveness is not subject to any tax if it is considered to be of a capital nature.</p> <p><b>Notes:</b> Of particular interest are the tax principles relating to foreign and overseas companies which are tax resident in Malta because they are managed and controlled in Malta. Such companies are only subject to tax on income remitted to Malta and income arising in Malta. Any capital gains remitted to Malta are not subject to any tax. Such “dual resident” companies are widely used in debt restructuring.</p>	No VAT or indirect tax implications on issuance or exchange of “financial instruments” (such as a debt obligation).	No stamp duty issues.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Mexico</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income for the debtor.</p> <p><b>Note:</b> Gains realized by a non-Mexican resident from the transfer to a Mexican resident or a foreign resident with a permanent establishment in Mexico of credits owed by a Mexican resident or a foreign resident with a permanent establishment in Mexico are considered to be interest subject to Mexican income tax withholding. Credit income obtained by a foreign resident as the result of the acquisition of a present, future or contingent creditor right of any kind, is also considered to be interest and will be subject to Mexican withholding tax.</p>	No VAT or transfer tax.	No stamp duties apply.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Netherlands</b></p>	<p><b>Debtor:</b> Forgiven amount reduces: (i) losses in the current year, and (ii) losses carried over from past years. Remainder is generally exempt from taxation, although forgiveness of a related-party debt may lead to the recognition of: (i) an informal capital distribution, or (ii) a disguised dividend distribution which is subject to dividend withholding tax.</p> <p><b>Debt Parking:</b> Debt parking does not have any corporate tax consequences for the debtor. However, if the new creditor is a related party whereas the old creditor is not, the thin capitalization rules may restrict the deductibility of interest. The old creditor may have to recognize foreign exchange and other results on the corresponding receivable. If the terms of the debt parking are not arm's length, the debt parking may have dividend tax consequences.</p> <p><b>Rescheduling:</b> The tax consequences of debt rescheduling or restructuring have to be determined on a case-by-case basis. Debt rescheduling may constitute a taxable event. The characterization of the debt as equity or debt for tax purposes may have to be reviewed upon rescheduling.</p> <p><b>Note:</b> Special rules apply to transactions involving receivables on subsidiaries of which the shares qualify for the participation exemption at the level of the creditor. In the event that such receivables have been depreciated, the aforementioned transactions may lead to a mandatory recapture of the depreciation. Examples of these transactions are: (i) assignments to a related person, (ii) allocations to foreign permanent establishments, and (iii) conversions into share capital. In the event that the creditor and the debtor are within the same tax group for corporate tax purposes, these transactions are neutral for tax purposes.</p>	<p>No VAT implications.</p>	<p>No stamp duty, no capital duty.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Norway</b></p>	<p><b>Debtor:</b> Forgiven amount may be subject to taxation, depending upon the relationship of the creditor and debtor, and the cause of the forgiveness. Debt forgiveness from an employer to an employee is normally taxable as employment income. Debt forgiveness from a joint stock company to non-employed shareholders is taxable as dividends. Any benefit gained from debt forgiveness caused by insolvency, from a delinquency arising from the expiry of a limitation period, or from a claim not being filed within the stipulated time limit, is not taxable. Debt forgiveness will limit tax deductibility regarding losses carried forward to an amount exceeding the remission.</p> <p><b>Creditor:</b> Debt forgiveness may lead to tax deductions due to the causes of forgiveness. If the debt forgiveness bears a resemblance to a gift, it is not tax deductible. All interest on own debt is usually tax deductible, regardless of the purpose of the loan. Forgiveness of group contributions (tax consolidation) is not tax deductible.</p>	<p>No VAT implications on issuance or exchange of “financial instruments” (such as a debt obligation).</p>	<p>No applicable stamp duty.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Pakistan</b>	<p><b>Debtor:</b> Forgiven amount is taxable income to the debtor.</p> <p><b>Creditor:</b> The sale of accounts receivable of a money-lending business is treated as sale of stock-in-trade, with the resultant gain or loss treated as business income or loss. In the case of related parties, arm's length rule applies. In case of businesses other than money-lending, the treatment depends on the nature of debt. Usually, it is treated as disposal of a capital asset and the gain or loss is taxed as a capital gain or loss and not as business income or loss.</p>	No VAT.	No stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Poland</b></p>	<p><b>Debtor:</b> Forgiven amount is taxable income to the debtor.</p> <p><b>Creditor:</b> Forgiven amounts may be treated as tax deductible insofar as they have been previously recognized as taxable revenues. A creditor may recognize a loss on the sale of receivables under the same conditions. There is also a possibility for the creditor to write off debt in the amount previously recognized as taxable revenue, provided that there is certain formal, documentary proof that the debt is not collectible.</p>	<p>Issuance of “financial instruments” (such as a debt obligation) may be viewed as VAT-exempt activity in specific circumstances. Debt collection services and factoring are subject to 22% VAT.</p> <p>As of 1<sup>st</sup> December 2008, amended VAT regulations allowing for adjustment of output VAT on uncollectible commercial receivables came into force, which ease the conditions applied to bad debt relief.</p>	<p>Sale or exchange of receivables may be subject to 1% capital duty. Some exclusions and exemptions are available.</p> <p>New loans (within the meaning of the civil law) are subject to 2% capital duty. The exemption is available if the loan is granted within the VAT-able activity of the taxpayer or by a foreign financial institution.</p> <p>Special rules apply to loans from shareholders or partners to corporations and partners. A loan from a direct shareholder in a capital company is exempt from capital duty (from January 1, 2009). A loan from a partner in partnership triggers 0.5% tax.</p> <p>Financial instruments that are not classified as a loan in accordance to the civil law (e.g. bonds) are not taxed.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Portugal</b></p>	<p><b>Debtor:</b> In general, forgiven amount is liable to Portuguese Corporate Tax (IRC) at the level of the debtor as a net positive equity variation that must influence the taxable profit of the year in which it occurs. No taxation if the net positive equity variation is derived from any modifications to the debt derived from an insolvency plan. Transfer pricing rules apply.</p> <p><b>Creditor:</b> In general, the credit written-off by the creditor is not deductible for Portuguese IRC purposes. If, however, such write-off results from any modifications to the debt derived from an insolvency plan applicable to the debtor, such write-off is deductible. Transfer pricing rules apply</p> <p><b>Debt-for-equity:</b> Conversion of debt principal into capital is not subject to Portuguese Corporate taxation.</p> <p><b>Note:</b> Related party transactions should be arm's length.</p>	<p>No VAT.</p>	<p>No stamp duty.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Romania	<p><b>Debtor:</b> Forgiven amount is generally taxable income to the debtor.</p> <p><b>Creditor:</b> If the creditor is a Romanian tax resident company, the forgiven amount may result in a non-deductible loss, depending also on whether bad-debt provisions have been previously created or not. Bad-debt provisions are deductible within certain restrictive limits / conditions and are fully non-deductible in related-party debts. Assignment of receivables can also be performed and does not result in major adverse tax consequences.</p> <p><b>Debt-for-equity:</b> Debt-for-equity swaps are allowed and trigger limited tax implications (possible withholding tax on interest capitalized).</p>	No VAT implications.	No stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Russia	<p><b>Debtor:</b> Forgiven amount is generally taxable income to the debtor. No tax arises if the creditor is a parent which owns more than 50 % of the debtor's capital.</p> <p><b>Debt Parking:</b> Assignment of debts without payment of consideration is treated as debt forgiveness.</p> <p><b>Rescheduling:</b> Debt rescheduling or restructuring is generally tax neutral, provided that the new liability does not significantly deviate from the previous one.</p>	No VAT or transfer tax.	No stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Singapore</b></p>	<p><b>Debtor:</b> Trade debt forgiveness is taxable to the debtor. Where the debt concerned is a shareholder loan, and its forgiveness is considered as way of granting financial relief to the debtor who is in distress, case law supports the view that this is no more than the shareholder allowing his debt claim to be converted into equity.</p> <p><b>Creditor:</b> The writing off of a trade debt is allowed as a deductible trading expense when the debt is shown to have arisen from trade receipts which had been taxed in the year of acquisition. Where the debtor is a connected party, the writing off of the debt, whether partially or wholly will not be allowed as a bad debt expense unless the connected debtor is shown to be insolvent and is in receivership</p> <p><b>Debt-for-equity:</b> If the debt forgiven is perceived as a one-for-one debt-for-equity swap, there are no tax implications.</p>	<p>The forgiveness of debt without consideration is not treated as a supply of services. Where the consideration is an issue or a transfer of equity shares, it is a GST-exempt supply.</p> <p>Bad debt relief can be claimed where it can be shown that the debt is in respect of a supply of goods or services which had been subject to GST earlier.</p>	<p>Where the debt-for-equity swap involves the execution of a share instrument, stamp duty is chargeable at 0.2% of transfer value. If it involves only an issuance of shares by the debtor company, no stamp duty is chargeable.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>Spain</b></p>	<p><b>Debtor:</b> Forgiven amount is generally taxable to the debtor. However, if the borrower is a subsidiary of the lender, the forgiven amount may be considered a capital contribution and subject to a 1% capital tax.</p> <p><b>Creditor:</b> Forgiven amount is generally deductible to the creditor, as the creditor would normally agree to the waiver in order to achieve some business objective. Only where the creditor is giving a gift (<i>animus donandi</i>) the loss will not be deductible.</p> <p><b>Debt-for-equity:</b> Where the creditor is also a shareholder of the debtor company, there is little doubt that the portion of the waived debt that is proportionate to the creditor's participation in the share capital is not treated as a taxable receipt but as an equity contribution (subject to 1% capital registration tax). There is some doubt as to the excess of that amount: on the one hand, there is an argument to sustain that the tax treatment of such excess must follow the accounting treatment, i.e. equity contribution, and on the other hand, there is a risk that the excess is regarded as a taxable receipt for the debtor, as that is the consequence established for such excess in analogous transfer pricing secondary adjustments.</p> <p>For the creditor/shareholder, the waived amount is treated as a higher base of its share investment. Where the shareholders acquire subsidiaries' distressed debt from third parties, at a discount, followed by a conversion into equity, there may be taxable income for the creditor if the fair market value of the new shares received exceeds the base cost of the debt. This is unusual if the conversion swiftly follows the debt purchase and the conversion rate is calculated at fair market values. It is uncertain that the deferral regime available for certain contributions in kind apply to these debt-for-equity conversions. As noted, this deferral regime is not useful in practice if the conversion rate is done at fair market value. The difference between the outstanding debt and the par value of the shares issued, in order to respect an arm's length conversion, should be made up with share reserve premium. The conversion is chargeable with 1% capital duty.</p> <p>If the debt acquired at a discount is not converted into equity, then there would be an obligation of mark to market, with the appreciation, if any, being taxable for the debt holder. The tax treatment would depend on whether it is a corporate or an individual, resident or non-resident taxpayer.</p>	<p>No VAT implications on the issuance of debt.</p> <p>Services related to loans (including debt management) are exempt if rendered by the lender. The exemption does not include services rendered by one of the lenders to the rest of the lenders of a syndicated loan.</p>	<p>Generally no stamp or capital duty consequences, unless the loan is considered a capital contribution by a parent to a subsidiary, in which case a 1% capital tax may apply.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Sweden	<p><b>Debtor:</b> Forgiven amount is not generally taxable income of the debtor, although the debtor will lose a corresponding portion of its tax loss carry-forward. However, if the debtor and creditor are in the same group of companies and the debtor is not insolvent, debt forgiveness may be considered a dividend to the debtor. There is therefore a risk of withholding tax if the debtor is not resident in Sweden.</p> <p><b>Creditor:</b> Forgiven amount is generally deductible for a creditor, if made for a sound business reason and the debtor is insolvent.</p>	VAT charged on services related to the issuance of debt is generally fully recoverable, unless the creditor's business activity is only partly subject to VAT.	No stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Switzerland	<p><b>Debtor:</b> Forgiven amount is generally taxable income to the debtor. In restructuring situations exceptionally all loss carry forwards without time limitation (otherwise 7 year limitation) can be set off against the income resulting from debt forgiveness. Any positive balance will be subject to corporation tax.</p> <p><b>Creditor:</b> Forgiven shareholder loans may in certain circumstances be treated as a non-taxable capital contribution, which allows loss carry forwards to be maintained for the future.</p>	<p>Under certain circumstances debt forgiveness may lead to a reduction of input tax credit. This practice of the tax authorities is to be changed under law already tabled.</p>	<p>As far as debt forgiveness is made by a shareholder, capital issuance tax (1%) may be implied. In debt restructuring situations the law provides for an amount of CHF 10 Mio which can be contributed without tax consequences. For amounts above this level discretionary relief may be applied for.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Thailand</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income to the debtor. Certain exemptions may be available in the case of either debt restructuring where the creditor is a financial institution or debt rehabilitation, provided specific conditions are met.</p> <p><b>Creditor:</b> Bad debts can only be written off if certain conditions are met, and specific procedures followed. In the case of certain debt restructuring or rehabilitation transaction, the creditor will be exempt from tax on income derived from transaction in consequence of the debt restructuring or rehabilitation.</p>	No information provided.	No information provided.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Turkey</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income of the debtor if not offset by losses within 3 years.</p> <p><b>Creditor:</b> Bad debts are deductible for the creditor if supported by formal documentation.</p> <p><b>Note:</b> Related party transactions should be arm's length</p>	No information provided.	A 0.75% stamp duty is payable equally by the parties when there is only one copy of a written agreement.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>Ukraine</b>	<b>Debtor:</b> Forgiven amount is generally taxable income to the debtor. Loan forgiveness should be considered on a case-by-case basis.	May be VAT implications, depending on the particular form of debt.	No stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<b>United Kingdom</b>	<p><b>Debtor:</b> Forgiven amount is generally taxable income to the debtor, unless the debt is between connected persons, in which case the forgiven amount is non-taxable. Trade debt forgiveness will be taxable to the debtor.</p> <p><b>Creditor:</b> Forgiven amount is generally deductible to the creditor, unless between connected persons in which case the forgiven amount is not deductible. Trade debt forgiveness will be deductible to the creditor, unless between connected persons, in which case the forgiven amount is not deductible.</p>	No VAT implications.	No stamp duty.

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
<p><b>United States</b></p>	<p><b>Debtor:</b> Forgiven amount (“cancellation of debt”, or “COD”) generally produces ordinary income to the debtor. For the debtor, any available net operating loss (“NOL”) carry forward offsets the amount of COD income, provided that the portion of NOL needed to offset the COD income is not limited due to the application of ownership change rules.</p> <p>For the debtor, special exceptions to the general COD income rule apply in the case where a taxpayer debtor is either insolvent or under a bankruptcy (or similar) proceeding.</p> <p>Where the debtor is insolvent, COD amount is excluded from income to the extent of insolvency. Where COD amount exceeds the amount of insolvency, then the general income inclusion rule, described above, applies. The amount of COD excluded from income reduces tax attributes, such as NOLs, basis and others, on the first day of the following tax year. This has the effect of preserving the excluded income for future taxation. Where the debtor is in a bankruptcy (or similar) proceeding, the amount of COD is excluded in its entirety. As in the insolvency case, a corresponding amount of tax attribute reduction is required.</p> <p><b>Creditor:</b> Forgiven amount generally a bad debt (ordinary) deduction to the creditor.</p>	<p>No information provided.</p>	<p>No information provided.</p>

# GLOBAL DEBT RESTRUCTURING SURVEY FINDINGS

Country	Key Income Tax Elements	VAT/Indirect Tax Issues	Stamp Duty Issues
Venezuela	<b>Debtor:</b> Forgiven amount will be considered taxable income of the debtor, except for forgiveness in favour of businesses on bankrupt or on delay. No income tax will be generated from debt forgiveness if it is subject to the inheritance and gift tax.	No VAT implications.	No stamp duty.



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