



A number of countries around the world have now announced the income tax and social security contributions rates that will apply to earnings for 2008. These new rates are covered in this issue of BDO Expatriate News, together with details of changes to the rules for expatriates working in Denmark and France.

BRAZIL

2008 tax & social security contributions

The new income tax and social security contribution rates for the calendar year 2008 have been announced and are set out below. All amounts stated in Brazilian reais (BRL).

Monthly Income Tax Basis:

<i>Income</i>	<i>Tax rate</i>	<i>Exempt amount</i>
Up to 1372.81	0	-
1372.82-2743.25	15%	205.92
Over 2743.25	27.5%	548.82

Annual Income Tax Basis:

<i>Income</i>	<i>Tax rate</i>	<i>Exempt amount</i>
Up to 16 473.82	0	-
16 473.83-32 919.00	15%	2471.04
Over 32 919.00	27.5%	6585.84

In calculating their taxable income for 2008, resident taxpayers are entitled to deductions for their dependants at a rate of 137.99 per month (1655.88 for the year).



Resident individuals are not required to file an annual income tax return if they earn less than 16 473.82 during the 2008 calendar year. Instead, they must file an exempt tax return.

Social security contributions

The rates of social security contributions paid by Brazilian employees have been increased with effect from 1 January 2008 as follows:

Employee contributions

Monthly wage	Contributions rate
Up to 868.29	8%
868.30-1447.14	9%
1447.15-2894.28	11%

BULGARIA

Social security contributions for 2008

The following changes to social security contributions took effect from 1 January 2008:

Minimum and maximum earnings for social security

The minimum monthly earnings on which social security contributions are payable by self-employed individuals were increased from BGN 220 to BGN 240. The thresholds for the payment of contributions across various employment sectors were also generally increased. The maximum monthly earnings for social security contributions purposes were increased from BGN 1400 to BGN 2000.

Employer & employee contributions

The proportion in which the social security contributions are shared between the employer and the employee has been changed from 65/35 in 2007 to 60/40 in 2008, thereby reducing the cost to the employer.

The total employer and employee social security contributions for pension, sickness, maternity,

unemployment and medical insurance that apply to the most common employments are as follows:

Employer	19.5%
Employee	13%

There is no change to the additional contributions that are payable by the employer in respect of industrial injuries and employment-related illness (paid at rates between 0.4 % and 1.1%) and for guaranteed employee pay (paid at 0.5%).

DENMARK

Expatriate tax scheme

In October 2007 the Danish government presented an action plan to encourage the international recruitment of labour to work in Denmark. One of the initiatives was a draft bill for the extension of the current 25% tax scheme for inward expatriates.

Proposed changes

Two significant extensions of the current expatriate scheme were proposed, together with some minor adjustments. It is proposed that the scheme will be extended to make it possible to elect between either:

- a) the present rules with taxation for 36 months at an income tax rate of 25% (which corresponds to an effective rate of 31%, when social security contributions are included) or
- b) taxation for 60 months at an income tax rate of 33% tax (which corresponds to an effective rate of 38.36%, when social security contributions are included).

The election must be made when the expatriate joins the scheme and once it is made, it cannot be withdrawn. In practice, however, it is possible to delay making the election until the filing date for the first tax return in which the individual elects for the 25% expatriate tax scheme. This tax return filing date is either 1 May or 1 July in the year following the calendar year for which the employee is first covered by the scheme.

Temporary stays

There are proposals to allow researchers to use the 25% tax scheme, even where they have been liable to tax in Denmark on earned income relating to a temporary stay as a visiting professor or similar activity within the 36 months prior to the employment to which the 25% expatriate tax scheme would apply.

However, the researcher must only be subject to limited Danish tax liability. This means that the period in Denmark must only be a temporary stay, the individual must not take up residence in Denmark and must maintain his or her residence in the home country.

Interest expense

The current rules do not allow employees within the 25% tax scheme to deduct their interest payments from the income taxed under the scheme. In addition, these interest payments cannot be carried forward for deduction in the future, unless the loan is business-related. This rule means that employees who are taxed under the 25% tax scheme generally cannot obtain Danish tax relief for interest payments relating to, for example, a mortgage on their home or to a general personal loan.

The new proposals will allow a deduction for interest in the tax year in which it is incurred.

EUROPEAN UNION

Germany: educational activities

The European Court of Justice (ECJ) has ruled in the case of *Jundt and Another v Finanzamt Offenburg* (Case C-281/06), which related to a lawyer who resided and mainly worked in Germany, but who also taught on a part-time basis at a university in France.

The individual was assessed in Germany on his French earnings, but he claimed that he was entitled to the exemption provided in the German legislation for expenses relating to certain earnings from secondary educational activities. However, the German authorities maintained that the exemption applied to earnings paid by a German public body only. The individual appealed on the grounds that the German authorities' stance was contrary to the freedom to provide services guaranteed by Article 49 of the EC Treaty.

The German Federal Finance Court (*Bundesfinanzhof*) asked the ECJ for a preliminary ruling on whether teaching activities fell within Article 49. If the activities were within Article 49, the ECJ was requested to consider whether restricting the exemption in the German legislation to German institutions was justified and failing this, whether it was lawful.

The ECJ held that teaching activities were within the scope of Article 49. Consequently, the German domestic legislation was a restriction that was in principle contrary to the freedom to provide services under that article. In reply to the question of whether the restriction was justified, the Court concluded

that national legislation that discouraged teachers from working in another EC Member State by denying them a tax concession that would have applied to work in their home state was contrary to Article 49. The objective of Article 49 is to require the EC to contribute to the development of education by co-operation between Member States and encouraging mobility of students and teachers.

The restriction in the legislation could not be justified as necessary to protect the cohesion of the German tax system, nor by reference to the public interest.

FRANCE

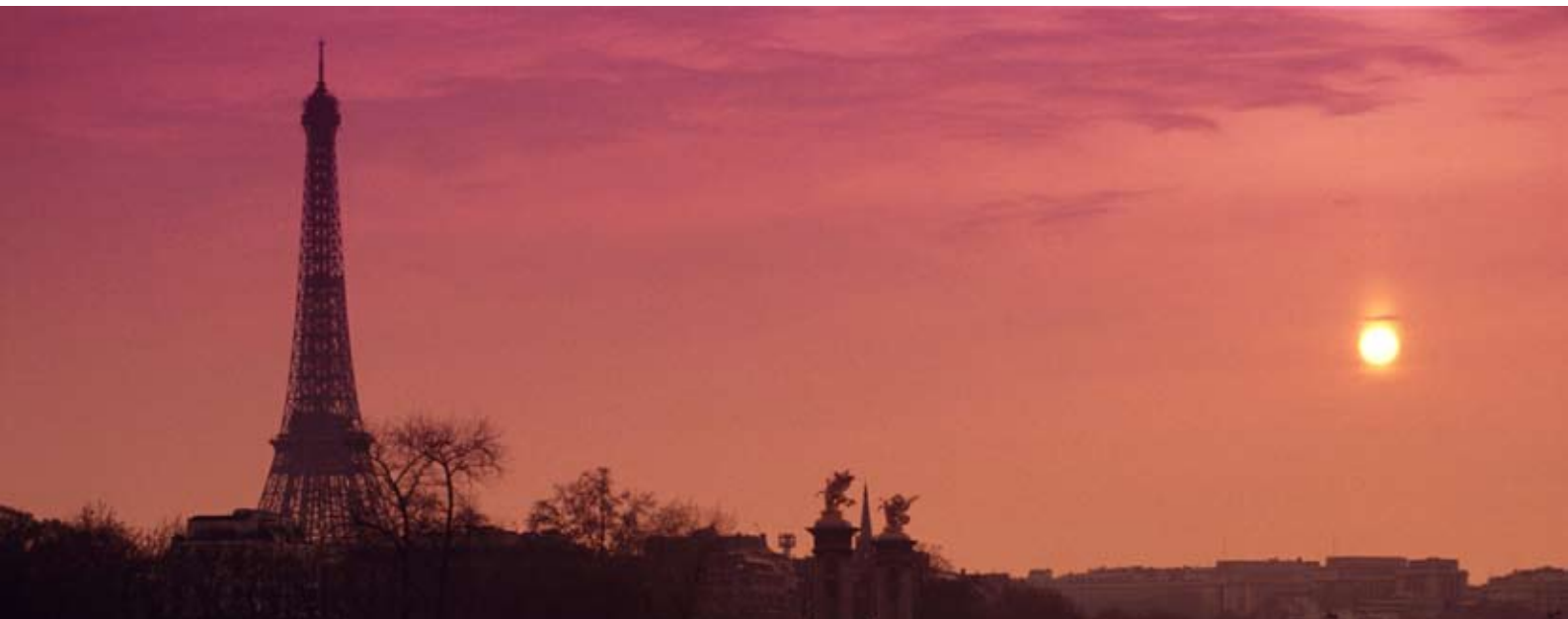
'Inpatriate' tax régime

Since 2003 France has operated an attractive income tax scheme for foreign executives ('inpatriates') who perform their assignment duties at a French company and who become resident for tax purposes in France.

Recently, the régime has been improved and relaxed by a new administrative circular, which entitles these taxpayers to combine three different tax exemptions:

- 1) The bonuses relating to the French assignment are exempted from income tax whatever their nature, provided that the individual's taxable basic salary does not exceed the salary that would be received by a French employee performing the same functions in the same, or in a similar, company (Article 81B, I, II of the French Tax Code);
- 2) Any part of the salary directly relating to assignment duties performed outside France is exempted, up to a maximum of 20% of the basic salary. This rule relates mainly to employees on secondment to France who perform professional duties in their home country (Article 81B, III of the FTC);
- 3) Any bonuses relating to work outside France are not liable to income tax, up to a maximum of 40% of the earnings which relate to the duties performed outside France (Article 81A, II of the FTC).

Example: a UK employee is seconded to a French company. The individual's annual earnings are EUR 190 000, including bonuses of EUR 20 000 relating to the French assignment. In addition, the employee receives bonuses for work in the UK of EUR 12 000. The part of the employee's salary that relates to duties performed in the UK is EUR 25 000.



A comparable salary in the French company is EUR 170 000.

France operates an attractive income tax scheme for foreign executives who perform duties at a French company and become resident for tax purposes in France.

Article 81 B, I, II: the French assignment bonuses of EUR 20 000 are exempt from tax.

Article 81 B, III: the salary of EUR 25 000 for the UK duties is exempt from tax, as it does not exceed the 20% limit (170 000 @ 20% = 34 000).

Article 81 A, II: EUR 10 000 of the UK bonuses is exempt from tax under the 40% rule (25 000 @ 40% = 10 000). The balance of EUR 2000 is taxable.

As a result, out of global remuneration of EUR 202 000, EUR 55 000 is exempt from French income tax.

In order to reduce the in-patriate's French tax liabilities by qualifying for the above tax reliefs, the following conditions must be met:

- The bonuses must be specified in the employment contract or in the secondment letter. However, it is not necessary to mention the exact amount of the bonuses, provided that this is properly determinable

(for example, because the sum relates to the individual's Cost of Living Allowance, housing, or school fees).

- The employee must keep a precise timesheet in order to determine the part of the salary that relates to the employment duties outside France.
- The employer must meet its obligations, in terms of social contributions (for example, the issue of payslips and completion of salary returns).

Taxation of dividends

The taxation of dividends in France has been modified by the Finance Act for 2008. The new régime applies to dividend payments made after 31 December 2007.

The taxpayer now has the choice between two systems of taxation, as set out below.

Normal basis

The normal basis taxes the dividends at the normal progressive income tax rates from 0% to 40%. The taxable dividends are calculated by firstly deducting an allowance of 40% of the gross amount of the dividends received. In addition, a lump sum allowance is deducted of either EUR 1525 (for a single person) or EUR 3050 (for a married couple).

A tax credit is also applied against the amount of income tax payable on the dividends. The credit is equal to 50% of the income tax payment, subject to a limit of EUR 115 for a single person and EUR 230 for a married couple.

It should be noted that in addition to the income tax charge, the gross dividend is subject to social security taxes at the rate of 11%.

Alternative basis

The alternative basis allows the taxpayer to opt to be taxed at a fixed rate of 18% on the gross amount of dividends received. No allowances are deducted in calculating the taxable dividends and no tax credit applies under this basis. The 11% social security taxes that apply to the normal basis are also payable under the alternative basis, in addition to the 18% tax charge.

It is important to note that the alternative basis only applies to individuals who are resident in France for tax purposes. Furthermore, the 18% fixed rate only applies if the taxpayer opts expressly for it to apply. The time limit for this option is within the first fifteen days following the month in which the dividend payment occurs. If the taxpayer's option is not exercised, or it is exercised outside the prescribed period, the dividend payment is liable to income tax on the normal basis.

Collection

In the case of French dividends, the tax at the fixed 18% rate will be withheld directly by the company or by its intermediary (the bank).

On the other hand, in the case of foreign dividends the 18% tax must be withheld and paid over by the beneficiary of the dividends (or by his or her representative). This means that the application of this new régime brings with it additional compliance requirements for French residents who receive foreign dividends, since they must file a specific tax return and make a specific payment of tax.

Commentary

In principle, taxpayers can exercise their option for the 18% fixed tax rate in respect of each dividend payment. In practice, once the fixed rate has been chosen for one distribution it is not advisable to allow other distributions to be taxed at the normal progressive rates of tax. This is because other distributions paid during the same year, which are not subject to the fixed rate, will be liable to income tax at the normal progressive rates without the benefit of the 40% and individual allowances and without a tax credit.

In this situation, the choice between the two régimes depends on the taxpayer's global income during the calendar year. It is necessary to prepare an estimate of the individual's tax liabilities, in order to analyse whether to retain the alternative basis of taxation at the fixed rate for later dividend payments. In general, the alternative tax basis is only advantageous when the taxpayer is liable to tax at the highest income tax rate.

Therefore, in practice the application of the new regime appears complicated and time-consuming, particularly for certain foreign employees who are seconded to France and who receive foreign-sourced dividends.

GERMANY

Social security contributions 2008

The German Ministry for Labour and Social Affairs has published the amended social security contributions thresholds and limits for the calendar year 2008. The most significant change is the reduction in the contribution for unemployment insurance from 4.2% to 3.3%. All currency amounts are stated in euros (EUR).

Scheme	Employer %	Employee %	Maximum income base: old federal states (West Germany)	Maximum income base new federal states (East Germany)
Pension	9.95	9.95	5300 pm/63 600 pa	4500 pm/54 000 pa
Health	6.95	7.85*	3600 pm/43,200 pa	3600 pm/43 200 pa
Unemployment	1.65	1.65	5300 pm/63,600 pa	4500 pm/54 000 pa
Disability & old age	0.85 (Saxony 0.35)	0.85** (1.35 in Saxony)	3600 pm/43,200 pa	3600 pm/43 200 pa

* Based on a total federal average of 13.9% (employees pay an additional 0.9%).

** The rate is increased to 1.1% (1.60% in Saxony) for employees with no children.

The changes are subject to the approval of the German Federal Council (*Bundesrat*).

ITALY

Employee share plans

The Italian tax authorities recently issued two resolutions relating to the tax treatment of employee share plans, as described below. It should be noted that resolutions are only binding on the party that requested them; however, they can be considered to be evidence of how the tax authorities would respond in similar circumstances.

Both resolutions made reference to share plans, available to employees in general, for shares in the employing company, or in a company that directly or indirectly controls the employing company, or in a company that is controlled by the employing company.

According to the Italian tax code, an amount of up to EUR 2065.83 of the share benefit can be excluded from the employee's employment income for each year if all of the following conditions are met:

- 1) The shares cannot be reacquired by the employer, or by the company that issued the shares.
- 2) The employee must hold the shares for at least three years.
- 3) The employer is required to apply all relevant withholding taxes.

The failure to meet one or both of conditions (1) and (2) will result in inclusion of the otherwise excluded

amount in the individual's employment income in the year in which the condition is no longer met.

In Resolution No. 376/2007 the tax authorities addressed the taxpayer's query regarding the tax implications of a plan offering shares to employees of a joint venture. The specific issue was whether the shares were issued by a controlling company for the purposes of the legislation, since the employer was owned by two companies (each with 50% of the share capital in the employing entity and both having equal decision-making power). The shares under consideration were issued by one of the two companies that were party to the joint venture. The tax authorities ruled that the Italian tax exclusion could not be applied, due to the fact that neither of the companies was considered to be a controlling company under the Italian Civil Code.

Resolution No. 4/2008 considered a public offer of exchange, in which company B took over company A. As part of this transaction, the employee-shareholders who had received shares under the company A share plan exchanged them for shares in company B. The employees committed to reselling the shares to company B within a certain time-frame that fell outside the three-year holding period (the resale was not required by law). Subsequent to the takeover and after the end of the three-year holding period, the employees sold the shares to company B. The conclusion reached by the tax authorities was that the sale of the shares to company B constituted a failure to meet condition (I) above for the exclusion (no reacquisition of shares by the employer or the company that issued the shares). Therefore, the amount that was previously excluded from their employment income must be included in the employees' employment income for the year of the sale.

MOLDOVA

Social security & health insurance contributions

The new rates of mandatory social security and health insurance contributions for 2008 have been approved and are set out below. The figures for 2007 are indicated in brackets. The new rates apply from 1 January 2008.

Employer social security contributions:

Category	2008 rate (2007)
Employers in general	24% (25%)
Manufacturing companies	22% (23%)
Agricultural companies	20% (20%)

Employee social security contributions:

Employees in general	5% (4%)
----------------------	---------

Individuals with social security contracts, sole proprietors, attorneys, and private notaries pay MDL 2920 pa (2007: MDL 2318). Agricultural workers pay MDL 725 pa (2007: MDL 576).

In general, the maximum monthly taxable base for employee's contributions is based on the average salary forecast for 2008 i.e. MDL 7890. However, for companies whose main activity is software development, the maximum monthly taxable base is MDL 5260.

Health insurance

The mandatory contributions for health insurance are generally payable at the rate of 3% by both employers and by employees. The equivalent contributions were paid by both employers and employees at the rate of 2.5% for 2007.

The annual contributions for certain categories of individuals are MDL 1893.60 (2007: MDL 1209).

It should be noted that individuals who pay their contributions within three months of the date that the rates take effect (i.e. by 31 March 2008) are entitled to a 50% reduction.

NETHERLANDS

Netherlands/Germany tax treaty: termination payments

The Netherlands and German authorities have concluded how to treat redundancy payments for tax treaty purposes. Due to domestic tax legislation in the Netherlands and Germany, it was possible for residents of one of the countries with a work history in both countries to be doubly taxed on a redundancy payment (or not taxed at all). Obviously, this was not a desirable situation.

The right to levy tax will now be determined by reference to the published ruling and this will override the domestic rules in the two countries.

Both countries have concluded that the right to levy tax depends on the economic background of the redundancy payment, as follows:

(1) The country in which the earnings were sourced by reference to the employee's duties (the 'Work State') has the right to levy tax if the redundancy payment is paid for the early termination of the employment. If the employee has also worked in his or her country of residence ('Home State'), or in a third state, the redundancy payment will be pro-rated on the basis of the employee's duties in the various countries during the period of the employment.

(2) The Home State has the right to levy tax where the nature of the redundancy payment supports this.

(3) If the redundancy payment is not within (1) or (2), in principle the right to levy tax falls to the Home State. This will also be the case where any redundancy payments within (1) or (2) would otherwise remain untaxed (i.e. they will become taxable in the employee's Home State).

This ruling entered into force on 25 October 2007.

The accompanying literature mentioned that the ruling can only be considered as an instruction for the tax authorities. Taxpayers will not be bound by this ruling nor will the courts. Therefore, the courts in the Netherlands and Germany will be able to examine the ruling further.

NEW ZEALAND

New Zealand/Netherlands tax treaty: pensions

The NZ Inland Revenue Department issued a ruling on 27 December 2007 explaining its interpretation of Article 19(2) of the New Zealand/Netherlands tax treaty in relation to the taxation of Netherlands social security pensions paid to New Zealand residents.

The Department has ruled that:

- Where a New Zealand tax resident receives a Netherlands social security pension and that recipient is also a New Zealand citizen, the pension is taxable only in New Zealand.
- Where a New Zealand tax resident who is not a New Zealand citizen receives a Netherlands social security pension, the pension may be subject to

tax in both New Zealand and the Netherlands. New Zealand will give a credit for tax paid in the Netherlands, in accordance with the foreign tax credit rules in New Zealand's domestic law.

The ruling applies retrospectively with effect from 1 December 2006.

PORTUGAL

Minimum monthly salary

Decree-Law 397/2007 of 31 December 2007 set the national minimum monthly salary for 2008 at EUR 426. This was an increase on the previous monthly minimum of EUR 403 for 2007.



POLAND

Income tax & social security contributions rates 2008

Amendments to the Personal Income Tax Law introduced on 24 November 2006 set out the tax and social security contribution thresholds and deductions for both 2007 and 2008. The amounts of certain deductible costs and tax thresholds that became effective from 1 January 2008 are summarised below. All currency amounts are stated in zloty (PLN).

The personal income tax rates for 2008 remain the same as in 2007, however the first income threshold and the personal allowance were increased as follows:

<i>Taxable income</i>	<i>Tax rate</i>
First 44 490	19%*
Next 41 037	30%*
Remainder over 85 528	40%*

* In every case, there is a fixed credit of 586.85.

Deductible costs & interest

The costs deductible in calculating taxable earnings were increased for 2008 to:

- 1335 per year where the individual is employed under a single employment contract (2007: 1302)
- 2002.05 per year where the individual is employed under more than one contract (2007: 1953.23)

The threshold up to which qualifying taxpayers may deduct the interest on a mortgage loan was increased to 212 870 for 2008 (2007: 189 000).

The new minimum monthly salary is applicable with effect from 1 January 2008.

ROMANIA

Social security changes

Government Decision 1507 established the minimum gross salary at the level of RON 500 per month for the period from 1 January 2008 to 30 June 2008, and at RON 540 per month for the period from 1 July 2008 to 31 December 2008. This salary corresponds to an average of 170 working hours per month.

Law No. 387/2007 on the Social Security Budget for 2008 established the national average gross salary for 2008 at the level of RON 1550.

The minimum and average national salaries are used for the purposes of social security contributions, contributions for sickness pay, social security benefit and unemployment benefits.

Social security contributions

Law No. 387/2007 regarding the Social Security Budget for 2008 made the following major changes:

The social security contributions payable by the employer for the period 1 January to 31 December 2008 will be decreased by 1.5%, as follows:

<i>Labour market</i>	<i>Contribution rate</i>
Normal conditions	18%
Difficult conditions	23%
Special conditions	28%

The social security contributions paid by the employee remain unchanged at 9.5%, but from 1 January 2008, 2% is paid to private pension funds.

Unemployment

The employer's contribution to the Romanian unemployment fund is 1% for the period 1 January 2008 to 30 November 2008 (previously 2%). This contribution will be further decreased to 0.5% with effect from 1 December 2008.

As of 1 January 2008, the employee's contribution to the unemployment fund is 0.5% (previously 1%).

In addition, with effect from 1 January 2008, the earnings on which the employee's contributions to the unemployment fund are based have been extended to the earnings actually received. This means that employment income for this purpose includes bonuses and benefits in kind, whereas previously it only included the salary stipulated in the employment contract.

Other persons insured against unemployment, such as independent contractors, pay contributions at the rate of 1.5% (previously 3%) for the period 1 January 2008 to 30 November 2008. The rate reduces to 1% from 1 December 2008.

Industrial accidents and illness

The earnings on which the employer pays contributions for industrial accidents and illness are normally the monthly salary. As of 1 January 2008, when the employee is on sick leave, contributions are paid on the amount of the national minimum guaranteed base salary.

The new legislation makes it clear that contributions for industrial accidents and illness are not due on payments made from the state social security budget, including payments granted in respect of industrial accidents and illness.

UNITED KINGDOM

Social security contributions 2008/09

The amounts and rates of UK social security contributions (National Insurance Contributions or NICs) which will be payable on employment income for 2008-09 (the year ending 5 April 2009) will be as set out below.

It should be noted that employer NICs are payable on both cash and non-cash earnings. However, the employee only pays NICs on cash earnings and on certain benefits which are convertible to cash.

All amounts are stated in pounds sterling (GBP).

Employees:

Earnings (pa)	Contribution rate
First 5460	0%
Next 34 580	11%
Remainder over 40 040	1%

Employers:

Earnings	Contribution rate
First 5460	0%
Remainder	12.8%

It should be noted that employer NICs are payable on both cash and non-cash earnings. However, the employee only pays NICs on cash earnings and on certain benefits that are convertible to cash.

More information

For more information, please contact your local expatriate contact or one of the Expatriate Services Centre of Excellence contacts below.

G S Choong	Sydney, Australia	gs.choong@bdo.com.au
Jan Van Langendonck	Brussels, Belgium	jan.vanlangendonck@bdo.be
Muriel Sivasankaran	Paris, France	m.sivasankaran@bdo-taxlegal.fr
Gerlinde Seinsche	Frankfurt, Germany	gerlinde.seinsche@bdo.de
Robin Schalekamp	Rotterdam, Netherlands	robin.schalekamp@bdo.nl
Kemp Munnik	Johannesburg, South Africa	kmunnik@bdo.co.za
Ramon Portela	Madrid, Spain	ramon.portela@bdo.es
Carol-Ann Simon	San Jose, USA	csimon@bdo.com
Andrew Bailey	London, UK	andrew.bailey@bdochiltern.co.uk
Andrea Plaw	Chelmsford UK	andrea.plaw@bdo.co.uk

If you have any feedback or comments regarding this newsletter, including features that you would like to see in the future, please contact Amanda Sullivan, Newsletter Editor at jimsullivan1@btopenworld.com



BDO International is a world wide network of public accounting firms, called BDO Member Firms, serving international clients. Each BDO Member Firm is an independent legal entity in its own country. The network is coordinated by BDO Global Coordination B.V. incorporated in the Netherlands, with an office in Brussels, Belgium, where the Global Coordination Office is located. The information in this newsletter is for general guidance only and is not a substitute for professional advice. The BDO Member Firms accept no responsibility for any actions taken or not taken on the basis of the information in this newsletter. © BDO Global Coordination B.V. 2008 www.bdointernational.com