The Global Corporate Advisor

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The Corporate Finance newsletter of Crowe Horwath International

This month's edition of GCA is brought to you from the Southeast Asian region. We begin by examining the growing influence of ASEAN (the Association of Southeast Asian Nations) on the world economy. Analysts have noted that if ASEAN were a single entity, it would rank as the eighth-largest economy in the world.

In the first article, I discuss M&A activity and foreign direct investment in the ASEAN region. This includes a look at the major deals from 2012 and the outlook for the year ahead.

From Crowe Horwath's office in Toronto, Adam Scherer explores the tax implications for foreign investors buying Canadian businesses. Meanwhile, Roberto Perez from Buenos Aires provides an overview of recent M&A activity in South America.

Please contact me or the team to discuss any of these ideas in this issue, or for any needs relating to M&A transaction support, valuations, M&A advisory services and related services. Also, please let us know if you have feedback to make this newsletter even more valuable to you.

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Contact Us

As ever, the GCA team is here to respond to your needs relating to M&A transaction support, valuations and M&A advisory services. If there is a topic you would like us to cover in future issues of the GCA newsletter, don't hesitate to contact Peter Varley, Chairman of GCA at *peter.varley@crowecw.co.uk*. Alternatively, please contact your local member of the GCA team to discuss your ideas.

ASEAN Regional Market Outlook

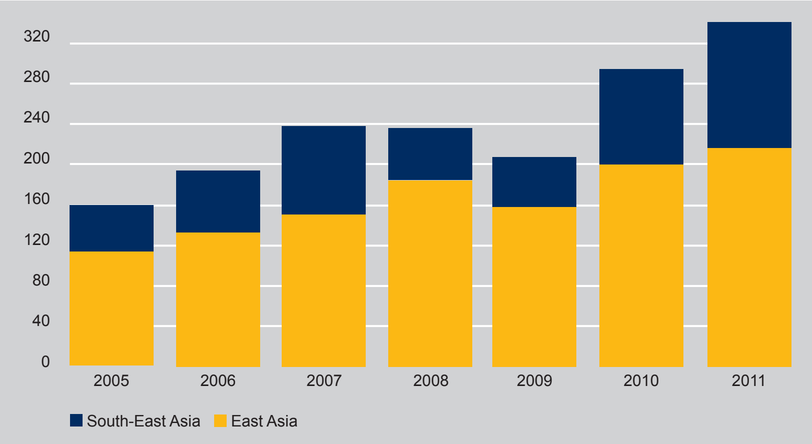
By Alfred Cheong, Singapore

What is ASEAN?

The Association of Southeast Asian Nations (ASEAN) was established in 1967 by Indonesia, Malaysia, Philippines, Singapore and Thailand. Five additional countries have since joined as member states: Brunei, Vietnam, Laos, Myanmar (Burma) and Cambodia.

ASEAN is a positive example of a successful inter-governmental organization in the developing world. In 2008, the 10 member states ratified the ASEAN Charter, which provides the legal and institutional framework under which it operates. The ASEAN Economic Community (AEC) is the next step of economic integration, which will transform ASEAN into a single market and production base by 2015.

Figure 1: FDI inflows (US$ billion) from 2005–2011



Source: UNCTAD World Investment Report 2012

Trends in foreign direct investment

ASEAN member states account for a greater proportion of foreign direct investment (FDI) than East Asia. The 2012 United Nations Conference on Trade and Development (UNCTAD) World Investment Report stated that in 2011, Southeast Asia accounted for 22% of total global FDI inflow, up from 12% before the 2008 Global Financial Crisis.

Southeast Asia continues to outperform East Asia (China, Japan and South Korea) in overall FDI inflow growth, which is slowly narrowing the gap on East Asia's domination in the region. In 2011, FDI inflow into Southeast Asia reached US$117 billion (a 26% increase over 2010) compared to East Asia's 9% increase over 2010 to US$219 billion (see Figure 1).

In 2011, four ASEAN members (Singapore, Indonesia, Malaysia and Brunei) saw a considerable rise in FDI inflows, while the rest recorded positive inflows.

We have seen increasing wages and production costs in East Asia. This may be contributing to increased FDI inflow into ASEAN economies, as some foreign companies are relocating to ASEAN member states to avoid increasing costs.

A recent Bank of America–Merrill Lynch report showed that FDI inflow into ASEAN economies has risen strongly in the past few years, and is now on par with FDI into China.[1]

We believe FDI sentiment remains strong in the ASEAN region, underpinned by the plan for ASEAN to be a single market by 2015. Rising wage and production costs in China, labor shortages and geopolitical tensions in North Korea have also worked in ASEAN's favor.

M&A market outlook

ASEAN financial markets entered 2013 on the back of robust economic growth and impressive results in most equity markets. This created upbeat expectations for M&A activity in the ASEAN region. However, this wave of optimism was tempered by the winds of caution blowing in from the eurozone crisis, particularly events in Cyprus.

Despite these challenges, optimism in the ASEAN region has not dimmed – the region placed third after Greater China and Australasia in a recent mergermarket heat chart (see Figure 2).

1 See: http://blogs.ft.com/beyond-brics/tag/asean/#axzz2QsmdZ1QL

Figure 2: Intelligence heat chart based on 'Companies for Sale' between 5 June and 4 December 2012

Sector	Greater China	Australasia	Southeast Asia	South Asia	North Asia (excl Greater China)	Japan	Central Asia	Grand Total
Industrials and Chemicals	407	51	65	82	95	53	3	756
TMT	158	214	110	63	33	8	10	596
Consumer	205	109	71	82	58	54		579
Energy/Mining/Utilities	172	93	85	76	39	78	2	545
Pharma/Med/Biotech	88	39	82	46	34	28	2	319
Financial Services	122	61	16	48	26	20		293
Real Estate	53	37	33	50	15	40	1	229
Construction	64	36	33	25	8	31	1	198
Business Services	81	29	57	11	4	11		193
Leisure	39	22	37	36	10	24		168
Agriculture	46	14	23	23	22	9		137
Transportation	54	52	26	2	1			135
Government		7	6	1		1		15
Other		2	1		4			7
Defence	2	2	2	1				7
Grand Total	1491	768	647	546	349	357	19	4,177

Source: mergermarket Southeast Asia M&A Round-up 2012

Hot	Warm	Cold
400	100	40
200	80	20
150	60	0

As the ASEAN region continues to present opportunities, particularly in non-traditional markets with good growth potential, the M&A outlook is expected to remain positive for the year. Key Chinese players are also reported to be keen to expand further into ASEAN, using Singapore as a springboard. Companies such as the Qingjian Group have publicly stated that they are looking at resource and real estate opportunities in Malaysia and Indonesia.

According to Thomson Reuters, M&A deals involving companies based in the ASEAN region continued its upward trend, which in 2012 more than doubled year-on-year to hit a record US$90 billion (see Figure 3). Singapore led the way with US$45 billion, followed by Malaysia with US$15 billion.

Figure 3: Southeast Asia top four deals in 2012

Ann. Date	Bidder Company	Target Company	Seller Company	Buy-side Advisory	Sell-side Advisory	Deal Value (US$m)
13-Sep-12	TCC Group	Fraser & Neave Limited (69.64% Stake)		**FA:** DBS Bank; HSBC; Maybank Investment Bank; Morgan Stanley; United Overseas Bank **LA:** WongPartnership	**FA:** Goldman Sachs; JPMorgan **LA:** Stamford Law; Shook Lin & Bok (Advising JPMorgan)	**10,134**
5-Dec-12	Charoen Pokphand Group Co Ltd	Ping An Insurance (Group) Company of China Ltd (15.57% Stake)	The Hong Kong and Shanghai Banking Corporation Limited; and HSBC Insurance Holdings Ltd	**FA:** – **LA:** Linklaters; Clifford Chance (Advising China Development Bank Corporation)	**FA:** HSBC **LA:** Freshfields Bruckhaus Deringer	**9,383**
2-Apr-12	DBS Group Holdings Ltd	PT Bank Danamon Indonesia Tbk		**FA:** Credit Suisse; DBS Bank; ING; Morgan Stanley **LA:** Baker & McKenzie; WongPartnership; Shook Lin & Bok (Advising Credit Suisse; Morgan Stanley)	**FA:** Citigroup; Deutsche Bank; UBS Investment Bank **LA:** Allen & Gledhill; Makes & Partners	**7,338**
20-Jul-12	Heineken NV	Asia Pacific Breweries Limited (58.1% Stake)	Fraser & Neave Limited; and Kindest Place Groups Limited	**FA:** Citigroup; Credit Suisse **LA:** Duane Morris & Selvam; Rodyk & Davidson; Gibson Dunn & Crutcher	**FA:** Goldman Sachs; UBS Investment Bank **LA:** Allen & Gledhill; Loyens & Loeff; Stamford Law; WongPartnership; Shook Lin & Bok (Advising UBS Investment Bank)	**6,593**

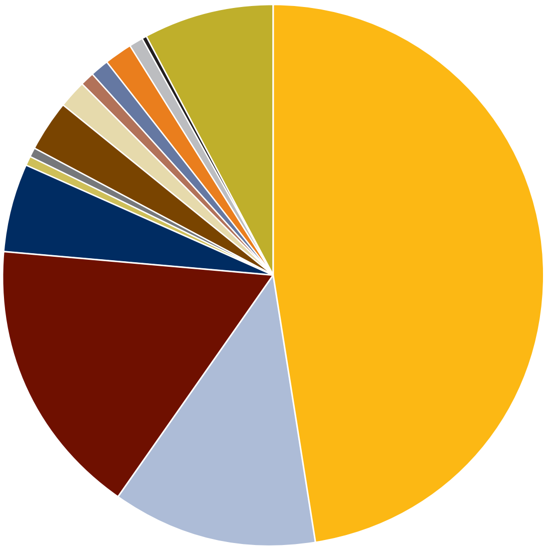
The consumer industry remains the most active segment in the M&A sector, garnering almost half of the entire sector-by-value (see Figure 4). This trend is expected to continue as rising incomes in the ASEAN region create brand-conscious shoppers who are willing to spend more.

Target Country Analysis – 2012

			Change	
Country	**Value (US$M)**	**Deal Count**	**% Value**	**Deal Count**
Cambodia	204	3	309.0%	1
Indonesia	13,932	75	146.1%	8
Malaysia	14,966	87	-2.2%	4
Philippines	6,897	34	95.3%	2
Singapore	45,012	109	277.0%	14
Thailand	4,968	37	-43.4%	-4
Vietnam	3,451	27	68.6%	2
Total	**89,430**	**372**	**89.0%**	**27**

Source: mergermarket Southeast Asia M&A Round-up 2012

Figure 4: M&A sector breakdown by value



	%
Consumer	47.6
Energy, Mining & Utilities	12.3
Financial Services	16.6
Real Estate	5.2
Business Services	0.6
Technology	0.7
Agriculture	2.9
Construction	1.8
Leisure	0.8
Pharma, Medical & Biotech	1.2
Transport	1.5
Telecom	1.0
Media	0.2

Source: mergermarket Southeast Asia M&A Round-up 2012

Singapore M&A deals plunged 13.5% to US$6.4 billion

After last year's multimillion-dollar acquisition of Singapore conglomerate Fraser & Neave Ltd by Thailand's Charoen Sirivadhanabhakdi (through his TCC Group), volume for M&A deals in Singapore do not appear to be sustainable in 2013.

According to Thomson Reuters Q1 2013 preliminary M&A data for Singapore, deal activity for announced M&A involving Singaporean companies started slow. Deal value reached US$6.4 billion, a 13.5% decrease from the first quarter of 2012. This is the slowest start to a year since Q1 2009, when deal value dipped to US$2.4 billion.

Despite the 25.6% decline in the number of deals, the value of cross-border activity in Singapore increased by 19% to US$4 billion, compared to the first quarter of 2012. Inbound acquisitions grew by 301.1% to US$911.3 million.

Initial public offering (IPO) outlook

According to Dealogic, in Q1 2013 ASEAN markets outperformed North Asian markets (Greater China and Hong Kong) as the preferred destination for IPOs. This has not been seen since the 1997–98 Asian financial crisis. Countries including Singapore, Thailand and Indonesia raised a total of US$1.9 billion in Q1, compared to US$1.4 billion in North Asia (excluding Japan).

One reason for this anomaly is the current moratorium on IPOs by the China Securities Regulatory Commission, which started in October 2012 to clear the long queue of companies (mainly domestic) waiting to list on the mainland stock market. Hong Kong, another favorite IPO destination in Asia, did not perform well either, with mainly small cap companies vying for listing in Q1.

Singapore

In March 2013, Mapletree Greater China Commercial Trust, a Singapore-based real estate investment trust (REIT), listed on the Singapore Exchange with a market capitalization of US$2 billion. This is currently the largest REIT listing in Singapore and the largest listing in Asia so far this year. Crowe Horwath believes that the successful listing of Mapletree REIT will increase investors' risk appetite and price–earnings ratios.

The Singapore market is recognized as a hub for real estate listings in Asia. It raised a total of US$2.6 billion in Q1, placing it second to Malaysia, which raised US$3.3 billion.

Malaysia

The Malaysian market performed extremely well in 2012, partly driven by offerings that were oversubscribed, and partly due to shares being priced near the high-end of target ranges set by bankers.

Felda Global Ventures Holdings Bhd., which deals mainly in palm oil, raised US$3.1 billion from its IPO, making it the second-largest deal in 2012 after Facebook Inc's US$16 billion IPO in March. The success of Malaysia's IPO market last year can be partly attributed to the fact that many of the companies involved were heavily backed by state-owned funds, both local and foreign, which provided investors the incentive of stability.

Another reason for the success of Malaysia's IPO market is that companies like Felda Global Ventures tend to focus on markets domestically or within Asia, rather than the currently sluggish Western markets.

Indonesia, the Philippines and Thailand

Indonesia, the Philippines and Thailand are also getting on the IPO bandwagon. These countries are looking to list state-owned infrastructure projects and local privately owned conglomerates across various industries.

Thailand's BTS Group, which operates the Bangkok Sky Train, raised approximately US$2.1 billion by listing its infrastructure fund. At the start of trading the stock soared as much as 22% after pricing the country's biggest ever IPO at the top of expectations. The infrastructure fund was the largest initial public offering in Asia (excluding Japan) so far this year.

Crowe Horwath expects that plays on ASEAN domestic market in the retail, healthcare and property industries will remain popular. Factors that may affect the region's IPO market growth include decelerating credit and economic growth, rising inflation and delays to economic reforms in the eurozone.

Conclusion

Crowe Horwath believes that raising funds via IPOs will remain strong in the ASEAN region throughout 2013. Deals such as BTS Group listing its infrastructure fund in Thailand signify that the region's equity markets can provide sufficient liquidity for successful launches in this price range. We believe this will encourage more activity of this size, particularly in the consumer, infrastructure, real estate and commodities industries.

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Merger and Acquisition Activity in South America

By Roberto Perez, Buenos Aires

Like many regions around the world, South America experienced a decline in the value of M&A activity in 2012. However this investment slowdown had a smaller impact in Latin America than in other regions. As a result, investors have turned to the region for M&A deals as the US and Europe remain mired in economic uncertainty.

Transaction activity

In South America, the number of announced M&A transactions fell from about 1,800 in 2011 to almost 1,600 in 2012 (see Figure 1). Further, the value of M&A deals in 2012 fell to its lowest level since 2009.

Given the strength of several South American economies, some analysts believe the value of M&A deals will rise in 2013. This outcome would mirror growing M&A deal values worldwide. According to M&A Monthly Insider, the value of Latin American M&A transactions totaled US$42.7 billion in the second quarter of 2012 – an increase of 140% over the same period a year earlier (see Figure 2).

Further, global investment bank GroupArgent states that the M&A performance of a number of countries in the region improved in 2012 (see Figure 3). Brazil remains the major M&A market, while Colombia, Chile and Mexico have increased their deal volumes.

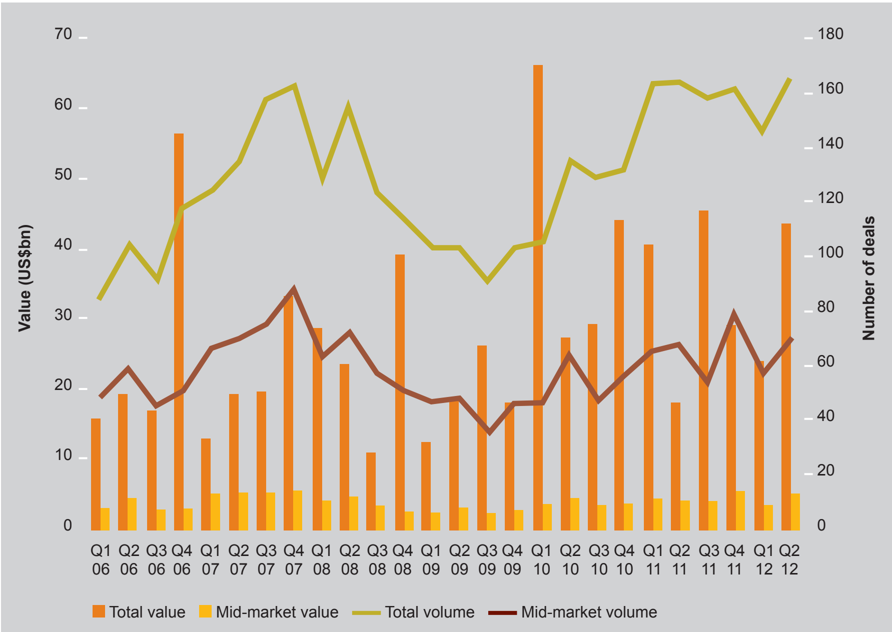
M&A activity in Brazil

In recent years, M&A activity in South America has been driven by the high economic growth rates of emerging economies such as Brazil. The nation is also attractive to foreign investors because no tax is paid on investment returns.

Figure 1: Announced M&A deals in South America, 1995–2012

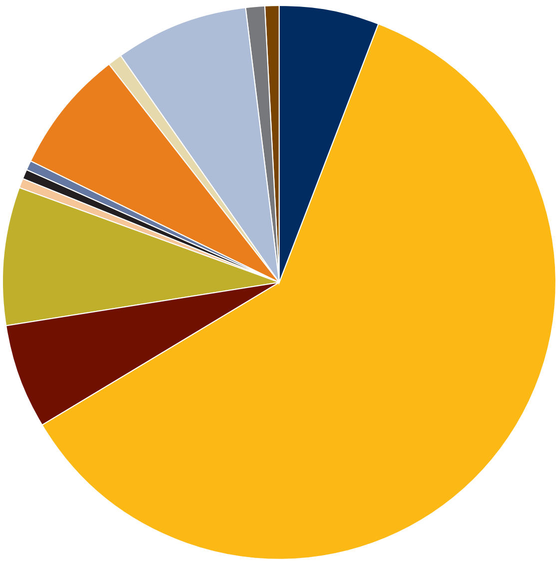
Source: Institute of Mergers, Acquisitions and Alliances

Figure 2: M&A deal volumes and values by quarter, 2006–2012



Source: M&A Monthly Insider, July 2012

Figure 3: M&A volume in Latin American countries, first half 2012



Source: GroupArgent

	%
Argentina	6.1
Brazil	60.4
Chile	6.1
Colombia	7.9
Costa Rica	0.6
Dominican Republic	0.6
Ecuador	0.6
Mexico	7.3
Panama	0.6
Peru	7.9
Uruguay	1.2
Venezuela	0.6

Source: GroupArgent

During 2012, the major M&A transactions in Brazil included:

- Abertis' purchase of 60% of Obrascon Huarte Lain Brasil SA for US$1.2 billion
- UnitedHealth's acquisition of Amil for US$4.9 billion
- Lenovo Group Ltd's acquisition of Digibras Participações SA for US$342.6 million
- Abril Educação SA´s purchase of Grupo Ometz (operator of the English teaching network Wise Up) for US$449.4 million – with 57% paid in cash and the rest in new shares.

However, some analysts – including the International Monetary Fund – are concerned that Brazil's rapid economic growth could lead to rampant inflation and political instability. A loosening of monetary policy in Brazil has fuelled fresh concerns over domestic inflation.

M&A activity in Peru

In 2012, major M&A transactions took place in construction, mining and retail in Peru. The largest deal was Royal Dutch Shell Plc's US$4.4 billion acquisition of several business investments of Repsol, which was followed by the US$2.5 billion merger between Cementos Lima and Cementos Andina.

Another sizeable deal involved Peru's major mining industry. Canadian mining company HudBay Minerals purchased 91% of copper miner Norsemont Mining Inc. for US$525 million.

Further, M&A activity has expanded in Peru's retail and construction sectors. For instance, Empresas ICA SA de CV acquired 51% of San Martín Contratistas Generales SA in a deal worth up to US$123 million.

M&A activity in Colombia

Colombia is among South America's preferred investment destinations for investors as its extensive natural resources are relatively untapped compared to other developing economies. In 2012, Colombia's M&A was most active in the pharmaceutical, energy and banking sectors.

The nation's largest M&A transaction took place in the retail sector, as Chile's Cencosud SA acquired Carrefour Colombia for US$2.6 billion. Another large Chilean-Colombian M&A deal was the US$1.3 billion purchase of Helm Bank SA by Chile's CorpBanca.

Other major M&A deals included CFR Pharmaceuticals SA buying Laboratorio Franco Colombiano and Lafrancol Internacional SA for US$562 million, and Grupo Aval Acciones y Valores SA's US$529 million purchase of Horizonte Pensiones y Cesantías SA from BBVA SA.

M&A activity in Chile

Chile has become a hub for M&A transactions in the region among the energy and finance sectors. With an abundance of natural resources, stable economic and political factors and a relatively high GDP per capita, the country has low interest rates and low sovereign debt risk. We believe that Chile is best equipped in the region to weather the global financial downturn.

In 2012, the biggest M&A deals included:

- the Canadian Pension Plan Investment Board's US$1.1 billion acquisition of 50% of Chilean highway operator Grupo Costanera SA
- Principal Financial Group Inc's US$935 million purchase of 63.44% of Administradora de Fondos de Pensiones Cuprum SA

- Duke Energy Corp buying Iberoamericana de Energía SA for US$415 million
- US insurer MetLife purchasing 64% of Chile´s Administradora de Fondos de Pensiones Provida SA from Banco Bilbao Vizcaya Argentaria SA (BBVA).

M&A activity in Argentina

Once the second-largest destination for M&A activity in the region, Argentina's uncertain political and economic conditions have led investors to seek out other markets. For instance, government regulations have discouraged M&A deals where the acquirer is a local company and the target is foreign. But this vacuum has been filled by a growing number of deals between local companies.

In 2012, major M&A deals included Chilean retail giant Cencosud paying US$484 million to acquire 39% of Jumbo Retail Argentina SA from investment bank UBS AG London Branch, and Canadian mining company Yamana Gold Inc. purchasing Extorre Gold Mines Limited for US$404 million.

Other M&A transactions included:

- Southern Cross buying 78% of new shares in Ultrapetrol Ltd. for US$220 million
- Mead Johnson Nutrition Company's US$195 million purchase of 80% of milk producer SanCor Cooperativas Unidas Limitadas' infants division
- US-based-company Coeur d'Alene Mines Corporation completing its acquisition of Proyecto Minero Joaquín by purchasing 60% of the business for US$60 million.

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Buying a Business in Canada: Understanding the Tax Implications

By Adam Scherer, Toronto

Canada's healthy economy, stable banking system and strong currency make local businesses an attractive target for foreign investors. But investors need to understand Canada's tax system to minimize their tax liabilities, avoid unnecessary interest and penalties on Canadian transactions, and manage compliance obligations in a timely fashion.

The goal of this article is to provide a brief overview of Canada's tax system, and explain financing and structuring options that foreign investors should consider when acquiring a business.

An overview of Canada's tax system

Canadian residents (including companies incorporated in Canada) are taxed on their worldwide income. However, non-resident companies are only taxed on the income they earn from conducting a business in Canada, or when they dispose of 'taxable Canadian property' – such as real estate.

In determining a company's tax liabilities, the Canada Revenue Agency (CRA) – which administers tax law – must determine if an enterprise is 'carrying on a business' in Canada. This will depend on where contracts are concluded, whether orders are solicited in Canada and the location of profit-producing operations. In addition, each of Canada's ten provinces and three territories may also levy corporate income tax when companies conduct business in a particular province or territory.

The Canadian Government also imposes a goods and services tax (GST) on most products or services. Further, all provinces – except Alberta – levy either a stand-alone provincial sales tax or harmonize their sales tax collection and administration with the GST. The harmonized federal and provincial tax (HST) is currently applicable in several provinces including Ontario.

Some provincial governments also levy payroll taxes. Foreign investors must be aware of these taxes, as mistakes in payroll tax can result in significant interest liabilities and penalties.

The Canadian Government may also impose withholding taxes on certain payments made by a Canadian resident to a non-resident. These withholding taxes may be reduced (or eliminated) by applicable treaties with the non-resident's home country. Common transactions which incur withholding taxes include the payment of dividends, royalties, management and administration fees, rent and certain interest payments.

A less taxing experience

In recent years, Canada has lowered corporate tax rates to attract foreign investment and boost the competitiveness of local companies. On 1 January 2012, Canada's federal tax was reduced to 15% from 16.5%; this followed a decrease to 16.5% from 18% on 1 January 2011. At present, the combined federal and provincial tax rates range between 25% and 31%.

Deciding on the right corporate structure

Before operating in Canada, a foreign investor must decide whether it should invest directly through an existing foreign branch or work through a subsidiary (by starting a new entity or acquiring a Canadian company).

Under a branch approach, Canadian business operations are conducted directly by a non-resident. This approach is simple to establish and terminate, and includes the following advantages:

- initial branch losses may be deducted against other foreign earnings
- branch operations could be incorporated at a later date on a tax-deferred basis for Canadian purposes
- branch operations offer reduced transfer pricing obligations and a lower risk of penalties
- branch taxes may be reduced by applicable treaties. For example, in the United States, branch taxes are reduced to 5% and do not apply on the first CDN$500,000 of cumulative earnings.

The other option is to acquire an existing business or establish a stand-alone Canadian subsidiary corporation (generally a standard limited liability company). The advantages of this approach include:

- reducing risk by using the limited liability structure
- controlling the timing of dividend payments on repatriation. Companies are able to defer the 5% Canadian non-resident withholding tax associated with dividends, as opposed to having a branch tax applied to all income

- building a stronger local presence by creating a separate Canadian company
- implementing a common and generally understood structure, which can reduce legal and administrative costs.

Investors should note that consolidated corporate income tax returns are not permitted in Canada. All incorporated entities must file and calculate their tax obligation separately.

Buying the assets or buying the shares

Another important issue for foreign investors is whether a transaction involves the purchase of shares in a target company, or buying its assets. Investors must carefully assess their options to make tax-effective decisions.

The advantages of purchasing shares include:

- acquiring valuable tax benefits such as certain loss carry-forwards (subject to restrictions listed below), unamortized tax asset balances and tax credits
- avoiding transfer taxes on the company's existing assets
- smooth transition of employees to the new entity, as new contracts would likely not be needed
- relatively easy transferal of a company's existing benefits and rights such as contracts, permits and leases to a new owner.

The advantages of buying a company's assets include:

- purchasers can pick the assets they wish to acquire
- purchasers do not take on the liabilities or 'skeletons in the closet' of the existing company, such as contingent liabilities and audit risks
- purchasers access a tax efficient and less risky process
- purchasers acquire assets at their market value, which increases a company's cost base and allows for a greater amortization allowance.

Acquisition of control

When a foreign investor purchases a controlling interest in a Canadian company, a tax event known as an 'acquisition of control' is triggered. This event results in the expiration of capital loss carry-forward balances, restricts the unrealized losses inherent in assets, and also restricts the future use of non-capital loss carry-forward balances.

In certain circumstances, non-capital losses that have been incurred prior to an acquisition may be realized post-acquisition – particularly if a company continues the same or a similar business.

Deciding on the right financing structure

It is also important for foreign buyers to decide on an appropriate financing structure to underpin an acquisition.

Using holding companies in merger and acquisition activity

Foreign investors commonly use a Canadian holding company when acquiring shares in a local company.

When a non-resident acquires a Canadian target company directly it will inherit the historical paid-up capital, instead of having access to an amount of paid-up capital equal to the purchase price.

However, if a non-resident incorporates a Canadian acquisition company using a holding company, the tax basis and paid-up capital of the shares will be equal to the purchase price. The foreign investor can repatriate funds to its home country free of withholding tax, but only to the level of existing paid-up capital.

Therefore, by using a holding company, the original purchase price is returned to the non-resident investor without creating a taxable dividend (subject to withholding tax). The benefits of using a holding company are significant and can outweigh its set-up costs.

Using a holding company can also allow investors to increase the tax cost of non-depreciable assets that are acquired. Further, investors may be able to match interest expenses on acquisition debt with income generated by the company.

Thin capitalization rules

These rules limit the ability of Canadian-resident corporations to deduct interest expenses – especially when the amount of debt owed to non-residents exceeds a 1.5:1 debt-to-equity ratio. Effective for taxation years starting after 2012, the Canadian Government also imposed withholding tax on excess interest. These rules protect the Canadian tax base from erosion through excessive interest deductions, in respect to the debt owed to non-residents.

Transfer pricing

Transfer pricing describes the prices charged for transactions between related parties in different countries. In Canada, all transfer prices must be 'reasonable in circumstances' and should be based on fair market values. The CRA has recently begun to scrutinize transfer pricing more closely, which has increased the level of taxable income in Canada.

Companies must maintain proper documentation to support transfer price charges. A failure to set reasonable transfer prices could result in significant penalties when companies are unable to provide a transfer pricing study or equivalent. These penalties could amount to 10% of any transfer pricing adjustments, if the adjustments exceed a certain threshold. Generally, the threshold is computed at either 10% of gross revenues or CDN$5 million, whichever is less.

Conclusion

When looking to do business or acquire companies in Canada, foreign investors must understand the range of tax issues that may apply to their operations. We recommend investors seek expert advice when planning a Canadian acquisition to ensure they minimize tax liabilities and avoid financial penalties.

The author would like to thank Atif Mir and Allison Newton of Crowe Soberman for their contributions to this article.

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