JPA INTERNATIONAL
JPA INTERNATIONAL
Audit, Accounting, Tax, Consultancy
A Worldwide Network of Independent Firms

18 November 2019
Issue #13

IN THIS ISSUE

Autumn 2019

The International Tax Newsletter

« This Directive will affect all financial intermediaries, including accountants, tax and legal advisors in the European Union »

DAC 6: Mandatory Reporting on Cross-Border tax Planning

Introduction

In 2018 the European Union published Directive 2018/822, the Directive on Administrative Cooperation version 6, known as DAC6. This Directive will affect all financial intermediaries, including accountants, tax and legal advisors in the European Union (EU). It is part of the armoury of the EU Anti-Avoidance Directive and follows on from internationally adopted measures such as the Base Erosion and Profit Shifting project agreed by the OECD (Action point 12), and the Common Reporting Standard.

DAC6 will impose a mandatory reporting requirement for all EU financial intermediaries and in certain circumstances, relevant taxpayers, to disclose cross-border transactions to relevant tax authorities. Its purpose is to promote tax transparency and to fight aggressive tax planning.

Failure to comply could result in penalties.

Financial intermediaries should take note of this Directive as its scope is wide and places an obligation to report cross-border transactions affecting at least one EU Member State. The detail is left to Member States to implement. Such cross-border transactions have to fall into 'hallmarks' or characteristics which are indicative of 'aggressive' tax planning. These are summarised below.

Intermediaries should take note of the timeline for implementation as the reporting requirements are very onerous. The first reporting of cross-border transactions is due on 31 August and should include relevant transactions arising from 25 June 2018 to 1 July 2020, even though the Directive is not required to be implemented into domestic law before December 2019.

To summarise, the key deadlines are:

- **25/06/2018** Start of transaction reporting period
- **25/12/2019** Deadline for domestic implementation
- **01/07/2020** Effective date in force
- **31/08/2020** First report due of transactions
- **31/10/2020** First exchange of information

Who are financial intermediaries?

Any person who:

designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement; or

provides (either themselves or through others) aid, assistance or advice for any matters in (I) above, and knows or could reasonably be expected to know (having regard to the relevant facts and circumstances) that it relates to a reportable cross-border arrangement; and

that has an EU connection (must be tax resident in a Member State; have a permanent establishment in a member State through which the services with respect to the arrangement are provided; be incorporated or governed by the laws, registered with a professional association related to legal, taxation or consultancy services in a Member State).

All intermediaries involved in the transaction have an obligation to file, however, an intermediary is exempt from disclosing if it has proof that the same information had been filed in another Member State.

Legal privilege available if permitted by the Member State.

JPA INTERNATIONAL IN UNITED KINGDOM

In today's ever changing tax environment you must be well advised and kept up to date on tax.

Bourner Bullock's aim is to give you certainty.

Certainty that your company tax and personal tax liabilities are managed to suit your business goals. And to be certain you are legally only paying the least amount of corporate and personal tax.

Contact us to open a discussion about the tax challenges you face and what we can do to help !

Your personal tax advisor :

Viraj Mehta Viraj.Mehta@bournerbullock.co.uk

Bourner Bullock

Sovereign House

212/224 Shaftesbury Avenue

London WC2H 8HQ

Tel: +44 (0)20 7240 5821

Fax: +44 (0)20 7240 5827

www.bournerbullock.co.uk

What is reportable?

Purely domestic arrangements and those having no link to any EU Member State should not fall within DAC6.

Arrangements are reportable only if they have certain hallmarks.

The directive does not prescribe the information to be disclosed but requires that the following information is automatically exchanged by Member States:

1. Identification of intermediaries and relevant tax payers
2. Details of relevant hallmarks that make the cross-border arrangement reportable
3. A summary of the content of the reportable arrangement
4. The date of first step of implementation
5. Details of the national provisions forming the basis of the reportable arrangement
6. The value of the arrangement
7. Member States that are likely to be concerned by the arrangement, and/or
8. Identification of any other person in a Member State likely to be affected by the arrangement.

The Hallmarks

Categories	Hallmarks
Category A: Generic hallmarks (all subject to a main benefits test) - Commercial characteristics seen as marketed tax avoidance schemes	Taxpayer under a confidentiality condition in respect of how the arrangements secure a tax advantage Intermediary paid by reference to amount saved or effectiveness of scheme Standardised documentation and or structure
Category B: Specific hallmarks (are subject to the main benefit test) - Tax structured arrangements seen in avoidance planning	Taking contrived steps which consist in buying a loss-making company Converting income into capital taxed at a lower level or exempt Circular transactions resulting in round tipping of funds with no other primary commercial function
Category C: Specific hallmarks relating to cross-border transactions (do not have a main benefit test in all cases – need to check)	Deductible cross-border payments between associated persons Deductions for depreciation claimed in more than one jurisdiction Double tax relief claimed in more than one jurisdiction Asset transfers where amounts treated as materially different in each jurisdiction
Category D: Specific hallmarks relating to the automatic exchange of information under CRS and the determination of the ultimate beneficial ownership	**Transactions which have the effect of undermining reporting under CRS** **Arrangements that try to hide beneficial owners**
Category E: Transfer pricing (not subject to the main benefits test)	Arrangements using unilateral transfer pricing safe harbour rules Transfers of hard to value intangibles where no reliable comparables exist where financial projections or assumptions used in valuation are highly uncertain Cross-border transfers or functions/risks/assets causing a more than 50% decrease in earnings before interest in tax during the next three years
Tax advantage is not defined but does not cover advantages relating to VAT, Customs/Excise Duties or Social Security Contributions.	

Conclusion

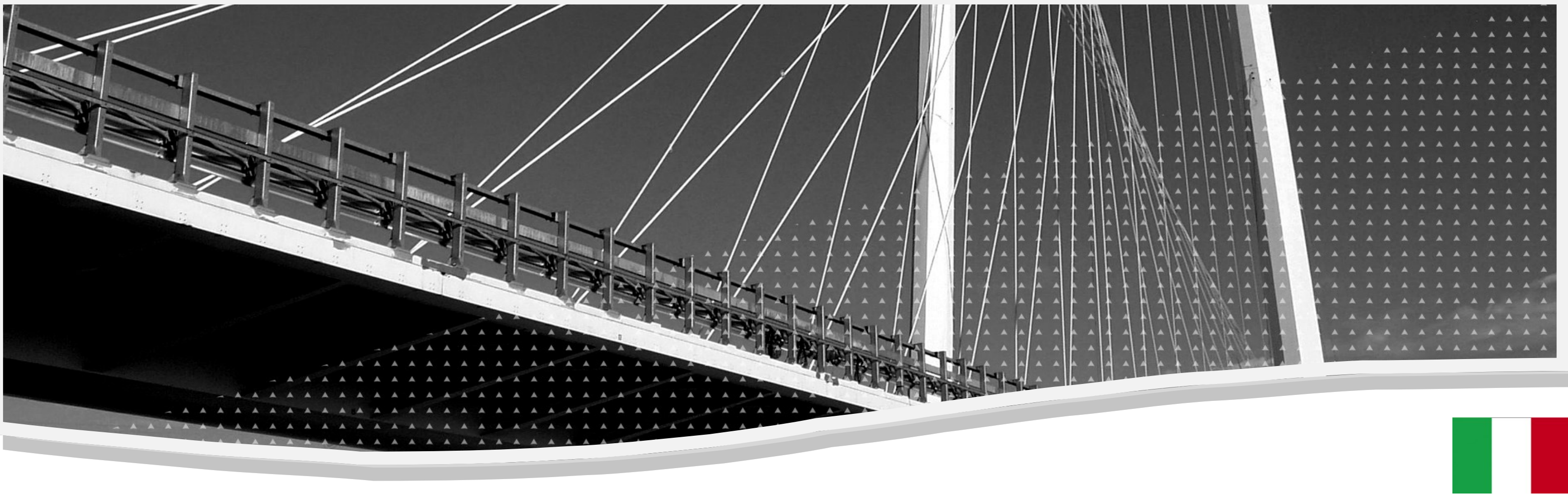
DAC6 will be impose another onerous reporting requirement on the accounting, tax and legal profession. The speed of implementation will be a shock to those who are affected and they should start thinking of the following action points:

Record arrangements from 25 June 2018 to 1 July 2020.

Maintain a system to record potentially reportable arrangements which identifies the potentially applicable hallmark.

Make your team aware of reporting requirements and the fact that the absence of the main benefit test in respect of many hallmarks means that they need to be trained to be aware of highlighting arrangements.

Inform the client and work with the advisers for responsibility of reporting. ■



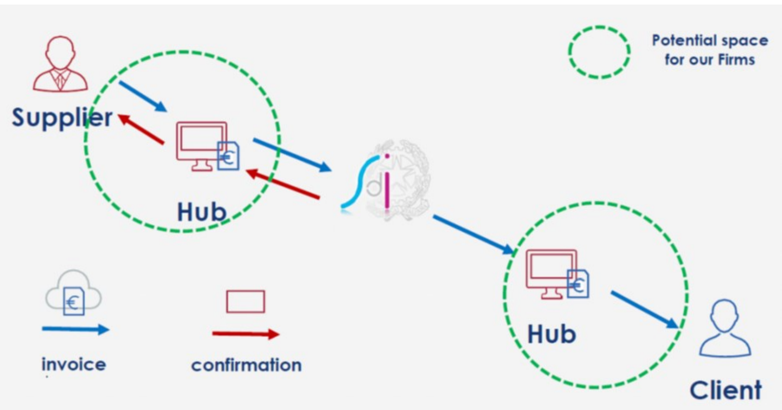
« The current trend is to strive for worldwide harmonization of TP documentation »

E-invoicing regime in Italy

Starting from 1 January 2019, mandatory electronic invoicing was introduced for the supply of goods or services carried out by businesses and taxpayers who are resident, established or VAT registered in Italy. The purpose of this e-invoicing obligation is to encourage businesses to adopt the digital culture and to prevent tax evasion and VAT fraud.

Electronic invoicing had already been in use for public procurement in Italy since 2015, following the adoption of the European Directive on electronic invoicing in public procurement, DIRECTIVE 2014/55/EU in April 2014. The electronic invoice is sent by PEC to the public entity that sends back a confirmation email, still with PEC. PEC stands for Posta Elettronica Certificata which means "certified email" in Italian.

The new e-invoicing rules have introduced a common the format of the invoice. Electronic invoices are converted into XML format in accordance with technical specifications and are signed with a qualified or digital signature when sent to the counterpart through the SDI system (Sistema di Interscambio). SDI is a platform implemented in Italy, where invoices can be validated and transmitted to the recipient. This system is managed by a public organisation called Agenzia delle Entrate, which is in charge of company tax compliance.



For the transmission of electronic invoices, the taxpayers, upon agreements between the parties, can rely on qualified intermediaries. However, the supplier will still be responsible for sending the invoice to tax authorities.

XML formatted invoices must be submitted for all supplies of goods and services between taxable persons that are resident, established or identifies for VAT purposes in Italy, the so called **"Business to Business" transactions**.

JPA INTERNATIONAL IN **ITALY**

Studio Sala was established at the beginning of the '70s on initiative of Renato Sala with a particular focus on tax law and HR services for companies.

Studio Sala has now 15 people and has a high degree of specialization in transfer pricing, patent box and tax services. In addition, Studio Sala provides HR services through its controlled company Terminal Data srl.

Studio Sala is a member of the JPA International network which is active in more than 70 countries.

Your personal tax advisor:

Daniele Sala

dsala@salaeassociati.it

Studio Sala

MILANO

Via Monte di Pietà, 19

Tel: +3990283591114

www.salaeassociati.it

Therefore, invoices issued or received by non resident taxpayers, who are neither VAT established or VAT identified in Italy, will be subject to a specific communication. Subjects resident or established in the territory of the State will be required to submit to the Italian tax authorities the data related to the supply of goods and services provided/received from parties not VAT established or VAT registered in Italy. In other words, the Italian tax authorities will also acquire the data of invoices that are not sent through the SDI platform as they relate to cross-border operations.

Regarding **Business to Consumer transactions**, electronic invoicing is only mandatory when the supplier has the obligation to issue an invoice. In this case, electronic invoices issued to private consumers are expected to be made available to them by the Italian tax authorities. Furthermore, a copy of the electronic invoice or paper invoice should be made available directly by the supplier to the consumer. In this respect, the consumer can decide to waive its copy of the electronic or paper invoice.

Our understanding is that the correct formatting of the invoice is what is most to the Directive. In order to answer to this issue, Italian tax authorities give a QR code with all tax data for your own firm. By just scanning your QR code, the supplier can take all the data they require to issue a correctly formatted invoice.

As always, there is no legislation without penalties. If the invoice between Italian VAT resident or VAT established subjects is not issued in respect to the above mentioned (XML via SDI system), the invoice is considered as omitted and penalties are applicable, e.g. **penalties ranging from 90% to 180% of the VAT not correctly documented.**

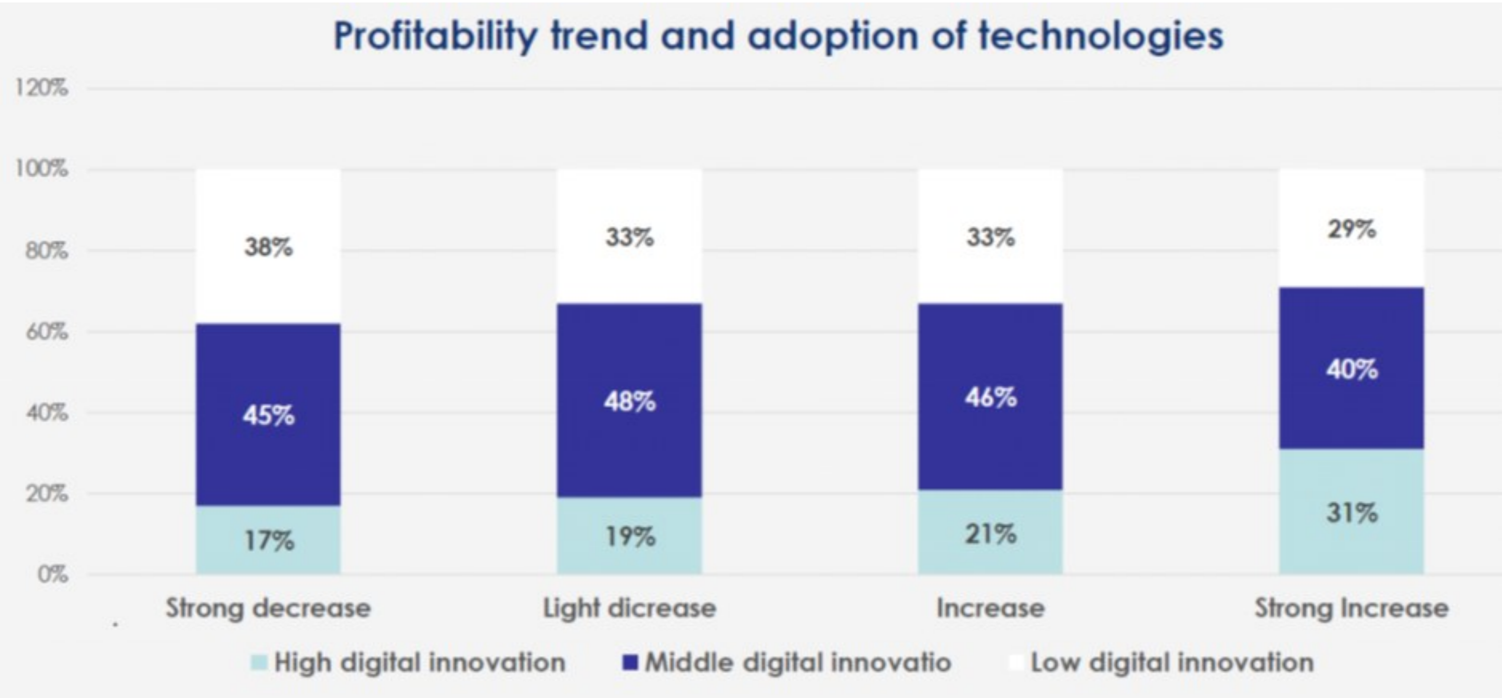
In order to avoid penalties, the client who does not receive the purchase invoice according to the requirements mentioned above should comply with the documented obligations provided by that law (so-called "autofattura denuncia") through the use of SDI.

Now that we have explained practically the application of this new legislation in Italy, we would like to illustrate the impact it has made.

In the first 40 days, 230 million electronic invoices were sent and on the 11th of June 2019, 889 million of electronic invoices sent. **After 5 months of its introduction, the VAT revenue raised was higher than before, with 1.8 billion Euros collected.**

Thanks to the SDI system, Italy is able to provide precise information. The most invoicing regions after 40 days under this regime were **Lombardia-Milano** (81 180 119 invoices), Lazio-Roma (51 235 686) and Emilia Romagna-Bologna (13 524 740); and the most invoicing sectors were **car dealers and repair** (55 750 194), industry (20 236 052) and service and renting (10 490 684).

The OPID - Professional Observatory and Digital Innovation by Politecnico Milano has measured the profitability of a business compared to its adoption of technologies, as illustrated below.



Conclusion

To conclude, the impact for Italian accounting and audit firms can be summarized in a SWOT format. This new obligation is a cost because of the cost to acquire and upgrade to new software. It has also increased the cost of staff training from date processing to checking data. The new directive has also meant that there is also a strong with our customers and an instant data provided. Our new competitors are now IT firms, software houses, but changes mean opportunities and cost saving in a long term prospective. ■

« how countries applied succession rules by asking a series of questions and compare the responses from JPA International member firms »

Brussels IV and its effects on inheritance taxation

Brussels IV is the name for the new Succession Regulation of the European Union (EU), where in special cases a person can determine the country of applicable inheritance law.

It is not a tax law but civil inheritance law, the purpose of which is to simplify succession issues where EU States have different regulations. In many EU States, as inheritance tax is levied on heirs, it is important to know which country's law applies to the person to whom the inheritance is assigned.

We thought it would be of interest to find out how countries applied succession rules by asking a series of questions and compare the responses from JPA International member firms.

Our survey asked the following questions:

Question 1

If a testator has not made a last will, what is the succession rule in your country?

Are there inheritance regulations concerning and restricting your last will?

Question 2

Please give a short general overview about the succession tax rates and tax allowances regarding different persons (family or friend) based on the following examples:

Example 1: A deceased leaves a wife and two children; there is also one grandson and one sister

Example 2: A deceased leaves a wife; no children but there are his parents and a brother

We received the following responses presented on the next page.

JPA INTERNATIONAL CONSULTING IN **GERMANY**

RENTROP & PARTNER is one of the founding members of JPA INTERNATIONAL starting from its head office in Bonn to expand the network all over Germany where at present six different member firms are situated in eight different cities. Nearly all German members have joined JPA Audit AG, a company for common purposes and especially common audit work.

RENTROP & PARTNER, a medium sized company of about 30 people, 10 of them professionals, is serving its clients for more than 50 years with a focus on tax services, consulting and auditing. Hans Ronneberger Wirtschaftsprüfer and Steuerberater, the leading Senior partner, chairman of JPA Audit AG, started his career in PWC as auditor for airline businesses. He is very much engaged now with his team of different professionals to find the right way for medium sized clients in a world of accelerating globalization.

Your personal advisor:

Hans RONNEBERGER

ronneberger@rentrop-partner.de

RENTROP & PARTNER KG

Godesberger Allee 105-107

53175 BONN

T +49 228 957 410

F +49 228 957 4199

www.rentrop-partner.de

Conclusion

As can be seen by the answers received from responding JPA Member firms, there is a broad variety of inheritance regulations in the various countries and that inheritance tax rules vary from country to country. Hence the need for regulations such as Brussels IV. ▪

Legal succession (last will)

COUNTRIES					
Austria	France	Italy	Germany	Netherlands	Portugal
The testator is bound to the limit that each heir can claim half of the statutory claim.	Minimum to be received: No child & married — 1/4 No child & not married — 0 1 child — 1/2 for the child 2 children — 2/3 for the 2 children 3 children or more — 3/4 for all children	Free share: 25% if there is a wife, children, parents, and 50% if there is no child.	The testator is bound to the limit that each heir can claim half of the statutory claim.	Children have the right to receive half of their statutory part.	Every legal heir has the right to receive half of the legal statutory part: if there is a spouse or children min 50% for them, if there is spouse and children min 66.6%.

Legal succession (no last will)

	COUNTRIES									
	Austria	Dubai UAE	France	Ireland	Italy	Germany	Netherlands	Poland	Portugal	UK
Case 1 (Heirs)										
Spouse	33,33%	12,50%	25,00% **	66,66%	33,33%	50%	33,33%	33,33%	50%	50% ***
Child 1	33,33%	43,75% *	37,50% **	16,66%	33,33%	25%	33,33%	33,33%	25%	25% ***
Child 2	33,33%	43,75% *	37,50% **	16,66%	33,33%	25%	33,33%	33,33%	25%	25% ***
Case 2 (Heirs)										
Spouse	66,66%	12,50%	50%	100%	66,66%	75%	100%	50%	50%	100%
Parents	33,33%	33,33%	50%	-	25,00%	25%	-	50%	50%	-
Brother	-	41,66	-	-	8,33%		-			-

* If one boychild and one girlchild: 58,33%/29,17%
** option: Spouse 100% usufruct, Children 50% freehold each
*** Up to 250.000 £ all for the spouse

No restrictions for Dubai, Ireland, Poland, UK.

Inheritance taxation per country

Inheritance taxation

No inheritance tax: **Austria, China, Dubai UAE**

	COUNTRIES										
	France	Ireland	Italy	Germany		Netherlands		Poland			Portugal	UK
Tax allowances/tax category												
Spouse	no tax	no tax	1 000 000	500 000	I	650 913	I	no tax	*	I	no tax	no tax
Children	100 000	320 000	1 000 000	400 000	I	20 616	I	no tax	*	I	no tax	
Parents	100 000	32 500	1 000 000	100 000	I	48 821	III				no tax	
Silblings	15 932	32 500	100 000	20 000	II			no tax	*	I		
Grand parents	100 000	32 500	-		I							
Grandchildren				200 000	I	20 616	II	no tax	*	I		
Nieces and Nephews	7 967	32 500	-		III							
Others	1 594	16 250	-	20 000	III	2 173	III			III		

* under the condition of submitting the form SD-Z2 within 6 months to the tax authority

Tax rates

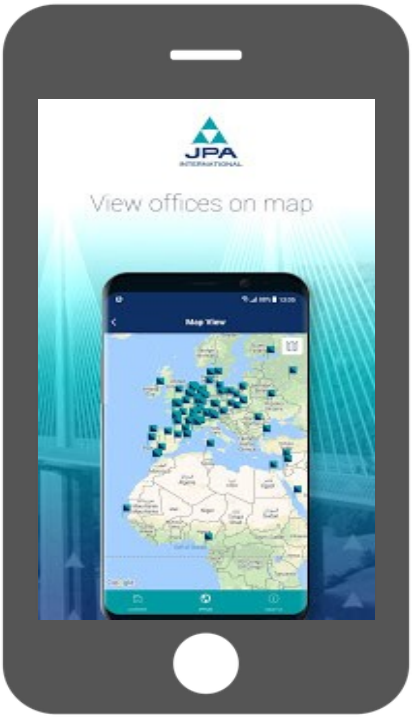
COUNTRIES																			
France		Ireland	Italy		Germany				Netherlands				Poland				Portugal	UK	
direct ascending/						Category				Category				Category					
descendig line			Spouse	4%		I	II	III		I	II	III		I	II	III			
< 8.072	5%	33,30%	Children	4%	up to 75.000	7%	15%	30%	0 -124.727	10%	18%	30%	< 2.400	3%	7%	12%	10%	0 -325.00 £	0%
8.072-12.109	10%		Parents	4%	up to300.000	11%	20%	30%	>124.727	20%	36%	40%	2.400 < 4.800	5%	9%	16%		>325.00 £	40% *
12.109 - 15.932	15%		Siblings	6%	up to 600.000	15%	25%	30%					4.800 >	7%	12%	20%			
15.932-< 552.324	20%		Rel. up to		up to 6 Mio	19%	30%	30%											
552.324 - < 902.838	30%		4th degree	6%	up to 13 Mio	23%	35%	50%											
902838 - < 1.805.677	40%		Others	8%	up to 26 Mio	27%	40%	50%											
>1.805.672	45%				> 26 Mio	30%	43%	50%											
Siblings																			
< 24.430	35%																		
>24.430	45%																		
Rel. up to 4th degree	55%																		
Others	60%																		

* Tax relief for certain business assets and agricultural property

Disclaimer

This newsletter is intended to provide a general guide to JPA International and the services it provides. The material in this newsletter is for general information only and does not constitute professional advice. Users should seek their own tax and other professional advice. JPA International accepts no responsibility for loss occasioned to any person acting or refraining from acting as a result of material contained in this newsletter. In addition, JPA International accepts no liability in respect of material from any other sources which may be linked to this site from time to time.

JPA **iTraveler** App



DO YOU REMEMBER

… being face to face with a new business partner for two hours in a restaurant **without any conversation topics** ?

… standing in meetings with your potential clients while they all look at you embarrassed because of an **unintended hasty action** of yours ?

… explaining your point of view about a cross border project and having **no idea of the regulatory consequences** of your choices ?

If you ever met these awkward situations during your business trips, **that's you've never used the JPA iTraveler application !**

DOWNLOAD NOW

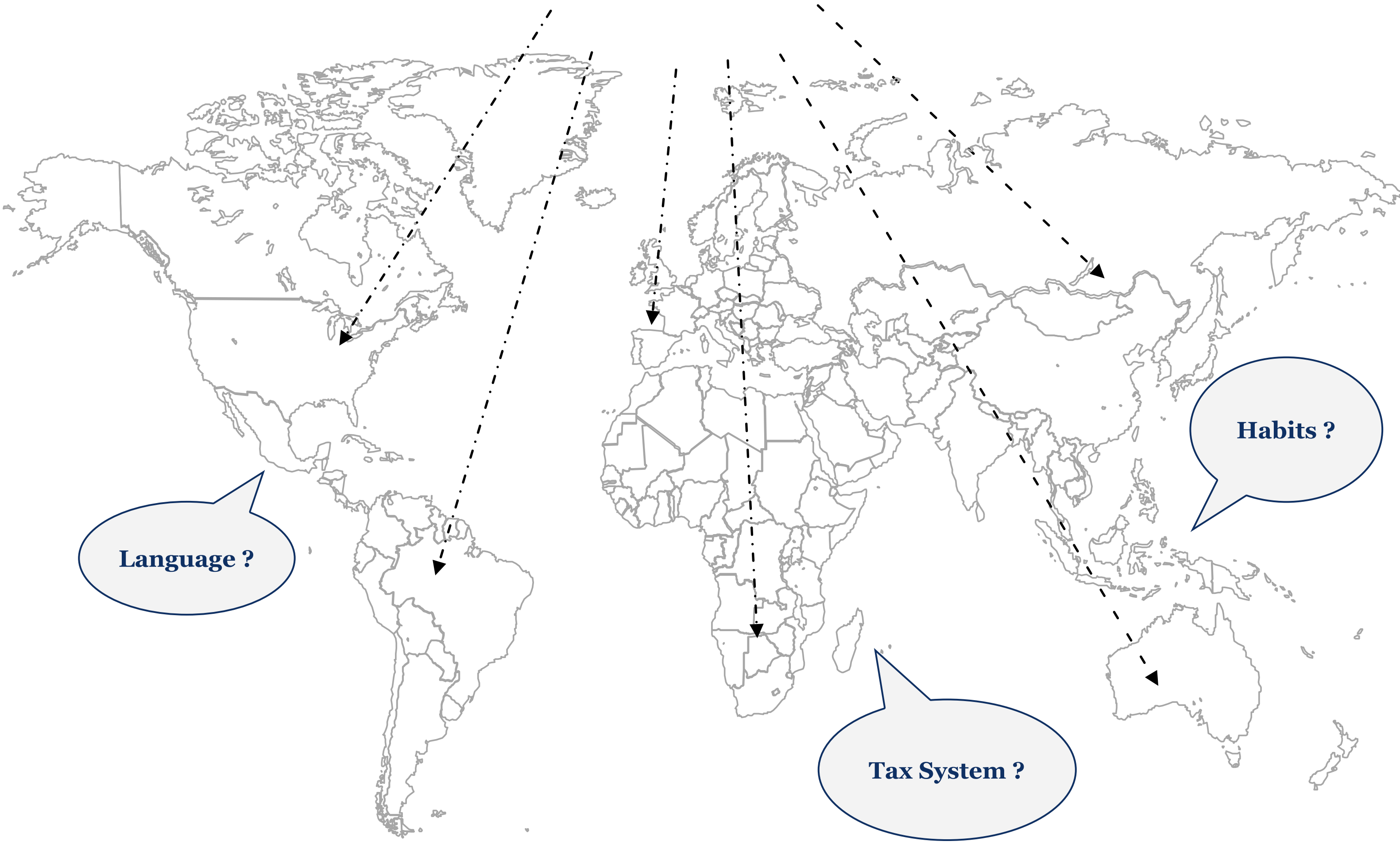
iPhone App
JPA iTraveler
Avaible on the App Store

JPA iTraveler
Android
GET IT ON Google play

It is a must for all business travelers

by Best Traveling Apps (Forbes Magazine)

★★★★★



JPA
INTERNATIONAL

JPA INTERNATIONAL
Audit, Accounting, Tax, Consultancy
A Worldwide Network of Independent Firms