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**From:**

**Sent:** Wednesday, December 08, 2010 11:35:34 AM

**To:**

**Cc:**

**Subject:** Algeria Surplus Tax

In May I sent an email to \_\_\_\_\_, the text of which is as follows, which based on information supplied by \_\_\_\_\_ I opined that the Algeria Exceptional Profits Tax imposed on entities engaged in petroleum activities would not be a creditable income tax:

It appears that the base of the Algerian Exceptional Profits Tax is gross income. As such it cannot be an income tax under section 901. Since taxpayer is paying an income tax and this non-income tax is in addition to and not in lieu of an income tax, our position is that it cannot qualify under section 903, as an in lieu of tax. Some taxpayers have argued that an income tax and a non-income tax in combination can qualify as an alternative tax regime in lieu of the income tax imposed on other business sectors. Although the regulation example, 1.903-1(b)(3), Example (4), allows multiple levies to be combined we interpret this example to allow only non-income taxes to be combined. We do not accept this argument that taxpayers can combine an income tax and a non-income tax. Here, taxpayer arguments to combine the levies is weakened by the fact that this gross basis tax was introduced at a later time, after the income tax had been in effect for some time. Plus, the income tax they pay is the generally applicable income tax. If the only difference in the generally applicable tax others pay and the tax the dual capacity taxpayer pays is the applicable rate, it's not a separate levy under the regulations.

From the materials I have, it is not clear that the Surplus Tax is the same tax. I have not been able to find any information specifically discussing a surplus tax. I have attached a brief summary of Algerian Corporate Tax prepared by IBFD (last revised in March 2010). Obviously, this write-up may not reflect the law in 2008 because there may have been changes to the corporate tax after 2008 ( \_\_\_\_\_ ).

Following are two cites to the Algerian income tax law (in French):

<http://lexalgeria.free.fr/cdi.htm>

<http://www.mf.gov.dz/codes/impots/impots1.htm>

Apparently, the Petroleum exceptional profits tax was enacted as part of a petroleum law and not as part of the income tax law so it is likely the exceptional profits tax is not incorporated into the income tax law. If the Surplus Tax and the Exceptional Profits tax are one and the same then it likely will not be reflected in the income tax.

It is possible that the Library of Congress may have information on the "surplus tax". Let me know if you want me to check. I am not sure how long it will take to get a response from them.