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RE: Tax regime for rights to use a domain name on the Internet.

Does the right to use a domain name on the Internet follow the tax regime of the intangible assets (« immobilisations corporelles ») entered into the registrant's balance sheet and what should be the value for which it is registered?

Following an audit of its accounts, eBay, a sub-subsidiary of the US firm eBay Inc., was subject to corporate income tax supplements as a result of:

- The reinstatement in its opening balance sheet for the year 2003 of the sum of 4,695,570 euros, representing the value of the domain name "ebay.fr" which it had registered in 2001 with the French Association for Internet naming (« Association française pour le nommage Internet en coopération », "AFNIC"), which the tax administration considered to be an immobilized intangible asset to be included in the company's balance sheet ; and
- The reinstatement in its 2004 and 2005 income statement of amounts corresponding to the royalties which it renounced to collect for the provision to its parent company, the Swiss company eBay International AG, itself daughter of eBay Inc., of the right to use the domain name ebay.fr. The Tax Administration regarded those amounts as profits indirectly transferred abroad within the meaning of Article 57 of the General Tax Code (« Code Général des impôts », "GTC") and which gave rise to the withholding in application of Article 119 bis 2° of the GTC.

These adjustments have been contested by eBay France in the context of the present dispute, which resulted in a judgment of 30 April 2013 by the Administrative Court of Appeal of Paris (*Cour d'Appel de Paris, 10th Chamber, April 30th 2013, No. 12PA02246 and No. 12PA02678, "eBay France Company"*).

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