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## Transfer Pricing Switzerland Insights

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### Did you know?

#### New head appointed for OECD transfer pricing unit

Andrew Hickman has been appointed Head of the Transfer Pricing Unit of the Tax Treaties, Transfer Pricing and Financial Transactions Division within the Centre for Tax Policy and Administration. He will take up duty in May 2014.

[Read more](#)

#### Upcoming Deloitte webcast for Tax Executives

On May 14, 2014, Deloitte will be hosting a webcast on the topic "Data Analytics: A Growing Imperative in the Rapidly Changing Global Transfer Pricing Environment".

[Register here](#)

Dear Sir or Madam,

We are pleased to present you the latest edition of Transfer Pricing Insights – Deloitte Switzerland's bi-monthly newsletter focusing on Transfer Pricing issues affecting MNCs in Switzerland. It covers Swiss 'hot' topics and economic related news as well as the latest Deloitte global edition of the Arm's Length Standard.

### Swiss Transfer Pricing Hot Topics

#### OECD Updates Transfer Pricing Documentation Proposal

During a webcast held on 2 April 2014, OECD representatives discussed proposed changes to Chapter V of the OECD transfer pricing guidelines on documentation.

In response to numerous comments received on the discussion draft on Transfer Pricing Documentation and Country-by-Country Reporting, OECD Working Party 6 has tentatively considered reducing the scope of information to be included in the country-by-country template, one of the most controversial parts of the proposed new documentation rules. For instance, the requirement to disclose the top 25 highest paid employees has been removed and the reporting of interest, royalties, and service charges would only be included in the local file if relevant. Further, companies would only need to report consolidated figures per country and not per legal entity.

Working Party No. 6 is scheduled to meet again in May to finalise its recommendations to the Committee on Fiscal Affairs. The OECD will hold a public consultation on the proposed documentation rules on 17 May 2014.

The webcast recording and the PowerPoint presentation can be accessed [here](#).

#### OECD Releases BEPS Draft on Tax Challenges of the Digital Economy

On 24 March 2014, the OECD released a public discussion draft on Action 1 of its Action Plan on Base Erosion and Profit Shifting

(BEPS), entitled “Address the Tax Challenges of the Digital Economy”.

The draft can be conceptually divided into four main areas of discussion:

- Background on the digital economy,
- Perceived opportunities for BEPS within the digital economy,
- Ways of addressing BEPS with respect to the digital economy (which largely focuses on the manner in which the other action items will address such concerns), and
- A discussion of the “*potential options to address the broader tax challenges raised by the digital economy.*”

The proposed options discussed in the draft are:

1. Amendments to the permanent establishment definition,
2. Withholding taxes on digital transactions, and
3. Consumption tax (VAT) options.

Comments on the draft are to be sent to the OECD by 14 April 2014. A public consultation meeting is scheduled for 23 April 2014.

Additional information on the topic may be found [here](#).

## Indian APA Program Takes Off

In recent years, the Indian tax authorities have become very aggressive, resulting in a surge of transfer pricing audits and tax litigations. To address this, the Advance Pricing Agreement (APA) program was introduced in India as part of the 2012 Finance Act.

On 31 March 2014, the Indian tax authorities signed the first five APAs in the program’s history. The positive results of the APA program are expected to encourage businesses with Indian operations to proactively mitigate their transfer pricing risk by applying for APAs. This may also help to bridge the current trust deficit between taxpayers and the tax authorities.

However, taxpayers should be mindful of a wide range of issues that may come up during APA discussions. Some key issues, for example, relate to site visits conducted by the APA team, interaction with senior employees to understand the functional profile of the taxpayer, the role played by overseas associated enterprises in the transaction under examination, and the level of detail of the information maintained by taxpayers to demonstrate their functional profile. There should be clarity and completeness on these issues to ensure the successful conclusion of an APA.

Deloitte, currently advising a client in a Switzerland-India APA process, is well aware of these issues and can provide the necessary advice and support to multinationals contemplating applying for an APA in India.

For further details on the topic, please follow this [link](#).

## Danish Tribunal Rules on Cash Pooling Arrangement

The Danish National Tax Tribunal recently issued its first decision on cash pooling arrangements and transfer pricing.

The main conclusions from the decision on the current status of cash pools are:

- Deposits in a cash pool are not comparable to bank deposits, and credit risk should be taken into account in setting the arm's length interest rate;
- When no or inadequate transfer pricing documentation is provided, the tax authorities are entitled to make a discretionary assessment, which shifts the burden of proof from the tax authorities to the taxpayer;
- When a cash pool participant has both borrowings and deposits in a cash pool, the interest rate should be calculated on the net position; and
- Services rendered in connection with a cash pool arrangement should be charged as a mark-up on the interest rate rather than on a cost plus basis.

Please follow this [link](#) for more details on this subject.

We hope you have enjoyed this edition of Transfer Pricing Switzerland Insights. If you have questions in relation to one of the above topics or you would like to discuss your situation and receive a professional opinion on any transfer pricing related topics, please feel free to contact us directly via phone or email.

Best regards,

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