In this issue:

Malaysia's principal hub incentive guidelines revised 1
Australia: Taxpayer appeal withdrawn in landmark transfer pricing case 3
China: Tax authorities stepping up efforts to collect individual income tax 3
Greece: CbC reporting requirements enacted 5
Indonesia: New regulation clarifies CFC indirect ownership criteria 6
Korea: 2018 tax reform bill under consideration by National Assembly 7
Singapore: Public consultation concluded on proposed changes to transfer pricing and other rules 9
In brief 11
BEPS corner 12
Global tax alerts 13

Malaysia's principal hub incentive guidelines revised

The Malaysian Investment Development Authority (MIDA) has issued revised guidelines for the "principal hub" incentive introduced in 2015 (for prior coverage, see *World Tax Advisor*, 12 June 2015), which are effective as from 7 July 2017 and apply to companies approved as a principal hub on or after that date. The revised guidelines make clarifications and modify the criteria for the corporate tax incentive and the benefits available for qualifying companies, especially for companies with approved operational headquarters (OHQ), international procurement center (IPC) or regional distribution center (RDC) status and other existing companies.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/150612_9.html

© 2017. For information, contact Deloitte Touche Tohmatsu Limited.

Principal hubs

Briefly, a principal hub is a company incorporated in Malaysia (with minimum paid-up capital of MYR 2.5 million) that uses Malaysia for conducting its regional and global businesses and operations to manage, control and support its key functions, including risk management, decision making, strategic business activities, trading, finance, general management and human resources.

Qualifying companies approved as a principal hub have been subject to corporate income tax under a three-tiered structure (instead of the standard 24% flat rate) based on the value created, such as the types of services, the number of countries in which the hub serves affiliated companies, employment, annual business spend, etc. Tier 1 companies are subject to a 0% corporate tax rate, Tier 2 companies are subject to a 5% rate and Tier 3 companies are subject to a 10% rate for a period of five years, with a possible extension for another five years; however, the extension is not available for existing companies that have OHQ, IPC or RDC status and have been granted OHQ/IPC/RDC incentives.

Principal hub companies also are entitled to other benefits, including a customs duty exemption on certain raw materials, components or finished products; no requirements for local equity ownership (*i.e.* the hub company may be wholly foreign owned); the ability to use foreign professional services if such services are not available in Malaysia; and flexibility in foreign exchange administration.

An application must be submitted to the MIDA by 30 April 2018 for a company to be considered a qualifying principal hub company.

Key changes in the revised guidelines

Prior to the revised guidelines, the incentive scheme generally offered the same benefits to both new and existing companies. The revised guidelines provide that only new companies will be subject to the three-tiered structure and eligible for the same reduced tax rates available under the prior guidelines. "New companies" include newly incorporated Malaysian companies that do not have an existing or related entity in Malaysia, or that have such an entity in Malaysia but have not previously carried out any services in Malaysia that qualify for the principal hub incentive. The revised guidelines further distinguish between two categories of new companies:

- For manufacturing and services companies, the reduced tax rates (0%, 5% or 10%, depending on the tier) apply on trading and services income; and
- For commodity-based companies that integrate the supply chain management for upstream and downstream activities, the reduced tax rates apply only on services income.

For existing companies, including companies with approved OHQ, IPC or RDC status, the tax rate reduction will be granted only for an incremental amount of "value added income" (generally, the statutory income for the basis period for the year of assessment less the base income adjusted for inflation (as defined in the revised guidelines)). However, the three-tiered structure will not apply and, instead of the reduced rates available to new companies, a full income tax exemption will be applied to existing companies' value added income for a five-year period. Extension of the incentive for another five years is available, except for existing companies that have OHQ, IPC or RDC status and have been granted OHQ/IPC/RDC incentives. Similar to the revised guidelines for new companies, a distinction is made between existing companies that are manufacturing and services companies and those that are commodity-based companies.

Other changes in the revised guidelines include the following:

- The requirement for principal hub companies to have a minimum of 70% of their income from qualifying services derived from network companies outside Malaysia to qualify for the incentive has been eliminated.
- All companies applying for the incentive must provide regional profit and loss (P&L) management or business unit management services, plus two other qualifying services (previously, only companies applying for Tier 1 and Tier 2 incentives were required to provide regional P&L/business unit management services).
- General administration and information technology services no longer are considered as qualifying services.
- Separate qualifying criteria are set forth for new companies, existing companies that have obtained approved OHQ, IPC or RDC status (and that have or have not been granted OHQ/IPC/RDC incentives) and other existing

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

companies. Some of the key differences relate to the number of "high value jobs" and "key positions" qualifying companies must create, and the minimum threshold for annual business spending.

— Hooi Beng Tan (Kuala Lumpur)
Partner
Deloitte Malaysia
hooitan@deloitte.com

Australia:
Taxpayer appeal withdrawn in landmark transfer pricing case

Chevron Australia announced on 18 August 2017 that it is withdrawing its appeal to the High Court over the Australian Taxation Office (ATO) assessment of AUD 340 million in tax and penalties for interest payments made to offshore related parties. As a result, the ATO assessment, previously upheld by the Full Federal Court in its 21 April 2017 decision, stands final (for prior coverage, see *World Tax Advisor*, 12 May 2017). The specific terms under which the matter was settled between Chevron Australia and the ATO are confidential, although it is likely that the amounts involved remain significant and affect both past and future income years.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170512_1.html

The case primarily centered on whether the interest rate paid by Chevron Australia on an intragroup loan from its US subsidiary, which itself had borrowed the funds at a much lower rate from an external bank, was in excess of that permitted under Australia's transfer pricing rules.

The case is likely to have implications for many cross-border financing arrangements with Australian businesses. In response to Chevron Australia's announcement, the Australian government stated in a media release that "the resolution of this matter is a significant win for the Australian community. The ATO's initial estimates are that the Chevron decision will bring in more than [AUD 10 billion] of additional revenue over the next ten years in relation to transfer pricing of related party financing alone."

Australian businesses should consider revisiting their cross-border financing arrangements in light of the decision. Following the Full Federal Court decision, the ATO released draft Practical Compliance Guideline 2017/D4, which includes a matrix that allows businesses to self-assess their risk profile against ATO criteria. The matrix can be used to estimate the likelihood of an ATO review, based on a system that allocates points to particular features of the relevant arrangements. For example, margins in excess of 200 basis points on intragroup loans, borrowing from a low or no-tax jurisdiction or arrangements involving hybrid entities all have a high point allocation and provide a strong indication of ATO focus areas.

— Jonathan Hill (New York)
Client Service Executive
Deloitte Tax LLP
jonhill@deloitte.com

David Watkins (Sydney)
Partner
Deloitte Australia
dwatkins@deloitte.com.au

China:
Tax authorities stepping up efforts to collect individual income tax

The local tax authorities throughout China are stepping up their efforts to collect individual income tax (IIT) and are carrying out more frequent and extensive investigations of both individuals and companies. In particular, an intensified focus is expected on claims relating to nontaxable benefits in kind (BIKs), potential permanent establishment (PE) exposure where a nonresident company sends business travelers to China and the taxation of Chinese individuals receiving foreign-source income.

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

Nontaxable BIKs

Under the current IIT rules, certain BIKs provided to a foreign employee are not considered taxable benefits provided, *inter alia*, the amounts are reasonable, supported by documentation, paid to the foreign employee on a noncash/reimbursement basis or settled directly by the employer. Nontaxable BIKs include relocation and moving expenses; home leave expenses; and costs incurred in the PRC for housing accommodation, meals, laundry, language training and children's tuition.

The tax authorities have increased the number of tax audits/inspections of nontaxable BIK claims made by foreign individuals in the past two years, and may require companies to formally register a foreign employee's BIKs and report any changes in the amount of nontaxable BIKs. In one publicized case, the tax authorities flagged a company that claimed a tax exemption for BIKs at a much higher rate than the industry benchmark, resulting in an extensive tax audit. The tax officers reviewed all of the company's accounting records, investigated the nature and reasonableness of the expenses, and identified nonqualified items that were subject to a tax adjustment. The company ultimately was responsible for a significant amount of underpaid IIT and penalties.

PE risks created by overseas business travelers

The local tax authorities are collaborating more closely with the State Administration of Taxation and other authorities to expand the information channel for discovering PEs of foreign companies in China. As an example, the Suzhou state and local tax bureaus recently launched a joint inspection of companies and individuals relating to "trade-in services." The tax authorities are reviewing foreign exchange remittances made by companies in the form of "service fees" to identify any IIT exposure arising from a potential PE created by a foreign company when the company sends business travelers to provide services in China.

As a result of one such inspection, a foreign company was deemed to have created a PE in China, and the business travelers working for the PE were considered to be costs borne by the PE. The travelers, therefore, were not entitled to relief under the relevant tax treaty, even though the travelers' actual physical stays in China were less than 183 days during a calendar year. The local tax bureau was able to collect significant back taxes and surcharges.

IIT exposure of Chinese outbound employees

Chinese individuals generally are subject to PRC IIT on their worldwide income. The tax authorities in several cities (*e.g.* Beijing, Shanghai, Suzhou and Wuhan) have announced concrete plans to step up the IIT administration of Chinese employees seconded from China. One aspect of these campaigns is the gathering of detailed income/tax and assignment information and supporting documentation, and conducting investigations that focus mainly on tax risk areas, such as the following:

- The Chinese company's failure to withhold tax from an employee's onshore income and/or the individual's failure to self-report offshore income;
- The incorrect IIT reporting of director's fees derived by a Chinese individual who is a member of the board of directors of an overseas affiliated company;
- The under-reporting of overseas income, incorrect calculation of a foreign tax credit for IIT purposes and/or incorrect usage of a foreign exchange rate; and
- Delayed IIT reporting due to tax filing and payment deadline discrepancies between China and the country of the secondment.

Comments

One effect of the VAT reform in China is a decline in the tax revenue collected by the local tax authorities. To compensate for the shortfall, efforts have shifted to collecting IIT, with IIT reporting by foreigners working in China and Chinese employees working overseas the focus of the local tax authorities' tax audits/investigations. Individuals and their employers should be aware of these initiatives and ensure they comply with all relevant rules and reporting obligations.

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

— Helen Ha (Suzhou)
Director
Deloitte China
hha@deloitte.com.cn

Jean Luo (Suzhou)
Senior Manager
Deloitte China
jeanluo@deloitte.com.cn

Greece:
CbC reporting requirements enacted

The Greek parliament approved a law on 28 July 2017 that implements the EU directive on the mandatory automatic exchange of tax-related information into Greek legislation and introduces country-by-country (CbC) reporting rules in line with action 13 of the OECD BEPS project. The most significant aspects of the new law, which was published in the official gazette on 1 August 2017, are summarized below.

CbC reporting requirements

For fiscal years (FYs) starting on or after 1 January 2016, CbC reporting obligations apply to Greek ultimate parent entities of a multinational enterprise (MNE) group that has consolidated group revenue exceeding EUR 750 million in the FY preceding the FY to which the CbC report relates. The CbC report must be submitted within 12 months from the last day of the reporting FY.

A Greek resident entity that is not the ultimate parent entity of an MNE group must file the CbC report in certain circumstances (*i.e.* where the country of the ultimate parent entity has not introduced CbC reporting requirements, has not signed an agreement with Greece for the exchange of information on CbC reports or has failed to comply with the requirements regarding the exchange of the reports with Greece).

The CbC report must include the following information:

- Aggregated data relating to revenue, profit (loss) before income tax, income tax paid and due, share capital, accumulated profits, number of employees, and tangible assets other than cash or cash equivalents for each jurisdiction in which the group operates; and
- Identification documents for the jurisdiction where each constituent entity is tax resident and – if this differs from the jurisdiction of tax residence – the jurisdiction under which the constituent entity is organized and the nature of its primary business or businesses.

The source of information for the CbC report may be financial statements (statutory or otherwise) and/or internal management account records, and the same data sources should be used consistently year-over-year. There is no requirement for adjustments to be made for jurisdictional differences in accounting standards, nor is it necessary to reconcile differences in revenue, profits and taxes between the CbC report and the consolidated financial statements.

The penalty for failure to submit the CbC report is EUR 20,000, and the penalty is EUR 10,000 for late submissions or inaccurate disclosures.

Any constituent entity that is a tax resident of Greece but that is not required to submit the CbC report must notify the Greek tax authorities of the identity and tax residence of the reporting entity no later than the last day of the reporting FY. For the first year of application, the deadline is extended to the last day permitted for submission of the CbC report (*i.e.* 12 months from the last day of the reporting FY).

Exchange of CbC report information

The information contained in the CbC report will be shared between EU member states through the automatic exchange of information. Greece, as the competent authority receiving CbC reports, will share the reports with the competent authority of any EU member state in which one or more constituent entities of the group are incorporated, within 15 months from the last day of the reporting FY. However, for the first year of application (*i.e.* the FY beginning on 1 January 2016), reports may be exchanged up to 18 months from the last day of the reporting year.

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

The Greek tax authorities will use the CbC reports to evaluate potential areas of concern in relation to the pricing of intragroup transactions and other risks associated with BEPS. The law explicitly provides that price adjustments for intragroup transactions will not be based on information provided in the CbC report. However, the information in the CbC report may be used as the basis for further scrutiny regarding the MNE group's pricing arrangements or other tax issues in the context of a tax audit; hence, appropriate adjustments of a constituent entity's taxable income may arise. Notably, there is no similar provision in the recommendations under BEPS action 13 or in the OECD transfer pricing guidelines.

Comments

The Independent Authority of Public Revenue is expected to provide details regarding the submission process for CbC reports in the near future.

— Maria Trakadi (Athens)
Partner
Deloitte Greece
mtrakadi@deloitte.gr

Eftichia Piligou (Athens)
Partner
Deloitte Greece
epiligou@deloitte.gr

Indonesia:
New regulation clarifies CFC indirect ownership criteria

Indonesia's Minister of Finance (MOF) issued a new regulation (PMK-107) on 27 July 2017, which revises the country's controlled foreign corporation (CFC) rules as from the 2017 fiscal year. The regulation introduces indirect ownership criteria for determining when a foreign company is considered a CFC, and clarifies rules for calculating CFC dividends and foreign tax credits.

Under Indonesian tax law, a CFC is a foreign company in which an Indonesian resident company or individual (either alone or together with other shareholders) holds at least 50% of the company's total share capital. An Indonesian shareholder in a CFC must pay Indonesian tax on its share of the CFC's profits each year, by recognizing deemed dividends to the extent the profits are not distributed to the shareholder in the form of actual dividends. Where an actual dividend distribution exceeds prior year deemed dividends, the excess is taxable in the year the actual dividend is paid. The CFC rules do not apply to shareholdings in listed foreign companies.

CFC ownership criteria

PMK-107 introduces the concept of indirectly owned CFCs to include unlisted foreign companies where at least 50% of the total share capital is collectively owned by (i) one or more Indonesian taxpayers and one or more directly and/or indirectly owned CFCs of Indonesian taxpayers; or (ii) one or more directly and/or indirectly owned CFCs of Indonesian taxpayers. Where there are multiple levels of subsidiaries in the ownership chain, the 50% threshold criterion is applied at each level in the chain.

The amount of the total share capital (total paid-up capital with or without voting rights) is measured at the end of the Indonesian taxpayers' fiscal year.

Shares in a foreign company owned by a taxpayer through a trust or similar entity will be deemed to be owned by the taxpayer for purposes of applying the CFC rules, regardless of the type of trust. Depending on the type of trust, this could result in the application of the CFC rules at both the level of the taxpayer and the level of the trust.

Deemed dividends

Dividends are deemed distributed by a CFC to a shareholder four months following the deadline for the CFC to submit its corporate income tax return, or seven months following the end of the CFC's fiscal year where there are no annual filing obligations or where there is no filing deadline in the CFC's country of residence. The new regulation does not change the timing for recognizing deemed dividends.

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

In the case of direct ownership of the CFC, the deemed dividends are calculated by multiplying the CFC's net after-tax income by the shareholder's participation percentage. The new regulation requires shareholders also to recognize deemed dividends from indirectly owned CFCs; such deemed dividends are calculated by multiplying the indirectly owned CFC's net after-tax income by the Indonesian taxpayer's effective (proportional) percentage of indirect ownership.

For purposes of the deemed dividend calculation, a CFC's net after-tax income generally is based on the accounting principles adopted in the CFC's country of residence.

When a CFC pays an actual dividend to its shareholder, the regulation provides that, for purposes of determining the taxable amount of the dividend, it is first reduced by any deemed dividends recognized by the shareholder with respect to the same CFC within the previous five consecutive years (such five-year period includes the year of the dividend payment).

Foreign tax credit

The new regulation allows an Indonesian taxpayer to credit the foreign income tax it pays on actual dividends received from a directly owned CFC in the fiscal year in which the foreign tax is paid or withheld, but limits the amount of the credit to the lowest of the following amounts:

- The foreign income tax that is payable based on the tax rate applied to dividends under the terms of a relevant tax treaty;
- The foreign income tax actually paid or payable on the dividend; or
- The total amount of Indonesian tax paid or payable on the dividend (including through the recognition of deemed dividends in prior years), determined for each relevant year by multiplying the taxpayer's Indonesian tax liability by the proportion of the dividend/deemed dividend recognized over the shareholder's total Indonesian taxable income (including the dividend/deemed dividend).

The Indonesian taxpayer must provide certain documentation from the CFC to the tax authorities to claim the foreign tax credit.

— Melisa Himawan (Jakarta)
Partner
Deloitte Indonesia
mehimawan@deloitte.com

Dionisius Damijanto (Jakarta)
Partner
Deloitte Indonesia
ddamijanto@deloitte.com

Korea:
2018 tax reform bill under consideration by National Assembly

A package of tax reform proposals for 2018 that were submitted to Korea's National Assembly on 1 September 2017 aim to increase tax revenue to support the country's expansionary fiscal policies, revise corporate tax incentives to encourage job creation and redistribute income among individuals. The Ministry of Strategy and Finance released the proposals on 2 August 2017, which include increases in the income tax rates for the top tax brackets for both corporations and individuals, as well as measures that would limit the deduction of interest expense in certain instances as part of Korea's commitment to the OECD BEPS project.

If approved, the measures generally would apply for financial years starting as from 1 January 2018.

Tax rate increases

The corporate tax rate for income over KRW 200 billion would be increased to 25%. The tax rate currently is 10% on the first KRW 200 million of taxable income, 20% on taxable income above KRW 200 million up to KRW 20 billion and 22% of taxable income above KRW 20 billion.

The tax rate on individuals with annual taxable income exceeding KRW 500 million would increase from 40% to 42%, with a new 40% bracket introduced for individuals earning KRW 300-KRW 500 million.

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

Measures to expand taxation of cross-border transactions and increase tax transparency

The following measures are proposed to expand the taxation of multinational transactions:

- Interest payments made between a Korean company and its foreign related party on hybrid financial instruments would be tax deductible only if the interest is taxed in the country of residence of the foreign recipient by the close of the recipient's fiscal year starting within 12 months after the close of the payer's fiscal year. This measure would implement action 2 of the BEPS project.
- To implement action 4 of the BEPS project, cross-border interest payments made to related foreign parties would be tax deductible only in an amount up to 30% of the adjusted gross income of the Korean company for the year. This measure would apply as from 1 January 2019.
- The participation requirement for foreign shareholders to qualify for the exemption from capital gains taxes on the transfer of shares listed on the Korean stock exchange would be reduced from 25% to 5%. However, the five-year holding requirement would be retained.
- The withholding tax rate on service fees paid for foreign employees in certain industries (aero-transportation, construction, professional services and science and technology services) would be increased from 17% to 19%, and the industries subject to the withholding tax would be expanded to include the shipbuilding and financial industries.
- Foreign tax paid on certain foreign-source income, such as dividend or interest income earned through mutual funds, would be creditable only up to 10% of the income (reduced from 14%).

Measures to support job creation

The bill proposes to enhance tax credits and incentives that support the creation of jobs as follows:

- A tax credit to promote new employment would be introduced, with the amount depending on the size of the employer enterprise: up to KRW 20 million per new employee for small and medium-sized enterprises (SMEs), up to KRW 14 million per employee for medium-scale leading enterprises and up to KRW 3 million per employee for large conglomerates.
- The tax incentive for foreign direct investment would be expanded to allow a tax credit of 50% of qualifying labor costs (increased from 40%).
- The "angel investment" tax deduction to promote high-technology ventures would be expanded to cover a broader range of companies, and 30% to 100% of qualifying investments would be tax deductible.
- A number of tax incentives for SMEs would be expanded, and an additional incentive would be introduced for start-up SMEs that would be based on the number of jobs they create.
- To promote corporate investment, wage increases and spending on shared growth or welfare, corporations would be subject to additional taxes if they do not spend a certain amount toward these objectives.

Other measures

- To increase tax transparency, the threshold for Korean residents to report overseas financial accounts to the Korean tax authorities would be reduced from over KRW 1 billion to over KRW 500 million. Penalties would be enhanced for fraudulent reporting with regard to overseas transactions and measures would be introduced to reduce noncompliance with rules for payment of tariffs.
- Taxpayers would be notified 15 days before the start of a tax audit (increased from 10 days), and would be provided details of the outcome of the audit.
- A joint adjustment committee would be formed between Korea's Customs Service and the National Tax Service to improve and enhance the coordination between the two authorities with respect to transfer pricing adjustments and customs valuation adjustments.

— Jei Young Ryu (Seoul)
Partner
Deloitte South Korea
jeiryu@deloitte.com

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

Singapore:
Public consultation concluded on proposed changes to transfer pricing and other rules

Singapore's Ministry of Finance (MOF) concluded a public consultation on a draft bill (Income Tax (Amendment) Bill 2017) on 10 July 2017 that would amend the Income Tax Act (ITA). The proposed measures include the introduction of transfer pricing documentation requirements, a regime to encourage foreign companies to transfer their registration to Singapore, provisions relating to new accounting standards and clarifications relating to deductions under cost sharing agreements. Notably, the intellectual property (IP) development incentive that was proposed in budget 2017 to attract innovation/IP to Singapore and implement the minimum standard under BEPS action 5 is not included in the draft bill (for prior coverage, see *World Tax Advisor*, 24 February 2017).
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170224_2.html

The MOF now will consider the comments and, where appropriate, incorporate them into the legislation that is expected to be introduced in parliament before the end of 2017.

Transfer pricing changes

The draft bill proposes several significant changes to Singapore's transfer pricing rules.

- **Documentation requirements:** Businesses would be explicitly required to maintain contemporaneous and adequate transfer pricing documentation. The requirement to prepare the documentation no later than the deadline for filing the tax return and submit the documentation to the Singapore tax authorities within 30 days of a request would be codified. The new legislation also would require the transfer pricing documentation to be retained for five years. To reduce the compliance burden on smaller businesses, the documentation requirements would apply only to businesses with turnover exceeding SGD 10 million.

  The ITA would be amended to clarify that any claim related to a transfer pricing error made in the tax return by the taxpayer must be supported by contemporaneous and adequate documentation.

  Penalties of up to SGD 10,000 would be imposed for noncompliance with the documentation requirements.

- **Enforcement of arm's length principle:** The draft legislation would expand the ITA to clarify that when determining whether a transaction complies with the arm's length principle, arm's length circumstances, such as whether third parties would reasonably enter into similar transactions/arrangements, would be taken into account.

  The Singapore tax authorities would be empowered to disregard the form of actual commercial or financial dealings between related parties where the substance of the transaction is inconsistent with the form of the transaction, and to make necessary adjustments.

- **Surcharge on transfer pricing adjustments:** A 5% surcharge on transfer pricing adjustments would be introduced where the transfer pricing adjustment is to increase the amount of an item of income or reduce the amount of a deduction, allowance or loss.

- **Mutual agreement procedure (MAP):** The statutory time limit of four years for the Singapore tax authorities to impose additional assessments for cases under the MAP would be removed. This would provide taxpayers with certainty that the outcome of the MAP agreed with the relevant foreign competent authority could be given full effect by the Singapore tax authorities.

Tax treatment of re-domiciled foreign companies

The draft bill would introduce a tax framework that applies Singapore's domestic corporate tax laws to foreign companies that transfer their domicile from a foreign country to Singapore under the proposed re-domiciliation regime. The regime would allow foreign companies to transfer their registration to Singapore, and aims to enhance Singapore's corporate regulatory regime to make it more attractive to foreign corporations that wish to operate there. Under the proposed regime, an inbound foreign corporation that is re-domiciled to Singapore would become a Singapore

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

company and would be required to comply with the requirements of the Companies Act like any other Singapore company.

The tax framework for re-domiciled companies would not apply to foreign entities that carry on a trade or business in Singapore (such as those that have a Singapore branch) prior to their re-domiciliation. Tax credits would be granted (upon approval under conditions to be issued by the Singapore tax authorities) to a re-domiciled company if its originating jurisdiction imposes an exit tax on its unrealized profits, and those profits also are taxed in Singapore.

Other proposals

Tax effects of new accounting standards: The proposed legislation would prescribe tax rules relating to certain new financial reporting standards (FRS), including:

- The tax rules for recognizing revenue on financial instruments under new FRS 109 (Financial Instruments), which would result in gains on certain financial instruments being taxed on a marked-to-market basis (*i.e.* unrealized gains would be taxable) unless specific exceptions apply; and
- The tax treatment of transitional adjustments arising from the adoption of FRS 115 (Revenue from Contracts with Customers), whereby entities applying FRS 115 may be required to record an adjustment to their revenue for financial reporting purposes relating to previous years.

Tax incentives: The draft bill includes changes to several tax incentives, including the following changes to schemes announced during budget 2017:

- The extension and refinement of the aircraft leasing scheme;
- The extension of the tax exemption on payments made to nonresident non-individuals for structured products offered by financial institutions; and
- The extension of the tax incentive schemes for infrastructure projects.

As previously announced during budget 2015, the draft bill would extend the expiration date of the concessionary income tax withholding rate of 10% on distributions made by the trustee of a real estate investment trust (REIT) to qualifying nonresident non-individual investors of listed REITs from 31 March 2015 to 31 March 2020.

Cost sharing agreements: Tax deductions for payments made under cost sharing agreements (CSAs) for research and development (R&D) projects would be liberalized by providing that payments made under a CSA would not have to be related to the taxpayer's trade or business or undertaken in Singapore if unrelated to the taxpayer's trade or business to be deductible. In addition, a full tax deduction of the CSA payment would be allowed without the need to provide a breakdown of the expenditure covered. An additional 50% deduction on qualifying costs incurred on R&D performed in Singapore by the taxpayer, or an R&D organization on the taxpayer's behalf, would be allowed under a CSA, even if the costs are reimbursed under the agreement. The additional 50% deduction would be subject to a prescribed cap.

Comments

The changes proposed by the Income Tax (Amendment) Bill 2017 are wide-ranging, and taxpayers should review the potential impact of these changes on their businesses as soon as possible.

— Low Hwee Chua (Singapore)
Partner
Deloitte Singapore
hwlow@deloitte.com

Daniel Ho (Singapore)
Partner
Deloitte Singapore
danho@deloitte.com

Kong Ping Chua (Singapore)
Senior Manager
Deloitte Singapore
kchua@deloitte.com

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

In brief

Brazil: The government published a Provisional Measure (PM) on 30 August 2017 that extends the deadline for taxpayers to enroll in the "Special Tax Regularization Program" (PERT). The PERT is a tax amnesty initiative introduced on 31 May 2017 that allows taxpayers to settle their outstanding federal tax liabilities (for prior coverage, see *World Tax Advisor*, 9 June 2017). The new PM extends the deadline for submitting an application to participate in the PERT from 31 August 2017 to 29 September 2017 and requires that taxpayers joining the program in September pay installments corresponding to August and September at the time of enrollment, in accordance with the various settlement options provided by the PERT.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170609_ib.html

A decree issued on 18 August 2017 extends until 31 December 2040 the special "REPETRO" customs regime that grants a suspension of certain federal taxes on goods temporarily used in the exploration and production of oil and natural gas fields in Brazil. The regime had been due to expire on 31 December 2020. The decree also introduces a rule that allows goods that are imported by oil and gas ventures after 31 December 2017 and that cannot be physically removed to remain in Brazil and benefit from the regime.

A provisional measure (PM 795) introduced on 18 August 2017 and that will be effective as from 1 January 2018 contains new beneficial corporate income tax deduction rules for oil and gas companies in Brazil. The measures include the immediate deduction of exploration costs; accelerated depletion for development activities; and enhanced depreciation of machinery and equipment used in development and production activities. PM 795 also increases from 0% to 15% (25% where the amounts are paid to persons resident in jurisdictions included on Brazil's grey or black lists) the withholding tax rate on cross-border payments between related parties for charter vessels and services; and introduces a special regime that provides for a full suspension of federal taxes on certain goods imported on a permanent basis.

India: A Central Board of Direct Taxes (CBDT) circular dated 19 July 2017 clarifies the withholding tax treatment of payments to a resident under a contract involving remuneration for services that are subject to goods and services tax (GST). Where, under the terms of an agreement/contract between a payer and a payee, the component of GST on services that is included in the total amount payable is separately stated, this amount is not subject to withholding tax. This approach is in line with the CBDT's treatment of service tax, which was replaced by the GST on 1 July 2017.

Malaysia: As announced by a notice published in the official gazette on 1 August 2017, the tourism tax, which will be collected by accommodation operators in Malaysia from tourists, took effect on 1 September 2017. However, a number of the administrative provisions that govern the operation of the tax, including the registration provisions, took effect on 1 August 2017. The Tourism Tax Regulations 2017 also were gazetted on 1 August and apply as from this date. The rate of the tax is MYR 10 per room, per night. A number of exemptions apply, including an exemption for accommodations provided to Malaysian nationals and permanent residents.

Myanmar: On 26 July 2017, the Ministry of Planning and Finance issued Notification 76/2017, which introduces tax incentives for public companies listed on the Yangon Stock Exchange (YSX). As from 1 April 2017, the notification reduces the corporate income tax rate for companies listed on the YSX from 25% to 20%, and allows YSX-listed companies an exemption from penalties on the settlement of overdue income tax liabilities for the two years prior to the year of listing.

Thailand: A royal decree that applies from 11 July 2017 grants an additional 50% deduction for investments made during calendar year 2017 in machinery, tools, equipment, computer programs, vehicles (excluding passenger cars with not more than 10 seats) and permanent buildings, subject to certain conditions including the submission of an investment project and payment plan to the Director-General of the Revenue Department. The additional 50% deduction will be averaged equally over three, five or twenty consecutive accounting periods according to the class of the asset in which the investment is made.

United Arab Emirates: On 27 August 2017, the tax authorities released the text of the domestic VAT law that will come into effect as from 1 January 2018. Under the new regime, a 5% standard VAT rate will apply on goods and services (*e.g.* food, consulting services, maintenance work, etc.) that are not VAT exempt or zero-rated, and some key sectors will be eligible for VAT relief (*e.g.* healthcare, education, financial services, passenger transport, exports and

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.

certain hydrocarbons). Special rules will apply for paying import VAT and for VAT grouping. Businesses will be able to VAT-register online beginning mid-September 2017.

BEPS corner

In each issue that provides updates on developments in the OECD BEPS initiative, *World Tax Advisor* includes a "BEPS corner" covering these developments.

Belgium: The first CbC reporting notifications are due by 30 September 2017. See Global Transfer Pricing Alert 2017-036, 18 August 2017.
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-036-18-august-2017.pdf

Greece: Parliament approved a law on 28 July 2017 that introduces CbC reporting rules in line with BEPS action 13 and allows the information in the CbC report to be used as the basis for reviewing tax issues in a tax audit. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170908_4.html

Kazakhstan: The State Revenue Committee has released draft changes to the transfer pricing law that would introduce the three-tiered documentation requirement (*i.e.* master file, local file and CbC report) in accordance with BEPS action 13. The proposed rules also contain requirements for the submission of the documentation by multinational groups and specify the parties responsible for fulfilling these requirements. If approved, the CbC reporting rules would apply retroactively as from 1 January 2016 and the master and local file requirements would become effective on 1 January 2019.

Korea: A package of tax reform proposals for 2018, which includes measures that would limit the deduction of interest expense in line with BEPS actions 2 and 4, has been submitted to the National Assembly. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170908_6.html

Netherlands: The tax authorities have set up a web portal for entities to file their first CbC notifications, which were to be received by the tax authorities by 1 September 2017. See Global Transfer Pricing Alert 2017-037, 30 August 2017.
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-037-30-august-2017.pdf

OECD: On 6 September 2017, the OECD's inclusive framework on BEPS released two sets of guidance on the implementation and operation of CbC reporting under action 13 of the BEPS project. The updated guidance addresses the definition of revenue, the treatment of multinational groups with a short accounting period and the treatment of the amount of income tax accrued and tax paid. Additional guidance was released on the appropriate use of information contained in CbC reports, which addresses the meaning of "appropriate use," the consequences of noncompliance with the appropriate use requirement and approaches that tax authorities may adopt to ensure the appropriate use of CbC reporting information.

The OECD announced on 5 September 2017 that Cambodia, Greenland, Haiti and Madagascar have joined the Global Forum on Transparency and Exchange of Information for Tax Purposes. By joining the forum, these countries are announcing their commitment to implement the international standard of exchange of information on request and the standard on automatic exchange of financial account information. There now are 146 members of the global forum.

On 21 August 2017, the Global Forum on Transparency and Exchange of Information for Tax Purposes published the outcome of 10 new peer review reports relating to the implementation of the international standard for exchange of information on request between tax authorities. Ireland, Mauritius and Norway were rated "compliant"; and Australia, Bermuda, Canada, Cayman Islands, Germany and Qatar were rated "largely compliant." Jamaica was rated "partially compliant," resulting in the issuance of a supplementary report on follow up measures designed to ensure a higher rating is achieved.

© 2017. For information, contact Deloitte Touche Tohmatsu Limited.

The OECD has announced that Nigeria signed the Multilateral Convention on the Implementation of Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (CRS MCAA) on 17 August 2017. Nigeria is the 71st jurisdiction to sign the MLI, and the 94th to sign the CRS MCAA.

Singapore: The previously announced IP development incentive that would implement BEPS action 5 was not introduced in the draft Income Tax (Amendment) Bill 2017. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170908_7.html

Vietnam: The Ministry of Finance issued a circular on 15 June 2017 that provides detailed guidance on the implementation of certain articles of the February 2017 decree that revised the country's transfer pricing rules in line with the BEPS actions (for prior coverage, see *World Tax Advisor*, 14 April 2017). Like the decree, the circular applies as from 1 May 2017 and replaces the previous circular on the determination of market prices in business transactions between related parties, as well as the previous transfer pricing declaration form.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170414_1.html

---

Global tax alerts

Belgium
Belgium's CbC reporting notification deadline approaches
The first CbC reporting notifications to be made to the Belgian tax authorities are due by 30 September 2017.
Issue date: 18 August 2017
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-036-18-august-2017.pdf

Netherlands
Dutch tax authorities set up website for CbC report, notification filings
The tax authorities have set up a comprehensive, obligatory web portal for Dutch entities to file their first CbC notifications for financial years starting on or after 1 January 2016 and ending before 31 August 2017, which were to be received by the tax authorities by 1 September 2017.
Issue date: 30 August 2017
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-037-30-august-2017.pdf

Taiwan
MOF proposes tax reform that includes abolition of imputation system
The package also includes an increase in the corporate income tax rate and the withholding tax on dividends.
Issue date: 6 September 2017
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-taiwan-6-september-2017.pdf

About Deloitte
Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms. Please see www.deloitte.com/us/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.

© 2017. For information, contact Deloitte Touche Tohmatsu Limited.

© 2017. For information, contact Deloitte Touche Tohmatsu Limited.