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In this issue:

Russian government releases draft law introducing VAT on e-services 1
Australia: ATO publishes “client experience roadmap” for MAAL 5
Belgium: Excess profit rulings constitute illegal state aid 6
Brazil: CSLL considered a covered tax for tax treaty purposes 7
Germany: New treaty with Netherlands revises tax treatment of gains on real
estate company shares 8
Gibraltar: All companies now required to file corporate income tax returns 10
Namibia: Various tax rate changes introduced 10
Taiwan: Tax agreement signed with Japan 11
2016 rate changes 12
In brief 14
BEPS corner 15
Tax treaty round up 15
Are You Getting Your Global Tax Alerts? 27

Russian government releases draft law introducing VAT on e-services

A draft law submitted to the Russian government for consideration would require foreign businesses supplying electronic services (e-services) to private customers in Russia to register for VAT purposes in Russia and charge VAT of 18%, and would abolish the VAT exemption for software licensing. The draft law was published on the government’s website on 28 December 2015 and has passed through the State Duma Committee on Budget and Taxation and is now awaiting discussion in the Duma. If the draft law is adopted, the changes would apply as from 1 January 2017.

The draft law has similarities to the EU rules on the supply of electronic services by non-EU providers, as well as to recent rules introduced in Korea and South Africa and proposed rules in Australia and New Zealand; its approach also has been endorsed by the OECD under the base erosion and profit shifting (BEPS) project.

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The draft legislation contains a definition of e-services and lists e-services that potentially would fall within the scope of Russian VAT; makes changes to the place of supply rules; and introduces registration and other compliance obligations on foreign businesses where such services are provided to private customers. The draft law also seeks to abolish the current VAT exemption for the licensing of software and databases and would introduce an income tax preference that would allow Russian information technology (IT) companies to reduce their income tax base by up to 80%.

The main provisions of the draft law are as follows:

Definition of e-services

E-services would be defined as services delivered through the internet or similar electronic networks that are automated and that rely on information. The following e-services would be covered:

- The transfer of nonexclusive rights to the use of software and databases, including access rights to online internet-based games, additional functions and updates to these products (examples cited in the draft law include the installation (downloading) of games for computers and mobile phones, advertising-blocking software, accounting and anti-virus software and web filters);
- The provision of platforms for placing sales offers on websites and within software, advertising services and services relating to the provision of web-based platforms for establishing contacts and/or concluding transactions between sellers and buyers (examples cited in the draft law include the provision of a web-based online trading facility where potential buyers offer their price through an automated procedure and the parties are notified of a sale by an automatically generated message);
- The provision and/or maintenance of a commercial or personal presence on the internet, electronic resource support (such as website and web page support), securing of access to websites/web pages for other web users and the provision of facilities to users that allow them modify such resources;
- Data storage and processing, where the purchaser has access to the data through an information and telecommunications network and/or the possibility to process the data that allows the user to increase the data access speed (examples cited in the draft law include the online provision of disc space upon request, and online data storage where the data is deployed and uploaded automatically);
- The provision of domain names and hosting provider services;
- Remote system administration and support of information systems and websites;
- Services performed automatically through the internet once a purchaser inputs data; and automated data searches, their sorting upon a specific request and the provision of sorted data through an information and telecommunications network (examples cited in the draft law include online stock exchange reports and online automated translations);
- The provision of content through the internet (examples cited in the draft law include the provision of e-books and other electronic publications, images, music with or without lyrics and audio-visual content);
- The provision of search engines and other portals for accessing the internet;
- Web-based statistics management;

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- The broadcast of TV and/or radio channels through the internet; and
- Telecommunications services provided through the internet.

Place of supply of e-services

Under the draft law, e-services would be subject to VAT in the country in which the customer (whether an individual or a business) is located. The mechanism for identifying the customer location for e-services and the documents (information) that would support the actual location of the customer would be determined by the Russian Ministry of Finance.

Thus, VAT would apply to e-services provided by foreign companies to Russian customers, even if the foreign companies currently are not registered in Russia for VAT purposes, and would not apply to e-services provided by Russian companies to customers not located in Russia.

Under current law, some of the services included within the draft law's definition of e-services (e.g. the transfer of trademarks, copyrights and similar rights; licensing; software development; and data processing services) already are deemed to be supplied in the country in which the customer is located (i.e. where the services are received). The proposed new rules would change the place of supply for other electronically provided services (such as telecommunications, broadcasting, hosting, IT support, etc.) to the extent such services are web-based.

Input VAT credit

Generally, under the draft law, local service providers (either Russian businesses or foreign businesses operating through branches or representative offices in Russia) would have the right to recover input VAT, even on e-services deemed to be supplied outside of Russia. However, foreign businesses providing e-services would not be entitled to input credits (unless they operate in Russia through a representative office or branch), even if they register for VAT purposes with the Russian tax authorities (see below).

VAT registration requirement

The draft law would require foreign businesses supplying e-services to private customers (B2C services) in Russia to register for VAT in Russia via a taxpayer portal on the Federal Tax Service website. Once registered, the foreign e-service provider would be required to submit a quarterly Russian VAT return and pay the VAT due by the 25th day of the month following the reporting quarter. The taxable base would be determined as of the date of the VAT payment, and would be calculated as 15.25% of the VAT-inclusive price of the services provided.

Communications from or with the Russian tax authorities (e.g. requests that the taxpayer provide documentation), as well as the filing of the VAT return, would have to be made via the taxpayer portal. The tax authorities would be permitted to send their requests through the taxpayer portal and, where impossible to send via the portal, to a foreign e-service provider's email address or any known physical address. The tax authorities would be able to conduct a tax audit based on other documents available to them. The draft law would allow the tax authorities to request documentation on transactions conducted by the foreign company

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directly from the payment agents listed in the draft law, such as the national payment system organization, cash payment operators, bank payment agents, payment clearing companies, electronic payment operators, mobile phone operators and other similar organizations.

As is the case under current law, the draft law does not provide for an enforcement mechanism in cases where a foreign e-services provider fails to register for VAT purposes in Russia and does not pay Russian VAT, i.e. there would be no mechanism to compel the provider to comply or for the tax authorities to assess Russian VAT, unless the foreign provider has property or a bank account in Russia.

The reverse charge mechanism would continue to apply where foreign businesses supply e-services to Russian businesses (B2B services), i.e. the Russian businesses would act as tax agents and pay VAT on behalf of the foreign suppliers.

Alternative VAT payment mechanisms

Under the draft law, if a foreign business supplies taxable e-services through a foreign intermediary company that collects payments from Russian customers and acts under a commission, an agency or a similar arrangement with the foreign business, the foreign intermediary would be required to register for Russian VAT purposes and pay VAT to the Russian tax authorities according to the procedure described above for foreign providers. Similar to the rules described above, the draft law does not provide for an enforcement mechanism in cases where a foreign intermediary fails to register for VAT purposes in Russia, and thus does not perform its tax agent's obligations.

If a foreign business supplies taxable services through a Russian tax resident business that collects payments from Russian customers and acts on the basis of a commission, an agency or a similar arrangement with the foreign provider, the intermediary must account for Russian VAT on relevant supplies and remit the tax to the Russian tax authorities. This mechanism currently is provided for in the Russian tax legislation, but, in practice, unregistered foreign e-service providers typically do not involve Russian tax-registered intermediaries, except for payment aggregators, collection agents, etc. that usually act on the basis of service agreements (rather than commission or agency arrangements) with the foreign provider and technically are not liable to account for Russian VAT.

Abolition of exemption for software licensing

Under Russia's current VAT rules, an exemption is granted for the licensing of software and databases under executed license agreements, which would be repealed under the draft law. The exemption is not applicable to B2C supplies in practice, since the tax authorities require a written license agreement to be concluded between a customer and a software provider, which is impracticable in the case of B2C software licensing. Therefore, in practice, this change would affect only B2B software licensing.

Additional income tax preference for Russian IT companies

A new income tax preference would be granted to support local IT companies that provide rights to use software and/or databases. The draft law would allow companies registered in

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Russia (Russian businesses and foreign businesses operating through Russian subsidiaries) and having an accreditation from the local authorities to significantly reduce their income tax liability through an increased expense allowance (costs related to the transfer of rights would be recognized as deductible expenses in excess of the actual expenses, and could reduce the income tax base by 80%).

Comments

Multinational companies should monitor future developments, assess the potential impact of the introduction of the new VAT rules on their existing businesses, prepare to register with the Russian tax authorities (where required by the draft law) and adjust their business models and documentation framework as necessary to reduce potential tax risks and secure tax benefits, if available.

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Australia:
ATO publishes "client experience roadmap" for MAAL

On 12 January 2016, the Australian Taxation Office (ATO) issued a "client experience roadmap" for the recently enacted multinational anti-avoidance law (MAAL), which sets out the ATO's views on the engagement process, legacy issues, penalties and settlements for categories of taxpayers that potentially are subject to the MAAL. The ATO has stated that it will allocate multinational groups that may fall within the scope of the MAAL into categories that will be subject to different enforcement processes and penalties. The publication of the client experience roadmap follows the ATO's issuance of a "companion guideline" to the MAAL on 17 December 2015 (for prior coverage, see *World Tax Advisor*, 8 January 2016).
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160108_bc.html

The MAAL, first announced in May 2015, became enacted law on 3 December 2015 and applies to income derived on or after 1 January 2016. The MAAL amends Australia's general anti-avoidance rule (GAAR) and applies to all multinationals with an Australian presence (i.e. Australian resident entities or business operations conducted through an Australian permanent establishment (PE)) with annual global income of AUD 1 billion or more. Where the MAAL applies, it will deem a nonresident to have a PE in Australia and can result in a 30% tax on profit attributable to the PE; up to 30% withholding tax on relevant interest and royalties paid by the foreign entity; and penalties of up to 120% (for prior coverage, see *World Tax Advisor*, 11 December 2015).
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151211_3.html

The ATO already has started sending letters to multinationals it has identified as potentially being within the scope of the MAAL (specifically "category A" multinationals). The letters advise the recipients to consider their MAAL position and to expect further contact from the

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ATO in early 2016. Similar letters will be sent to other multinationals by 31 March 2016, based on risk profiling carried out by the ATO. The ATO has divided taxpayers into five categories:

1. Category A: Under an existing review or audit;
2. Category B: Approached by the ATO;
3. Category C: Voluntary disclosure;
4. Category D: Subsequently identified; and
5. Category E: Outside the scope of the MAAL.

Next steps

Multinational groups will need to consider the MAAL from a number of perspectives:

- Achieving sufficient certainty in respect of Australian tax positions;
- Understanding the MAAL penalty regime and how to minimize potential penalty exposure; and
- Dealing with the broader global context, which may require responses to action 7 of the OECD base erosion and profit shifting project in respect of the expanded definition of PE.

Groups that may fall within the scope of the MAAL – regardless of whether they have received an ATO letter – should perform a risk assessment and, if necessary, evaluate options for ATO engagement and possible restructuring. If a multinational group potentially within the scope of the MAAL is not contacted by the ATO before 31 March 2016, the group should decide whether to initiate voluntary engagement with the ATO or to forgo the potential benefits of early engagement (e.g. reduced penalties).

Given the ATO's proactive stance and the short timeframe it is allowing, groups that may need to engage with the ATO (whether at the initiative of the ATO or on a voluntary basis) should begin preparing now. Groups with MAAL exposure also will need to address financial statement issues from Q1 2016.

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Belgium:
Excess profit rulings constitute illegal state aid

The European Commission issued a press release on 11 January 2016 announcing that it has concluded its in-depth investigation of the Belgian excess profit rulings regime initiated on 3

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February 2015. The Commission has concluded that these rulings violate the state aid rules under the Treaty on the Functioning of the European Union because they deviate from the normal Belgian corporate tax rules and the arm's length principle. The Commission is ordering Belgium to discontinue the excess profits ruling practice and recover approximately EUR 700 million in tax from the beneficiaries of the rulings (at least 35 multinationals). The full text of the Commission's decision is not yet available.

The excess profits regime has applied since 2005, as part of the government's policy to attract investment. Instead of being taxed on its actual profits, the excess profits regime allows a qualifying company's taxable base to be reduced by its "excess profits," i.e. the profits recorded in a Belgian entity's accounts that result from being part of a multinational group (such as synergies and economies of scale, clients, supplier networks, etc.). The actual recorded profits of a Belgian group company are compared with the hypothetical average profits that a stand-alone company in a comparable situation would have earned, and the company is taxed on only the latter profits. To obtain the benefit, the company must request a ruling from the Belgian tax authorities.

According to the Commission's press release, excess profit rulings have granted a selective advantage to at least 35 multinational companies, since those companies were not taxable on their full profits due to the exclusion of excess profits. Even assuming that multinational companies may generate excess profits, these profits should be shared between group members in a way that reflects economic reality and taxed where they arise (instead of being allocated to a single group company). The Commission also said that the rulings could not be justified on the basis of avoiding double taxation because Belgium made the adjustments unilaterally, i.e. without requiring evidence of (a risk of) double taxation.

The Commission is ordering Belgium to stop applying excess profit rulings in the future, and to recover the unpaid tax from the beneficiaries of the rulings. The Belgian tax authorities must determine the identity of the beneficiaries and the exact amounts of tax to be recovered.

The Belgian government and the beneficiaries may appeal to the EU general court within two months, from which a further appeal may be made to the Court of Justice of the European Union. It should be noted, however, that absent exceptional circumstances, an appeal would not suspend Belgium's obligation to recover the amounts granted under the excess profits ruling regime and if Belgium fails to comply with its recovery obligation, the European Commission may refer Belgium to the general court.

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Brazil:
CSLL considered a covered tax for tax treaty purposes

Law 13,202/15, published in the official gazette on 9 December 2015, clarifies that Brazil's tax treaties also cover the social contribution on net profits (CSLL).

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Brazil’s federal corporate income tax is comprised of the following taxes:

- The corporate income tax, or IRPJ, which is levied on the taxable profits of an entity at a rate of 15%. In addition to the IRPJ, a 10% monthly surtax is imposed on taxable income exceeding BRL 20,000; and
- The CSLL, which is levied on entities subject to the IRPJ to finance the federal social security system. The general CSLL rate is 9% (a 20% rate applies to financial institutions).

The “taxes covered” article in Brazil’s tax treaties expressly includes only “Brazilian federal income tax,” without specifying or making a reference to the IRPJ or the CSLL. Notably, the protocols to Brazil’s tax treaties with Belgium, Portugal, Trinidad & Tobago and Turkey provide that these treaties also cover the CSLL.

Law 13,202/2015 establishes that, for purposes of the interpretation of Brazil’s treaties, the CSLL is a covered tax. Because the new guidance is of an “interpretative” nature (which is specifically stated in the law), it may be applied on a retroactive basis and, therefore, taxpayers should reassess their circumstances to correctly apply treaty benefits both prospectively and retroactively.

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Germany:
New treaty with Netherlands revises tax treatment of gains on real estate company shares

The new tax treaty between Germany and the Netherlands, signed in 2012 to replace the 1959 treaty, entered into force on 1 December 2015 and applies as from 1 January 2016.

One of the most notable features of the new treaty is a real estate clause in the capital gains article that will affect real estate investors. Under the treaty, capital gains derived from the sale of shares in a real estate company may be taxed in the country in which the property is located, rather than the country in which the seller is resident.

The new provision will affect German inbound real estate investors that have structured their investment through a Dutch holding company that holds shares in a German GmbH that, in turn, holds real estate located in Germany. Capital gains from the sale of shares in the German GmbH previously were not taxable in Germany, and they often fell within the scope of the Dutch participation exemption. However, under the new treaty, 5% or even 100% (in the case of a short-term share trading) of such gains may be subject to corporate income tax in Germany.

Capital gains from the sale of shares in Dutch corporations that directly hold German real estate are not affected by the new provisions if the Dutch corporation does not have its place

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of management and control in Germany (since Germany has the right to tax gains under domestic law only if a foreign corporation whose legal seat is outside Germany is managed and controlled in Germany).

The real estate clause in the new Netherlands treaty differs significantly from the OECD model and from Germany's other tax treaties:

- The clause applies if the real estate company derives more than 75% of its value, directly or indirectly, from immovable property (50% under the OECD model treaty).
- When determining if the 75% requirement is met, immovable assets with which the real estate-owning company or its shareholders carry on their business will not be taken into account.
- The German language version (but not the Dutch version) of the real estate clause lacks the usual reference to the location of the immovable property. Accordingly, the right to tax capital gains, subject to other requirements, may be shifted due only to the fact a company derives more than 75% of its value from immovable property; the fact that the property may be located in the company's country of residence is irrelevant. As a result, the sale of shares in a German GmbH by a Dutch shareholder may be taxed in Germany, even if the property is situated in the Netherlands or in a third country. It currently is unclear whether this error in the German version will be corrected.
- The real estate clause applies only if the seller holds at least 50% of the shares in the real estate company before the first share disposal.
- The new treaty makes use of the exceptions mentioned in section 28.7 *et seq.* of the OECD commentary on the capital gains article, so that the right to tax remains with the country in which the seller is resident where the gains arise from the sale of shares of a company listed on an approved stock exchange or as part of a corporate reorganization.

Other notable features of the treaty are as follows:

- The default rate of 15% on dividends remains unchanged, but a 5% withholding tax rate (reduced from 10% in the former treaty) will apply to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company, and a new maximum rate of 10% will apply if the beneficial owner is a Dutch-resident pension fund.
- No change is made to the tax treatment of interest or royalties, i.e. such payments will remain exempt from withholding tax.

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Gibraltar:
All companies now required to file corporate income tax returns

Recent changes to Gibraltar's Income Tax Act will affect the filing obligations of Gibraltar-registered companies and branches of foreign companies.

As from accounting periods commencing on or after 1 January 2016, *all* companies registered in Gibraltar, as well as entities (including branches) with assessable income (as provided in the Income Tax Act), are required to file "full and complete tax returns." Previously, only companies registered in Gibraltar or entities that had assessable income were required to file a tax return with the Income Tax Office; companies with no assessable income were not required to file. Branches of foreign companies that were required to file tax returns were not required to file audited accounts as part of the submission.

Based on the full and complete tax return requirement, companies and branches that derive assessable income exceeding GBP 1.25 million within an accounting period now must file tax returns that are accompanied by audited accounts. Companies and branches with assessable income under that threshold are required to file tax returns, together with accounts accompanied by an independent accountant's report.

The deadline for filing the tax return continues to be nine months from the end of the relevant accounting period.

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Namibia:
Various tax rate changes introduced

The 2015 Income Tax and Value Added Tax Amendment Acts, published in Namibia's official gazette on 30 December 2015 and 29 December 2015, respectively, reduce the standard corporate income tax rate and make certain other corporate tax, withholding tax and VAT changes. Unless otherwise noted below, the income tax amendments generally apply as from 30 December 2015, while the VAT amendments apply as from 1 January 2016.

Highlights of the changes that are relevant for multinational companies include the following:

- The corporate tax rate for companies, other than mining and manufacturing companies, is reduced from 33% to 32% for years commencing on or after 1 January 2015.

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- Acquisition costs relating to mineral rights/licenses may be deducted from the proceeds of the sale of such rights and licenses. An indirect sale of shares in a company holding mineral rights and licenses is now subject to tax.
- The sale of petroleum licenses or rights is subject to corporate tax.
- A final withholding tax of 10% is introduced in respect of all interest payments made to a nonresident person, with the exception of interest payments made by the government or a Namibian bank to a foreign bank.
- The withholding tax rate on royalties paid to a nonresident (including payments for the right to use industrial, commercial or scientific equipment) is set at a flat rate of 10% (previously, the rate was linked to the corporate tax rate).
- The withholding tax rate on payments for certain services (e.g. management, consulting, technical and administration services) is reduced from 25% to 10%.
- Under the Pay As You Earn (PAYE) system, tax must be withheld from payments made to a director of a private company and from director's fees paid to a director of a public company that is ordinarily resident in Namibia.
- The definition of "Namibia" for income tax purposes has been extended to include the territorial sea and exclusive economic zone.
- The VAT registration threshold is increased from NAD 200,000 to NAD 500,000 and the voluntary VAT registration threshold is set at NAD 200,000. A person that applies for voluntary VAT registration has the option to choose a VAT period of two months or six months.
- All financial services provided to a nonresident that is outside Namibia at the time the services are supplied are now exempt from VAT.

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Taiwan:
Tax agreement signed with Japan

Taiwan and Japan signed a tax agreement on 26 November 2015 that aims to avoid double taxation, provide certainty on certain taxes (such as withholding tax) and enhance cross-border trading between the two jurisdictions. The agreement, which is the first between the two jurisdictions, is expected to enter into force during 2016 so that it will apply to income payable on or after 1 January 2017.

The main features of the new agreement, which generally follows the OECD model treaty, are as follows:

- Where an enterprise of one of the contracting states establishes a permanent establishment in the other state, business profits arising from the permanent establishment may be taxed in that other state.
- Dividends, interest and royalties arising in one contracting state and paid to a resident in the other contracting state will be subject to a 10% withholding tax.

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- A limitations on benefits article will operate to deny a reduction in or exemption from tax if the main purpose of a transaction is to obtain benefits under the agreement.
- The competent authorities of the two jurisdictions will exchange relevant information, and the agreement contains a mutual agreement procedure.

The significant reduction in the withholding tax rate on dividends, in particular, will benefit both Japanese and Taiwan investors in the other country, since both jurisdictions currently impose a 20% withholding tax on dividends. Going forward, Taiwan investors in Japan and Japanese investors in Taiwan should re-examine their investment structures and transaction flows to improve tax efficiency and reduce any potential tax risks.

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2016 rate changes

The following chart summarizes some of the corporate, withholding tax and VAT tax rate changes that are effective as of 1 January 2016 (unless otherwise noted):

Country	Type of tax		
	Corporate income tax	WHT on dividends, interest and royalties paid to a nonresident	VAT
Aruba	Reduced from 28% to 25%		
Belgium		Rate on dividends, interest and royalties increased from 25% to 27%	
Chile	First category income tax rate increased from 22.5% to 24%		
Curacao	Reduced from 25% to 22%		
Israel	Reduced from 26.5% to 25%	Rate on interest and royalties reduced from 26.5% to 25%	
Malaysia	Reduced from 25% to 24% as from year of assessment 2016; rate on first MYR 500,000 for small and medium-sized companies reduced from 20% to 19%		

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Country	Type of tax		
	Corporate income tax	**WHT on dividends, interest and royalties paid to a nonresident**	**VAT**
Namibia		As from 30 December 2015, withholding tax of 10% is introduced on all interest payments to a nonresident (except for certain payments to a foreign bank), and rate on royalties paid to a nonresident is set at a flat rate of 10% (previously, rate was linked to corporate tax rate)	
Norway	Reduced from 27% to 25%		Reduced rate of 8% is increased to 10%
Pakistan	Reduced from 33% to 32%	Rate on dividends increased from 10% to 12.5% for income tax filers, and from 15% to 17.5% for nonfilers	
Palestinian Territories		Rate on interest paid to a nonresident is abolished; rate on royalties paid to a nonresident increased from 5% to 10%	
Romania	Rate changed to 1% for microenterprises with two or more employees, 2% for microenterprises with one employee and 3% for microenterprises with no employees (previously, a flat 3% rate applied to microenterprises)	Rate on dividends paid to a nonresident legal entity reduced from 16% to 5%	Reduced from 24% to 20%
Spain	Reduced from 28% to 25%	Rate on dividends, interest and royalties paid to a nonresident reduced from 19.5% to 19%	

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Country	Type of tax		
	Corporate income tax	**WHT on dividends, interest and royalties paid to a nonresident**	**VAT**
Thailand	Permanently reduced from 30% to 20%		

In brief

Ecuador: A law granting tax incentives for public-private partnerships and foreign investment became effective on 18 December 2015. The incentives include a 10-year exemption from income tax on profits and dividends distributed by the company.

Northern Ireland: The Corporation Tax (Northern Ireland) Act provides for Northern Ireland to set its own rate of corporation tax on most trading profits. This is contingent on the Northern Ireland Executive demonstrating that its finances are on a sustainable footing, including successfully implementing measures in the Stormont House Agreement and subsequent reforms. The executive has committed to a commencement date of April 2018, and a Northern Ireland rate of 12.5%. A Memorandum of Understanding (MoU) has been signed between the UK tax authorities (HMRC) and the Department of Finance and Personnel, Northern Ireland (DFPNI), setting out arrangements for setting up and operating Northern Ireland corporation tax. The Northern Ireland corporation tax rules and policy form part of the UK corporation tax system, and will be administered by HMRC. Interaction with companies liable to pay Northern Ireland corporation tax, including the provision of information, collection and compliance, will be matters for HMRC, as will disputes about the assessment or collection of tax or a company's tax affairs. The MoU includes provisions on developing information technology and administrative systems and on recharging to DFPNI costs incurred by HMRC on implementation.

Romania: As from 1 January 2016, new rules apply to the tax treatment of micro enterprises. The limit at which a company will qualify to register as a microenterprise is increased from EUR 65,000 in revenue (in a fiscal year) to EUR 100,000. If a registered microenterprise earns more than EUR 100,000 during a fiscal year, it no longer will qualify for the lower tax rate applicable to the revenues of the microenterprises. Instead, the company will be subject to the standard 16% profits tax. Changes also have been made to the tax rate applicable to microenterprises. The flat 3% tax rate is replaced by rates that depend on the number of employees of the enterprise: 1% for microenterprises with two or more employees, 2% for microenterprises with one employee and 3% for microenterprises with no employees.

United Kingdom: The UK tax authority (HMRC) has announced that it will be meeting business representative bodies to explore and develop new ideas on VAT grouping in light of the Court of Justice of the European Union's decisions in the *Skandia America* case and the joined cases, *Larentia + Minerva* and *Marenave Schiffahrt AG*. The intention is to develop policy options during February and March 2016 that will form the basis for a 12-week consultation to be launched in the spring. HMRC expects that changes to the UK VAT grouping provisions likely will include extending VAT grouping to noncorporate bodies and

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identifying new rules to determine “close economic, financial and organizational” links for corporate and noncorporate bodies, replacing the current “control” test based on the company law definition of a subsidiary. The proposed timetable suggests that any law changes will not be made before 2017.

BEPS corner

In each issue that provides updates on developments in the OECD’s base erosion and profit shifting (BEPS) initiative, *World Tax Advisor* includes a “BEPS corner” covering these developments.

Australia: The Australian Taxation Office has issued additional guidance on the recently enacted multinational anti-avoidance law, See the article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160122_2.html

European Union: The European Parliament has issued an update on remarks made by Commissioner Pierre Moscovici to the Special Committee on Tax Rulings and the Economic and Monetary Affairs (TAXE) at a hearing on 11 January 2016. Mr. Moscovici promised to present an EU anti-BEPS tax package by the end of January 2016. He also commented on the proposed two-phased approach to the proposed consolidated common corporate tax base, country-by-country reporting, state aid in the BENELUX countries and on what he described as the “substandard” quality of member states’ exchange of information on tax rulings.

Russia: A draft law that would introduce VAT on electronic services is consistent with the approach endorsed by the OECD under the BEPS project. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160122_1.html

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Tax treaty round up

At the end of each month, *World Tax Advisor* provides an update on recent tax treaty developments, with a focus on items that directly affect the withholding tax rates of the key jurisdictions covered by the Deloitte International Tax Source (DITS). Additional coverage may include stated negotiating priorities and other important tax treaty trends.
URL: http://www.dits.deloitte.com?id=us:em:na:wta:eng:tax

Unless otherwise noted, the developments discussed below are not yet in force.

Austria-Turkmenistan: The 2015 tax treaty and protocol to replace the Austria/former USSR treaty dating from 1981 will enter into force on 1 February 2016 and will apply as from 1 January 2017. When in effect, the treaty provides for a 0% withholding tax rate on dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate will be 15%. A 10% rate will apply to interest and royalties.

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Canada-Taiwan: When in effect, the tax agreement signed on 15 January 2016 provides for a 10% withholding tax rate on dividends paid to a company that holds directly at least 20% of the capital of the payer company; otherwise, the rate will be 15%. A 10% rate will apply to interest and royalties.

China-Hong Kong: The 2015 protocol to the 2006 tax arrangement (as amended by 2008 and 2010 protocols) entered into force on 29 December 2015 and applies as from the same date. The protocol provides for a 5% withholding tax rate on royalties paid to an aircraft and ship leasing business; otherwise, the rate is 7%. The withholding tax rates on dividends and interest are not affected by the protocol.

Croatia-Luxembourg: The 2014 treaty entered into force on 13 January 2016 and will apply as from 1 January 2017. When in effect, the treaty provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate will be 15%. A 0% rate will apply to interest paid to financial institutions or collective investment vehicles; otherwise the rate will be 10%. A 5% rate will apply to royalties.

Finland-Spain: When in effect, the treaty signed on 15 December 2015 to replace the 1967 treaty (as amended by the 1970, 1973 and 1990 exchanges of notes) provides for a 0% withholding tax rate where dividends are paid to a pension fund; a 5% rate will apply where dividends are paid to a company (other than a partnership) that holds directly at least 10% of the voting power of the payer company; otherwise, the rate will be 15%. A 0% rate will apply to interest and royalties.

France: The government ratified the 2014 OECD automatic exchange of information agreement on 28 December 2015.

Germany-Japan: When in effect, the treaty signed on 17 December 2015 to replace the 1966 treaty as amended by the 1979 and 1983 protocols, provides for a 0% withholding tax rate where dividends are paid to a company (other than a partnership) that has owned directly, for the 18-month period ending on the date entitlement to the dividends is determined, at least 25% of the voting shares of the payer company; a 5% rate will apply where dividends are paid to a company (other than a partnership) that has owned directly, for the six-month period ending on the date entitlement to the dividends is determined, at least 10% of the voting shares of the payer company; otherwise, the rate will be 15%. The 0% and 5% rates will not apply to dividends paid by a German real estate investment trust company with listed share capital (Real Estate Investment Trust) or a German investment fund. Dividends paid by a Japanese company that is entitled to a deduction for dividends paid to its beneficiaries in computing its taxable income for Japanese tax purposes may be taxed under Japan's domestic law. Interest (with exceptions for certain contingent interest arising in Japan) and royalties will be taxable only in the state of residence of the recipient.

Germany-Netherlands: See article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160122_5.html

Hong Kong-Russia: When in effect, the tax agreement signed on 18 January 2016 provides for a 5% withholding tax rate where dividends are paid to a company (other than a partnership)

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that holds directly at least 15% of the capital of the payer company; otherwise, the rate will be 10%. The rate on interest will be 0%. A 3% rate will apply to royalties.

Hong Kong-United Arab Emirates: The 2014 tax agreement entered into force on 10 December 2015 and applies as from 1 January 2016 for the United Arab Emirates and as from 1 April 2016 for Hong Kong. When in effect, the agreement provides for a 5% withholding tax rate on dividends, interest and royalties.

Japan-Taiwan: See article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160122_8.html

Luxembourg-Serbia: When in effect, the treaty signed on 15 December 2015 provides for a 5% withholding tax rate where dividends are paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate will be 10%. The rate on interest will be 10%. A 5% rate will apply to royalties paid for the use of, or the right to use, a copyright of literary, artistic or scientific work (including cinematograph films or films or tape used for radio or television broadcasting). A 10% rate will apply to royalties paid for the use of, or the right to use, a patent, trademark, design or model, plan, secret formula or process; for the use of, or the right to use, industrial, commercial or scientific equipment; or for information concerning industrial, commercial or scientific experience.

Mexico-Spain: When in effect, the protocol to the 1992 tax treaty signed on 17 December 2015 provides for a 0% withholding tax rate where dividends are paid to a company whose capital is wholly or partially divided into shares and that holds directly at least 10% of the capital of the payer company, or paid to a pension fund; otherwise, the rate will be 10%. A 0% rate will apply to interest paid to a pension fund; a 4.9% rate will apply to interest paid on loans granted by a bank or other financial institution (including investment banks, savings banks and insurance companies) and to interest paid on bonds and other debt instruments that are regularly and substantially traded on a recognized stock exchange; otherwise, the rate will be 10%. The withholding tax rate on royalties will not be affected by the protocol.

Netherlands-St. Maarten: The 2014 tax arrangement will enter into force on 1 March 2016, and will apply as from 1 January 2017. When in effect, the arrangement provides for a 0% withholding tax rate on dividends paid to a pension fund or paid to a company whose capital is wholly or partially divided into shares and that holds directly at least 10% of the capital of the payer company, provided certain additional requirements are fulfilled; otherwise, the rate generally will be 15%. However, under a transition rule that will apply until 31 December 2019, dividends paid by a Netherlands company to a St. Maarten company that do not qualify for the 0% withholding tax rate may qualify for a 5% rate if the recipient holds at least 25% of the paid-up capital of the payer company. Interest and royalties will be taxable only in the state of residence of the recipient.

Norway-Zambia: When in effect, the treaty signed on 17 December 2015 to replace the 1971 treaty provides for a 5% withholding tax rate where dividends are paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate will be 15%. The rate on interest and royalties will be 10%.

Saudi Arabia-Macedonia: When in effect, the treaty signed on 15 December 2014 provides for a 5% withholding tax rate on dividends and interest. A 10% rate will apply to royalties.

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Slovakia-Armenia: When in effect, the treaty signed on 15 May 2015 provides for a 5% withholding tax rate on dividends where the recipient is a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate will be 10%. A 10% rate will apply to interest and a 5% rate will apply to royalties.

Slovakia-United Arab Emirates: When in effect, the treaty signed on 21 December 2015 provides for a 0% rate on dividends. A 10% rate will apply to interest and royalties.

South Africa-United Arab Emirates: When in effect, the treaty signed on 23 November 2015 provides for a 5% withholding tax rate where dividends are paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate will be 10%. A 10% rate will apply to interest and royalties.

Switzerland-Albania: When in effect, the protocol to the 1999 treaty signed on 9 September 2015 revises the interest article by providing an exemption for interest paid to a pension scheme. The protocol will not affect the tax treatment of dividends or royalties.

Bilateral treaties and protocols for DITS countries that are in effect as from 2016: The following table reflects tax treaties and protocols that became effective on 1 January 2016 with respect to their provisions on withholding taxes. Rates shown are as provided in the treaty; domestic withholding tax rates or EU directives may result in a lower rate. The table does not include standard exemptions or special rates, such as those typically provided for interest paid to government entities, government-related loans, etc.

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Austria-Chile	15	5/15	5/10
The 5% rate applies to interest derived from bank and insurance company loans, bonds or securities that are regularly and substantially traded on a recognized securities market, or a sale on credit of machinery and equipment; otherwise, the rate is 15%. The 5% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate is 10%.			
Austria-Montenegro	5/10	10	5/10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 5% of the capital of the payer company; otherwise, the rate is 10%. The 5% rate applies to royalties paid for a copyright of literary, artistic or scientific work, including cinematographic films and recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission or for computer software; otherwise, the rate is 10%.			
Bulgaria-Norway	5/15	0/5	5
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The 0% rate applies to interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment and on all bank loans; otherwise, the rate is 5%.			

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Treaty	Dividends (%)	Interest (%)	Royalties (%)
Bulgaria-United Kingdom	0/5/15	0/5	5
The 0% rate applies to dividends paid to a company (other than dividends paid by an investment vehicle) or a pension scheme; otherwise, the rate generally is 5%. However, a 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from certain immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax. A 0% rate applies to interest paid in connection with credit sales of equipment, merchandise or services; on loans granted by a financial institution; to a pension scheme; or between companies, in which one company directly holds at least 10% of the capital of the other company for at least one year before the interest is paid or in which both companies are held by a third company that holds directly at least 10% of the capital of both companies for at least one year before the interest is paid; otherwise, the rate is 5%.			
Chile-Austria	15	5/15	5/10
The 5% rate applies to interest derived from bank and insurance company loans, bonds or securities that are regularly and substantially traded on a recognized securities market or a sale on credit of machinery and equipment; otherwise, the rate is 15%. The 5% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate is 10%.			
Colombia-Czech Republic	5/15/25	0/10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; the 25% rate applies to dividends paid by a Colombian company from profits that have not been taxed at the corporate level; otherwise, the rate is 15%. The 0% rate applies to interest paid in connection with the credit sale of merchandise or equipment, and on a loan or credit granted by a bank for at least three years; otherwise, the rate is 10%.			
Colombia-Portugal	10/33	10	10
The 33% rate applies to dividends paid by a Colombian company from profits that have not been taxed at the corporate level; otherwise, the rate is 10%.			
Croatia-India	5/15	10	10
The treaty applies in India as from 1 April 2016. The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%.			
Croatia-Portugal	5/10	10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
Croatia-Turkmenistan	10	10	10
Croatia-United Kingdom	0/5/10/15	0/5	5
The 0% rate applies to dividends paid to a pension scheme; the 5% rate applies to dividends paid to a company that controls, directly or indirectly, at least 25% of the capital of the payer company; the 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax; otherwise, the rate is 10%. The 0% rate applies to interest paid in connection with credit sales of industrial, commercial or scientific equipment; or merchandise by one enterprise to another; and to interest paid on bank loans; otherwise, the rate is 5%.			

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<table>
<tr><th>Treaty</th><th>Dividends (%)</th><th>Interest (%)</th><th>Royalties (%)</th></tr>
<tr><td>Cyprus-Guernsey</td><td>0</td><td>0</td><td>0</td></tr>
<tr><td>Cyprus-Switzerland</td><td>0/15</td><td>0</td><td>0</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a company (other than a partnership) whose capital is wholly or partially divided into shares and that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least one year, or where dividends are paid to a pension fund or similar institution; otherwise, the rate is 15%.</td></tr>
<tr><td>Czech Republic-Colombia</td><td>5/15</td><td>0/10</td><td>10</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. The 0% rate applies to interest paid in connection with the credit sale of merchandise or equipment and on a loan or credit granted by a bank for at least three years; otherwise, the rate is 10%.</td></tr>
<tr><td>Czech Republic-Liechtenstein</td><td>0/15</td><td>0</td><td>0/10</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least one year; otherwise, the rate is 15%. A 10% rate applies to royalties received as consideration for the use of, or the right to use, a patent, trademark, design or model; plan, secret formula or process; tailor-made computer software; or industrial, commercial or scientific equipment; or for information concerning industrial, commercial or scientific experience; otherwise, the rate is 0%.</td></tr>
<tr><td>Czech Republic-Pakistan</td><td>5/15</td><td>10</td><td>10</td></tr>
<tr><td colspan="4">The treaty applies in Pakistan as from 1 July 2016. The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.</td></tr>
<tr><td>Denmark-Ghana</td><td>5/15</td><td>0/8</td><td>8</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company, or paid to a pension fund or similar institution; otherwise, the rate is 15%. The 0% rate applies to interest paid to a pension fund or other similar institution, or in connection with the credit sale of any merchandise or equipment; otherwise, the rate is 8%.</td></tr>
<tr><td>Ecuador-Singapore</td><td>5</td><td>10</td><td>10</td></tr>
<tr><td>Estonia-Switzerland</td><td>0/10</td><td>0</td><td>0</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for at least one year prior to the dividend payment, or to a pension scheme; otherwise, the rate is 10%.</td></tr>
<tr><td>France-Andorra</td><td>5/15</td><td>0/5</td><td>0/5</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The 0% rate applies to interest paid in connection with the sale on credit of any goods or merchandise or the supply of services, and to interest paid between financial institutions; otherwise, the rate is 5%. The 0% rate applies to copyright or similar royalties (other than royalties concerning computer software, cinematograph films and other means of image or sound reproduction); otherwise, the rate is 5%.</td></tr>
</table>

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Treaty	Dividends (%)	Interest (%)	Royalties (%)
Germany-Netherlands	5/10/15	0	0
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company, the 10% rate applies to dividends paid to a Dutch-resident pension fund; otherwise, the rate is 15%.			
Germany-Philippines	5/10/15	0/10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 70% of the capital of the payer company; a 10% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 0% rate applies to interest paid in connection with the sale of commercial or scientific equipment on credit or in connection with the sale of goods by an enterprise to another enterprise on credit; otherwise, the rate is 10%.			
Hungary-Bahrain	0/5	0	0
The 0% rate applies to dividends paid to a company (other than a partnership that is not liable to tax); otherwise, the rate is 5%.			
Hungary-Liechtenstein	0/10	0	0
The 0% rate applies to dividends paid to a company (other than a partnership that is not liable to tax) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
Hungary-Saudi Arabia	5	0	5/8
The 5% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate is 8%.			
Iceland-Georgia	5/10	5	5
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the distributing company; otherwise, the rate is 10%.			
Iceland-Switzerland	0/15	0	0/5
The 0% rate applies to dividends paid to a pension scheme or to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for at least one year before the dividend payment; otherwise, the rate is 15%. A 5% rate applies to royalties for the use of, or the right to use, a patent, trademark, design or model, plan, secret formula or process; otherwise, the rate is 0%.			
Ireland-Thailand	10	10/15	5/10/15
The 10% rate applies to interest paid to a financial institution (including an insurance company), or paid with respect to a sale of equipment, merchandise or services on credit (except where the sale is between persons not dealing with each other at arm's length); otherwise, the rate is 15%. A 5% rate applies to royalties for the use of, or the right to use, a copyright of literary, artistic or scientific work, including software, and motion pictures and works on film, tape or other means of reproduction for use in connection with radio or television broadcasting; a 10% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment or a patent; and a 15% rate applies to royalties paid for the use of, or the right to use, a trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.			

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Treaty	Dividends (%)	Interest (%)	Royalties (%)
Ireland-Ukraine	5/15	5/10	5/10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 5% rate applies to interest paid in connection with a sale of industrial, commercial or scientific equipment on credit, or on a loan granted by a bank; otherwise, the rate is 10%. A 5% rate applies to royalties paid in respect of a copyright of scientific work, a patent, trademark, secret formula or process or for information concerning industrial, commercial or scientific experience; otherwise, the rate is 10%.			
Ireland-Zambia	7.5	10	8/10
The 8% rate applies to royalties paid in respect of a copyright of scientific work or a patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience; otherwise, the rate is 10%.			
Italy-Hong Kong	10	12.5	15
The tax agreement applies in Hong Kong as from 1 April 2016.			
Japan-Qatar	5/10	0/10	5
The 5% rate applies to dividends paid to a company that has owned, directly or indirectly, at least 10% of the voting power or of the total issued shares of the distributing company for the six-month period ending on the date on which entitlement to the dividends is determined (however, the 5% rate will not apply if the distributing company is entitled to a deduction for dividends paid to its beneficiaries in computing its taxable income in Japan); otherwise, the rate is 10%. A 0% rate applies to interest paid to banks, insurance companies, securities dealers, other enterprises that issue bonds in the financial markets or take deposits at interest and that meet certain requirements and pension funds that meet certain requirements; otherwise, the rate is 10%.			
Kenya-South Africa	10	10	10
Korea-Gabon	5/15	0/10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 0% rate applies to interest paid in connection with the sale of industrial, commercial or scientific equipment on credit, or in connection with the sale of merchandise by an enterprise to another enterprise on credit; otherwise, the rate is 10%.			
Latvia-Qatar	0/5	0/5	5
The 0% rate applies to dividends or interest paid to a company (other than a partnership); otherwise, the rate is 5%.			
Luxembourg-Singapore	0	0	7
Malta-Mauritius	0	0	0
Malta-Moldova	0	5	5
Where dividends are paid by a Malta company to a Moldova company, Malta tax on the dividends may not exceed the amount chargeable on the profits from which the dividends are paid.			
Mauritius-Malta	0	0	0
Mauritius-South Africa	5/10	0/10	5
The 5% rate applies to dividends paid to a company that holds at least 10% of the capital of the payer company; otherwise, the rate is 10%. A 0% rate applies to interest paid in respect of a debt instrument listed on a recognized stock exchange; otherwise, the rate is 10%.			

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<table>
<tr><th>Treaty</th><th>Dividends (%)</th><th>Interest (%)</th><th>Royalties (%)</th></tr>
<tr><td>Mexico-Turkey</td><td>5/15</td><td>10/15</td><td>10</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 10% rate applies to interest paid to a bank; otherwise, the rate is 15%.</td></tr>
<tr><td>Netherlands-Curacao</td><td>0/5/15</td><td>0</td><td>0</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a pension fund or paid to a company whose capital is wholly or partially divided into shares and that holds directly at least 10% of the capital of the payer company, provided certain additional requirements are fulfilled; otherwise, the rate generally is 15%. However, under a transition rule that applies until 31 December 2019, dividends paid by a Netherlands company to a Curacao company that do not qualify for the 0% withholding tax rate may qualify for a 5% rate if the recipient holds at least 25% of the paid-up capital of the payer company.</td></tr>
<tr><td>Netherlands-Germany</td><td>5/15</td><td>0</td><td>0</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid by a Netherlands company to a German company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%.</td></tr>
<tr><td>Norway-Bulgaria</td><td>5/15</td><td>0/5</td><td>5</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The 0% rate applies to interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment and on all bank loans; otherwise, the rate is 5%.</td></tr>
<tr><td>Norway-Serbia</td><td>5/15</td><td>10</td><td>5/10</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 5% rate applies to royalties for the use of, or the right to use, a copyright of literary, artistic or scientific work, including cinematograph films or films or tapes used for radio or television broadcasting. A 10% rate applies to royalties for the use of, or the right to use, a patent, trademark, design or model, plan, secret formula or process; for the use of, or the right to use, industrial, commercial or scientific equipment; or for information concerning industrial, commercial or scientific experience.</td></tr>
<tr><td>Philippines-Germany</td><td>5/10/15</td><td>0/10</td><td>10</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 70% of the capital of the payer company; a 10% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 0% rate applies to interest paid in connection with the sale of commercial or scientific equipment on credit or in connection with the sale of goods by an enterprise to another enterprise on credit; otherwise, the rate is 10%.</td></tr>
<tr><td>Philippines-Qatar</td><td>10/15</td><td>10</td><td>15</td></tr>
<tr><td colspan="4">The 10% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%.</td></tr>
<tr><td>Portugal-Colombia</td><td>10</td><td>10</td><td>10</td></tr>
<tr><td>Portugal-Croatia</td><td>5/10</td><td>10</td><td>10</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.</td></tr>
<tr><td>Portugal-Georgia</td><td>5/10</td><td>10</td><td>5</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.</td></tr>
</table>

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Treaty	Dividends (%)	Interest (%)	Royalties (%)
Portugal-San Marino	10/15	10	10
The 10% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
Saudi Arabia-Azerbaijan	5/7	7	10
The 5% rate applies to dividends paid to the government, the central bank, an entity wholly owned by the government or a recipient that has invested at least USD 300,000 (or its equivalent in any other currency) in the capital of the distributing company; otherwise, the rate is 7%.			
Saudi Arabia-Hungary	5	0	5/8
The 5% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate is 8%.			
Saudi Arabia-Tajikistan	5/10	8	8
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			
Saudi Arabia-Kyrgyzstan	0	0	7.5
Singapore-Czech Republic	-	-	0/5/10
The protocol applies in the Czech Republic as from 1 January 2015. The protocol provides for a 0% rate on royalties for a copyright of literary, artistic or scientific work, except for computer software and including cinematograph films and films or tapes for television or radio broadcasting; a 5% rate on royalties received as consideration for the use of, or the right to use, industrial, commercial or scientific equipment; and a 10% rate on royalties received as consideration for the use of, or the right to use, a patent, trademark, design or model, plan, secret formula or process and computer software or for information concerning industrial, commercial or scientific experience. The withholding tax rates on dividends and interest are not affected by the protocol.			
Singapore-Ecuador	5	10	10
Singapore-Luxembourg	0	0	7
Singapore-Morocco	8/10	10	10
The 8% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
Singapore-San Marino	0	12	8
Singapore-Seychelles	0	12	8
South Africa-Hong Kong	5/10	10	5
The tax agreement applies as from 1 April 2016 for Hong Kong. The 5% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
South Africa-Kenya	10	10	10
South Africa-Mauritius	5/10	0/10	5
The 5% rate applies to dividends paid to a company that holds at least 10% of the capital of the payer company; otherwise, the rate is 10%. A 0% rate applies to interest paid in respect of a debt instrument listed on a recognized stock exchange; otherwise, the rate is 10%.			

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Treaty	Dividends (%)	Interest (%)	Royalties (%)
Sweden-United Kingdom	0/5/15	0	0
The 0% rate applies to dividends paid to a company that controls, directly or indirectly, at least 10% of the voting power of the payer company; the 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from certain immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax; otherwise, the rate is 5%.			
Switzerland-Cyprus	0/15	0	0
The 0% rate applies to dividends paid to a company (other than a partnership) whose capital is wholly or partially divided into shares and that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least one year, or where dividends are paid to a pension fund or similar institution; otherwise, the rate is 15%.			
Switzerland-Estonia	0/10	0	0
The 0% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for at least one year prior to the dividend payment, or to a pension scheme; otherwise, the rate is 10%.			
Switzerland-Iceland	0/15	0	0/5
The 0% rate applies to dividends paid to a pension scheme or to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for at least one year before the dividend payment; otherwise, the rate is 15%. A 5% rate applies to royalties for the use of, or the right to use, a patent, trademark, design or model, plan, secret formula or process; otherwise, the rate is 0%.			
Thailand-India	10	10	10
The treaty applies in India as from 1 April 2016.			
Thailand-Ireland	10	10/15	5/10/15
A 10% rate applies to interest paid to a financial institution (including an insurance company), or paid with respect to a sale of equipment, merchandise or services on credit (except where the sale is between persons not dealing with each other at arm's length); otherwise, the rate is 15%. A 5% rate applies to royalties for the use of, or the right to use, a copyright of literary, artistic or scientific work, including software, and motion pictures and works on film, tape or other means of reproduction for use in connection with radio or television broadcasting; a 10% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment or a patent; and a 15% rate applies where royalties are paid for the use of, or the right to use, a trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.			
Turkey-Kosovo	0/5/15	10	10
A 0% rate applies to dividends paid by a Kosovo company to a resident of Turkey. A 5% applies to dividends paid by a Turkish company to a Kosovo company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
Turkey-Mexico	5/15	10/15	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 10% rate applies to interest paid to a bank; otherwise, the rate is 15%.			

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<table>
<tr><th>Treaty</th><th>Dividends (%)</th><th>Interest (%)</th><th>Royalties (%)</th></tr>
<tr><td>Ukraine-Ireland</td><td>5/15</td><td>5/10</td><td>5/10</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 5% rate applies to interest paid in connection with a sale of industrial, commercial or scientific equipment on credit, or on a loan granted by a bank; otherwise, the rate is 10%. A 5% rate applies to royalties paid in respect of a copyright of scientific work, a patent, trademark, secret formula or process or for information concerning industrial, commercial or scientific experience; otherwise, the rate is 10%.</td></tr>
<tr><td>United Kingdom-Bulgaria</td><td>0/5/15</td><td>0/5</td><td>5</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a company (other than dividends paid by an investment vehicle) or a pension scheme; otherwise, the rate generally is 5%. However, a 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from certain immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax. A 0% rate applies to interest paid in connection with credit sales of equipment, merchandise or services; on loans granted by a financial institution; to a pension scheme; or between companies, in which one company directly holds at least 10% of the capital of the other company for at least one year before the interest is paid or in which both companies are held by a third company that holds directly at least 10% of the capital of both companies for at least one year before the interest is paid; otherwise, the rate is 5%.</td></tr>
<tr><td>United Kingdom-Croatia</td><td>0/5/10/15</td><td>0/5</td><td>5</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a pension scheme; the 5% rate applies to dividends paid to a company that controls, directly or indirectly, at least 25% of the capital of the payer company; the 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax; otherwise, the rate is 10%. The 0% rate applies to interest paid in connection with credit sales of industrial, commercial or scientific equipment; or merchandise by one enterprise to another; and to interest paid on bank loans; otherwise, the rate is 5%.</td></tr>
<tr><td>United Kingdom-Kosovo</td><td>0/15</td><td>0</td><td>0</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a company (other than dividends paid by a pension scheme); however, a 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from certain immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax.</td></tr>
<tr><td>United Kingdom-Sweden</td><td>0/5/15</td><td>0</td><td>0</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a company that controls, directly or indirectly, at least 10% of the voting power of the payer company; the 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from certain immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax; otherwise, the rate is 5%.</td></tr>
<tr><td>United Kingdom-Zambia</td><td>5/15</td><td>10</td><td>5</td></tr>
<tr><td colspan="4">The 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from certain immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempt from tax; otherwise, the rate is 5%.</td></tr>
</table>

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United States
Sixth Circuit holds over-the-counter foreign currency option contracts are section 1256 contracts

On 7 January 2016, the US Sixth Circuit Court of Appeals, in *Wright v. Commissioner*, held that over-the-counter currency option contracts constitute "foreign currency contracts" under section 1256(g)(2)(A) of the Internal Revenue Code and thus are subject to the mark-to-market rules of section 1256. The holding and rationale will significantly impact the tax treatment of over-the-counter currency options.
Issue date: 12 January 2016
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-united-states-12-january-2016.pdf

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