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In this issue:

Australia's new tax treaty with Germany contains BEPS measures

Australia and Germany signed a "new 21st Century tax treaty on 12 November 2015, which will reduce tax impediments to increased bilateral trade and investment and improve the integrity of the tax system." The treaty will replace one of Australia's oldest treaties, signed in 1972.

The new treaty is of particular interest since it was signed shortly after the final reports on the OECD base erosion and profit shifting (BEPS) project were released on 5 October 2015. The treaty is highly "BEPS compliant" and, as such, is one of the first post-BEPS bilateral tax treaties. The treaty adopts most of the OECD's recommended treaty changes, in particular, in respect of:

- **Action 2:** Fiscally transparent entities;
- **Action 6:** Treaty abuse;

- **Action 7:** Preventing the artificial avoidance of permanent establishment (PE) status; and
- **Action 14:** Dispute resolution.

It is understood that the treaty negotiations between the two countries had been underway for many years (long before the BEPS process began). It therefore is interesting that, in a very short period of time after the BEPS reports were released, both countries have demonstrated their support for the BEPS treaty recommendations.

The treaty will come into effect after all domestic ratification requirements are completed by both countries – this is expected to take at least one year, so it will be some time before the new treaty provisions are effective.

Australian and German cross-border investors should review existing structures and income flows to identify potential risks and benefits under the new treaty.

The following summarizes the main features of the treaty.

Treaty abuse

The new Australia-Germany treaty is largely consistent with the BEPS action 6 measures relating to treaty abuse:

- A new title and preamble make it clear that the purpose of the treaty is to eliminate double taxation, and that it is not intended to create opportunities for nontaxation or reduced taxation through tax evasion or avoidance (including through treaty shopping arrangements aimed at obtaining relief provided in the agreement for the indirect benefit of residents in third states).
- Dual resident entities generally will not be able to benefit under the treaty if the competent authorities of the two countries are unable to determine by mutual agreement the entity's state of residence, taking into account the place of effective management, the place where the entity was incorporated/otherwise constituted and any other relevant factors.
- The treaty includes a principal purpose test, under which treaty benefits will be denied if one of the principal purposes of a transaction or arrangement is to obtain treaty benefits, unless it is established that granting these benefits would be in accordance with the object and purpose of the provisions of the treaty.

A number of specific anti-treaty abuse measures also are included in the treaty.

Permanent establishment

Article 5 of the treaty is consistent with the BEPS action 7 measures in respect of the new PE standard:

- The specific activity exceptions in the PE definition will apply only if the activities listed themselves are "preparatory or auxiliary."
- An "anti-fragmentation" rule will deny the availability of the specific activity exceptions if the relevant activities constitute complementary functions of a cohesive business operation and are split between different legal entities or different locations.
- A PE will exist where a person (other than an independent agent) acting in a contracting state on behalf of an enterprise "habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise."
- Persons that act exclusively, or almost exclusively, for a closely related enterprise will not qualify as independent agents. A definition of "closely related" is included, with the determinative criterion being control, i.e. if, based on all the relevant facts and circumstances, one person/enterprise has control of the other person/enterprise, or both are under the control of the same persons/enterprises. In any event, parties will be deemed to be closely related if:
    - One of the parties holds, directly or indirectly, more than 50% of the beneficial interests in the other (or, in the case of a company, more than 50% of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company); or
    - Another party holds, directly or indirectly, more than 50% of the beneficial interests (or, in the case of a company, more than 50% of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in both the person and the enterprise.

In addition, in accordance with modern Australian treaty practice, the treaty will deem a PE to arise if an enterprise of one of the contracting states:

- Carries on supervisory or consultancy activities in the other state for more than nine months in connection with a building site or a construction or installation project;
- Carries on activities (including the operation of substantial equipment) in the other state in the exploration for, or exploitation of, natural resources for a period or periods exceeding in the aggregate 90 days in any 12-month period; or
- Operates substantial equipment in the other state for a period or periods exceeding in the aggregate 183 days in any 12-month period.

The time thresholds are subject to an aggregation rule to deal with contract splitting between closely related enterprises. These deemed PE provisions significantly expand the PE concept compared to the existing treaty and will need to be carefully considered, for example, by German engineering and construction groups that perform projects in Australia.

German groups that sell goods or services directly to Australian customers also should evaluate the potential impact of Australia's new multinational anti-avoidance law (MAAL) that applies as from 1 January 2016, which effectively is a unilateral expansion of the PE concept and is discussed further below.

Withholding tax rates

The treaty provides for maximum source country taxation as follows:

Type of income	Rate	Requirements
Dividends	0%	The recipient company holds directly 80% or more of the voting power of the payer company for at least 12 months; and: • The recipient company is listed and regularly traded on a recognized stock exchange or owned, directly or indirectly, by one or more such companies; • The recipient company is owned by a company from a third country that would be entitled to equivalent treaty benefits; or • The competent authority (of the state in which the payer company is situated) determines that obtaining treaty benefits was not one of the principal purposes of the arrangement.
	5%	The recipient company holds directly at least 10% of the voting power of the payer company for at least six months (BEPS action 6 recommends a 5% rate limitation where there is a minimum 365-day shareholding period in respect of at least 25% of the capital of the payer company; this treaty provides for a shorter six-month rule and reduces the participation requirement to 10%)
	15%	In all other cases
Interest	0%/10%	The default rate of 10% will apply, except where interest is paid to a government, a body exercising governmental functions, a central bank or an unrelated financial institution
Royalties	5%	

The above rates can be denied if the principal purpose test applies.

Land-rich entities

Once the treaty is in force, German investors no longer will be entitled to treaty protection from Australian tax on gains from the disposal of shares in companies whose underlying assets are principally (i.e. more than 50%) Australian real property.

Claiming treaty benefits

Article 28, an uncommon article, provides that, with respect to taxation by withholding at source (e.g. for dividends, interest and royalties), the right of the source country to initially collect the withholding tax at a higher rate provided for under the domestic law is “not affected” by the treaty. The recipient may be required to seek a refund and may be asked to provide a certificate of residence. The treaty allows the tax authorities to agree on the implementation of this article, and hopefully the administration of this provision will not result in unnecessary compliance obligations being imposed on taxpayers.

Dispute resolution

The treaty contains measures that will implement the final report on action 14 of the BEPS initiative in relation to making dispute resolution mechanisms more effective. The treaty includes a binding arbitration provision, under which taxpayers will be able to refer tax disputes that remain unresolved after two years to binding arbitration, except where the principal purpose test applies. The treaty also limits the time period in which a state can make an adjustment to profits attributable to a PE or in relation to a transfer pricing adjustment to 10 years, and limits mutual agreement procedures to cases presented within three years from the first notification of the relevant action.

Other matters

Other key features of the treaty include the following:

- The treaty expressly deals with income derived through fiscally transparent entities or arrangements;
- Treaty benefits generally should be available for Australian Managed Investment Trusts; and
- The Australian and German tax authorities are required to assist each other in the collection of their respective revenue claims.

BEPS implementation in Australia

In addition to the above measures, German multinationals should be aware of other recent significant Australian tax developments in connection with the OECD BEPS project and associated transparency measures:

- **Multinational anti-avoidance law (MAAL):** Australia is acting unilaterally to broaden the PE concept via the MAAL that became effective on 1 January 2016 and that applies to groups with global turnover of more than AUD 1 billion (approximately EUR 650 million). The MAAL may apply where there is no PE under an applicable treaty, and it allows the Australian Taxation Office (ATO) to deem sales of goods or services by a foreign supplier to Australian customers to be made through an Australian PE if an associated or commercially dependent entity performs activities in Australia in connection with those sales.
    - While the MAAL is similar in some respects to the UK diverted profits tax, the MAAL likely will be more severe in its scope and impact, because it potentially can create a significant royalty withholding tax liability (potentially, a 30% tax on gross royalties) and the ATO can impose penalties of up to 120%.
    - German groups selling goods or services into Australia where the seller entity is a non-Australian entity and an associated or commercially dependent entity undertakes related activities in Australia (e.g. sales and marketing support

services) need to address the potential impact of the MAAL. The MAAL can apply across a wide range of industries, including engineering, contracting and technology groups.
    - The ATO is expecting that affected taxpayers will proactively engage with the ATO and contemplate changes to their Australian business models or tax models.
    - While it is expected that the wider scope of a PE under the new OECD standards will take effect over time via a multilateral instrument or new bilateral treaties, such as the new Australia-Germany treaty, the Australian MAAL effectively brings the start date for a wider-scope PE to 1 January 2016.
- **Hybrid financing:** In respect of BEPS action 2 (hybrid financing), the Australian government has announced its intention to move promptly, and has referred the matter to the Board of Tax, asking it to report by early 2016. The changes could, for example, neutralize limited partnership and redeemable preference share arrangements that have been used by multinationals to finance Australian operations.
- **Country-by country reporting:** Australia has enacted legislation that gives effect to the OECD proposals for country-by-country reporting and master file and local file documentation (action 13). The new rules apply for years commencing on or after 1 January 2016, and are applicable to groups with global turnover of more than AUD 1 billion.
- **Tax transparency public disclosure:** In December 2015, the ATO published limited tax data (total income, taxable income and tax paid) for Australian public companies and foreign owned private companies with turnover of at least AUD 100 million. This will continue in future years.
- **General purpose financial statements:** In December 2015, the government legislated to require that Australian companies that are members of groups with global turnover of more than AUD 1 billion and that presently file limited disclosure (special purpose) financial statements with the corporate regulator will be required to file general purpose financial statements with the ATO in respect of years commencing on or after 1 July 2016.

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European Union: Dutch presidency issues EU-BEPS roadmap

The Netherlands, which currently holds the presidency of the council of the EU, issued an ambitious EU-BEPS "roadmap" on 19 February 2016 that sets out plans to move forward with previous EU proposals, as well as future efforts on areas relating to the OECD's base erosion and profit shifting (BEPS) project. The roadmap includes the following:

- Possibly including a minimum effective taxation clause in the EU interest and royalties directive, and also possibly including or referring to the OECD "modified nexus approach" (however, no mention is made of the previous proposals to reduce the shareholding requirement in the directive from 25% to 10%, add legal entities to the annex or remove the "direct" holding requirement);
- Reaching consensus on the anti-avoidance directive proposed by the European Commission on 28 January 2016 (for prior coverage, see *World Tax Advisor*, 12 February 2016);
  URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160212_1.html
- Reaching agreement on the European Commission's proposal to introduce the OECD BEPS minimum standard for country-by-country reporting in the EU;
- Initiating discussions for reforming the EU Code of Conduct group (specifically, the group's governance, transparency and working methods), followed by discussions on a revision to the mandate in relation to the concept that profits are subject, as appropriate, to an effective level of tax within the EU;
- Reaching agreement on guidance and explanatory notes on hybrid permanent establishment mismatches in situations involving third countries;
- Continuing to monitor the legislative process necessary to revise existing patent box regimes; and
- Monitoring and exchanging views on the BEPS developments relating to tax treaties concluded by EU member states, the OECD multilateral instrument to modify tax treaties and the European Commission's recent recommendations on the implementation of measures to combat tax treaty abuse.

The Code of Conduct group will start work on the following:

- Preparing EU guidance on aligning transfer pricing outcomes with value creation, in accordance with BEPS actions 8-10;
- Identifying potential issues that arise when payments are made from the EU to a non-EU country;
- Assessing the opportunity for developing EU guidance for implementing the conclusions on BEPS action 12 (the disclosure of aggressive tax planning), notably, with a view to facilitating the exchange of information between tax authorities; and
- Developing guidelines on the conditions and rules for the issuance of tax rulings by EU member states.

Additionally, the High Level Working Party on Taxation may discuss the current situation regarding the EU arbitration convention that allows the settlement of transfer pricing disputes.

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India:
AAR rules on tax avoidance motive in proposed share transfer

India's Authority for Advance Rulings (AAR) ruled on 11 January 2016 that the proposed transfer of shares of an Indian company by a Mauritius company to a Singapore company as part of a group reorganization would not be taxable in India under the India-Mauritius tax treaty, and that the proposed transfer did not have a tax avoidance motive. The AAR determined that entitlement to treaty benefits should be respected and that the Mauritius company would not be liable for capital gains tax in India on the sale of the shares of the Indian company.

Facts of the case

The applicant, Dow AgroSciences Agricultural Products Limited (DAS Mauritius), is a resident of Mauritius and part of a multinational group of companies. DAS Mauritius acquired almost all of the shares of another group company, Dow AgroSciences India Private Limited (DAS India), over a 20-year period. DAS Mauritius proposed to transfer its shareholding in DAS India to DAS Singapore, another entity in the group, as part of a group-wide reorganization designed to streamline the group structure, improve efficiency and reduce costs. DAS Mauritius proposed to contribute its shares in DAS India as its capital in DAS Singapore, which would result in DAS India becoming a wholly-owned subsidiary of DAS Singapore. The value of DAS Singapore's shares recorded in the books of DAS Mauritius would be considered the sales consideration for the proposed transfer of the shares.

DAS Mauritius requested a ruling from the AAR on whether the gains arising from the proposed transfer of DAS India shares to DAS Singapore would be subject to tax in India.

AAR ruling

According to the AAR, the proposed transfer of shares was not a scheme designed to avoid the payment of taxes in India for the following reasons:

- DAS Mauritius had acquired the shares in DAS India over a 20-year period and the investments were made with the approval of the Department of Industrial Policy and Promotion and the Reserve Bank of India;
- DAS Mauritius had been operating for more than 10 years in Mauritius, so it could not be characterized as a shell company; and
- Valid business reasons existed for the group's reorganization.

The India-Mauritius tax treaty allocates taxing rights over capital gains arising from a transfer of shares of an Indian company by a Mauritius company to Mauritius. Therefore, the AAR held that gains derived by DAS Mauritius from the transfer of DAS India's shares would not be liable to be taxed in India, unless DAS Mauritius had a permanent establishment (PE) in India. The applicant presented evidence that it did not have an office, employees or agents in India, so the AAR concluded that DAS Mauritius did not have a PE in India.

The AAR observed that DAS Mauritius would not be required to file an Indian income tax return, since it would not have taxable income in India. This is contrary to the AAR's 2012

ruling in the *Castleton Investment Ltd.* case (for prior coverage, see *World Tax Advisor*, 14 September 2012). The AAR also noted that DAS Mauritius would not be liable to India's minimum alternate tax or withholding tax or India's transfer pricing provisions.
URL: http://newsletters.usdbriefs.com/2012/Tax/WTA/120914_2.html

Comments

The AAR ruling confirms that India may not tax capital gains arising from a transfer of shares of an Indian company by a Mauritius company. Although the ruling is binding only on the applicant, it should provide comfort to taxpayers using the Mauritius route for investing into India.

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Israel:
Court rules on inclusion of stock-based compensation costs in cost plus calculation

The Tel Aviv district court (a court of first instance) issued a decision on 25 December 2015 in a case involving the effect of an employee stock option plan on a cost plus arrangement (*Kontera Technologies Ltd. v. Tax Assessor – Tel Aviv (Unit 3)*). The court upheld the position of the Israeli tax authorities and ruled that costs incurred by an Israeli subsidiary of a foreign parent company with respect to an employee stock option plan should be included in the cost basis in calculating the cost plus remuneration under the cost plus arrangement with the foreign parent.

Facts of the case

Kontera Technologies Ltd. (ILCO) is an Israeli R&D service provider wholly owned by Kontera Technologies Inc. (USCO), a US company. In 2005, ILCO and USCO concluded an agreement under which ILCO would provide R&D services to USCO, for which it would be remunerated for its costs, plus a 7% markup, exclusive of expenses incurred by ILCO with respect to social security.

During 2009 and 2010, the US parent company issued stock options to ILCO (which granted the options to its employees), subject to a vesting period of 36 months. Additionally, in 2010, the parties amended the cost plus agreement to exclude the stock-based compensation associated with the options from the cost plus methodology used under the agreement. This change in the terms of the agreement was to be effective retroactively as from 1 January 2008.

Throughout 2009 and 2010, ILCO used the "Black and Scholes" model and recorded the stock-based compensation costs associated with the options (the "ESOP expenses") as an expense for accounting purposes, but treated the expense as nondeductible for tax purposes in accordance with section 102 of the Israeli Tax Ordinance (ITO). (Section 102 deals with share-based compensation granted by employers to employees and provides that an employer may choose to grant such securities to its employees under a “capital gains track,” which allows the recipients to record the resulting income as capital gains instead of regular salary income subject to the marginal tax rates. However, once the employer elects to use the capital gains track, it no longer is eligible to claim the associated expense as a tax-deductible expenditure).

During an audit of ILCO for tax years 2009 and 2010, the Israeli tax assessor noted that, when accounting for the ESOP expenses as an expenditure (while not integrating them as part of the cost plus calculation), the profit margin recorded by ILCO dropped to 1.73% in 2009 and 0.97% in 2010. Given that ILCO and USCO were related parties, and in light of the transfer pricing rules in section 85a of the ITO, which require that transactions between related parties be priced on arm’s length terms, the tax assessor concluded that the margin recorded by ILCO was lower than the margin normally recorded between unrelated parties with respect to similar transactions. The tax assessor determined that the profit margin recorded was significantly lower due to the exclusion of the ESOP expenses, and that ILCO should have recorded a margin of 9.1% and should have included the ESOP expenses in the cost plus computation.

ILCO then appealed the decision of the tax assessor.

Decision of the district court

When evaluating the arguments presented by the parties, and in an effort to identify the core disagreement, the district court initially determined that the 7% margin under the agreement was reasonable given the type of business operations conducted by ILCO, and apparently did not feel it was necessary to elaborate on its reasoning for rejecting the 9.1% profit margin argued for by the tax authorities.

The main issue identified by the court was whether it was necessary to include the ESOP expenses in the cost plus computation. The district court dismissed ILCO’s appeal, concluding that the ESOP expenses should be included in the cost plus computation under the agreement with ILCO’s US parent company.

The court first reiterated that section 85a of the ITO, and the regulations thereunder, require related parties to price their transactions according to the arm’s length principle.

The court then considered the parties’ arguments. The tax assessor claimed that the profit margin recorded in practice was significantly lower due to the exclusion of the ESOP expenses. ILCO, however, claimed that it is common practice not to include ESOP expenses in the cost plus calculation, and supplemented its argument with a transfer pricing opinion from an advisor that examined 355 comparable transactions and concluded that such expenses should not be covered by the cost plus methodology. ILCO also claimed that the options should not be treated as salary in kind, or as an expense of ILCO, but rather as a cost borne by the shareholders of USCO whose ownership rights were being diluted as a result of the options.

The court dismissed the transfer pricing opinion provided by ILCO as irrelevant because the comparable transactions examined were not priced using the cost plus methodology. As a result, the court determined that ILCO failed to satisfy its obligation to demonstrate the arm's length nature of the transaction under Israel's transfer pricing rules. The court also rejected ILCO's argument that the pricing mechanism it implemented (which excluded the ESOP expenses) should be accepted by the court based on the OECD transfer pricing guidelines' silence on the matter.

Finally, the court rejected ILCO's contention that the ESOP expenses should be attributed to USCO on the basis that, by applying a cost plus methodology, USCO had, in essence, undertaken all the expenses associated with the services rendered by ILCO and, therefore, it was irrelevant whether a given cost was paid directly by USCO or indirectly via ILCO. Additionally, the court opined that no shareholder would agree to have its ownership rights diluted without being adequately compensated; hence, by issuing the options, the USCO shareholders likely had assumed that, in exchange for being diluted, they were increasing the value of the company, and thus preserving the economic value of their holdings.

The district court concluded (without providing details on its reasoning) that the amendment to the cost plus agreement between ILCO and USCO was mainly intended to shift profits from ILCO to USCO, and held the following:

- ILCO was required to include the value of the stock options in its operating costs when making the cost plus computation.
- Since ILCO decided to grant the options subject to section 102 of the ITO, which prohibits recording the ESOP expenses as a tax-deductible expense, ILCO is required to adhere to this restriction (i.e. ILCO's taxable income is increased because it must include the value of the stock options in its cost plus computation and the expenses associated with the income are nondeductible for tax purposes).
- The social security expenses should have been covered by the cost plus mechanism used by the parties.
- The 7% profit margin under the agreement clearly corresponds with the transfer pricing study accepted by the court, and thus should be adhered to.

Comments

This case is the first instance in which the Israeli judicial system has addressed share-based compensation in a cost plus arrangement. The tax authorities have taken the position that ESOP expenses should be included as part of the cost plus calculation for a number of years, and most prior cases have been resolved through a settlement between the taxpayers and the tax authorities.

The district court in this case focused on ILCO's inability to provide a comprehensive transfer pricing study to substantiate the pricing mechanism employed. Rather than stating outright and unambiguously that ESOP expenses must be included in the cost plus calculation's cost base, the court used language that emphasizes the requirement that the taxpayer satisfy the burden of proof. Therefore, considering the court's scrutiny of the transfer pricing opinion provided and the issues it identified with the opinion, it is reasonable to assume that a court could allow the exclusion of such expenses from the cost base of the cost plus calculation in a case where the taxpayer prepares a transfer pricing study that covers comparable transactions using the cost plus methodology and that supports the exclusion of such ESOP expenses from the cost base (particularly in a case that does not involve a retroactive amendment to the cost plus agreement relating to the treatment of the expenses).

It is important to note that, under Israeli law, district court decisions are not considered binding precedent. It is unclear whether the taxpayer will appeal the decision.

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Middle East:
Update on prospects for introduction of VAT in GCC countries

Media reports in recent months have provided substantial coverage of the growing likelihood that VAT will be implemented throughout the Gulf Cooperation Council (GCC) member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE)) within a relatively short timeframe, potentially as early as the latter part of 2017 in some countries (for prior coverage, see *World Tax Advisor*, 23 October 2015). The GCC member states all have indicated a strong desire to rapidly diversify public revenue generation away from the vagaries of the global hydrocarbon markets, so it is unsurprising that many of the countries have made increasingly clear statements of their intent to mobilize revenues internally.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151023_1.html

Despite the wide range of socio-economic realities that policymakers face in the different countries, the GCC member states remain committed to acting multilaterally on the implementation of VAT, since a move by a single member state to implement a VAT could disadvantage that country. However, to some extent, this broad objective creates challenges around timing; one set of rules may not fit all countries. Nevertheless, a range of statements made by representatives of the relevant authorities for certain countries indicate that the first implementations of VAT in the GCC could occur in 2018 (or possibly as early as late 2017 in some cases):

- Perhaps the clearest indication of intent has been the Saudi Arabian budget announcement in December 2015, stating the country's intent to implement a VAT. The Minister of Finance subsequently was quoted in December 2015 as indicating that the Kingdom intends to introduce a VAT within two years.
- A member of the Majlis Al Shura's Economic Committee in Oman recently was quoted as saying that VAT implementation is in its final stages, the country is working on a mechanism for collecting the tax and the VAT is expected to be introduced by mid-2017.
- The UAE Ministry of Finance has made a number of statements indicating that the UAE will introduce a VAT, including, most recently, a statement that the implementation would occur in 2018.

Whether all of the GCC member states will be in a position to move together on implementation remains to be seen, but it is expected that implementation may begin with an initial move by one or two member states, followed by the others in relatively quick succession, with all six countries likely to implement VAT by 2020.

Comments

It seems that VAT implementation around the GCC no longer is merely a matter of press speculation and that the GCC member states are moving meaningfully toward a milestone announcement on the subject. The intended VAT rate has not yet been disclosed in most countries, but reports suggest that this will be a low rate of around 3% to 5%. No significant details of any proposed exclusions from the normal taxation rules have been announced, but recent statements indicate that such exclusions likely will center on certain food items, education and healthcare, and potentially financial services.

Businesses with operations in the Gulf states should begin considering what VAT implementation would mean for them. Preparation is important because the nature of VAT requires tax liabilities to be self-assessed and paid by businesses, and any errors typically are subject to severe penalties.

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Russia:
MOF clarifies requirements to prove beneficial ownership status

Russia's Ministry of Finance (MOF) issued guidance on 15 October 2015 that further clarifies when a Russian payer of income has fulfilled its obligation to identify a foreign counterparty as the beneficial owner of dividends for tax treaty purposes.

The beneficial owner concept was introduced into Russian tax law on 1 January 2015 (for prior coverage, see *World Tax Advisor*, 26 September 2014). As a result, the availability of benefits under Russia's tax treaties (e.g. an exemption from tax or a reduced withholding tax rate) will be denied if a foreign company recipient of income does not meet the beneficial owner requirements.
URL: http://newsletters.usdbriefs.com/2014/Tax/WTA/140926_10.html

Beneficial ownership

The beneficial ownership concept for purposes of determining the applicability of a tax treaty is based on the following principles:

- The actual recipient (beneficial owner) of income means a person that, via direct and/or indirect participation in other organizations or by other means, possesses the right to own, use and dispose of such income, or a person in whose interest another person is entitled to use and dispose of such income.

- A foreign company is regarded as having the actual right to receive income if it is the direct beneficiary of such income, i.e. it is the entity that actually benefits from the income and has the right to determine its subsequent economic fate. The functions performed by such a company, its authority and the risks assumed in connection with the income must be taken into account in establishing the actual right to the income.
- Tax treaty benefits will not be granted if the foreign claimant has limited authority to dispose of the income received or acts as an intermediary in relation to the income without performing any other functions or assuming the risks, directly or indirectly, of paying the income (in whole or in part) to another person that would not be able to apply the relevant tax treaty provisions and enjoy the tax benefits if it received the income directly from Russian sources.

Documentation evidencing beneficial ownership

For purposes of determining the applicability of the tax treaty benefits, the Russian payer is required to confirm that the foreign recipient company is the beneficial owner of the income.

According to the October 2015 guidance, the obligation of a Russian tax agent to identify a foreign counterparty as the beneficial owner of dividends is considered fulfilled if, at the time the dividends are paid to a shareholder, the payer has documents proving that the shareholder has the right to administer and use the dividends received from the Russian payer.

Since the tax law does not provide a specific list of documents that prove such rights, the MOF has clarified that such a document may be a letter (beneficial owner statement) from the recipient demonstrating the absence of any contractual or other legally binding obligations to third parties or any other restrictions on the use of the dividends, and the right of the recipient to independently use and dispose of the dividends received.

Although the guidance was issued with respect to dividend payments, similar requirements should apply to the payment of other types of income (e.g. interest, royalties) for which treaty benefits are claimed.

An indirect owner (under a “look through” approach for determining beneficial ownership) should provide the proper documentation to the Russian payer that substantiates its right to receive the income and benefits under the relevant treaty. The direct recipient of income may not be a beneficial owner if it acts on behalf of, and in the interest of, an indirect recipient of income. In this case, the direct recipient should send a letter to the Russian payer of the income clarifying that it is not the beneficial owner of the income and identifying the beneficial owner in whose interest the direct recipient acts. The beneficial owner (the indirect recipient of the income) then should provide documentation, including a tax residence certificate, along with an apostille and notarized Russian translation, and a beneficial owner statement and/or other documentation that evidences its entitlement to the treaty benefits.

Comments

Failure to comply with the requirements may result in the denial of tax treaty benefits and the imposition of penalties on Russian payers (e.g. the subsidiaries of multinational corporations, franchisees, etc.) making the payments to foreign counterparties or the shareholders.

Companies that receive income from Russian sources should consult with their tax advisors with respect to the documentation that must be furnished to the Russian payer to protect their right to benefit under applicable tax treaties.

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Taiwan:
Tax treaty with Italy in effect

Taiwan's 29th tax treaty – that with Italy – entered into force on 31 December 2015 and applies as from 1 January 2016.

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

- Where an enterprise of one of the contracting states forms a permanent establishment in the other state, business profits arising from the permanent establishment may be taxed in that other state.
- The withholding tax rate on dividends, interest and royalties will be 10% of the gross amount.
- A limitation on benefits article will deny treaty benefits if the main purpose of a transaction is to obtain benefits under the treaty.
- The treaty contains an OECD-compliant exchange of information article.

As a result of the exchange of information clause included in the treaty, Italy will remove Taiwan from its "black list" of tax haven jurisdictions, which should benefit both Italian and Taiwanese investors.

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Vietnam:
Guidance issued on risk management principles in tax administration

Vietnam's Ministry of Finance has issued a circular dated 21 December 2015 that provides guidance on the application of risk management principles in tax administration. The circular applies as from 4 February 2016 and supplements the Law on Tax Management and the decree that provides guidance on the law.

Notable points of the new circular include the following:

- The tax authorities will apply risk management methodologies to all major tax administration activities, including tax registration, tax declaration and payment, tax debts and the enforcement of tax administration decisions, tax refunds, tax audits and inspections, the management and use of tax records and other activities relating to the implementation of tax administration tasks.
- The tax authorities have developed various criteria and indicators for applying risk management principles to these tax administration activities, which vary depending on the relevant tax administration activity:
  - Certain criteria and indicators are applied to classify taxpayers based on their risk level (i.e. the risk that a taxpayer may not have complied with its tax obligations) and their level of tax compliance.
  - Other criteria and indicators are applied for specific purposes, including the selection of various transactions (e.g. tax registrations, tax declarations and tax refunds) for audit.
- The relevant criteria and indicators will be evaluated on the basis of information that the tax authorities collect from internal and external sources (including information from tax registrations, declarations and payments; information received from other competent authorities, from tax authorities in other jurisdictions and from other overseas organizations and individuals; and information about legal violations handled by the tax authorities and other competent authorities).
- Taxpayers will be assessed and ranked according to six different risk levels (very low risk, low risk, average risk, high risk and very high risk, plus a separate level for taxpayers that have had operations for less than 12 months). The tax authorities will use the results of the assessment and ranking to implement their audit, inspection and supervision measures for high-risk taxpayers.
- Taxpayers also will be classified into three categories based on their level of tax compliance (high, moderate or low compliance). Taxpayers having a high level of compliance will receive priority from the tax authorities in relation to tax refunds and certain other matters. A taxpayer will be classified at the low compliance level if it has one or more of the following characteristics:
  - It has accumulated losses exceeding 50% of the equity of the enterprise at the date of assessment;
  - It has a history of negative VAT amounts declared that consistently are above the average of other companies in the same field or sector; or
  - It was sanctioned by the authorities for violations relating to tax evasion, tax fraud or accounting issues for two consecutive years prior to the date of assessment.

Given the increased emphasis on risk-based management, the tax administration is expected to focus its attention on high-risk taxpayers. Enterprises that wish to avoid being subjected to strict tax assessment measures should ensure that they comply with their tax obligations.

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In brief

Czech Republic: As from 1 January 2016, Czech VAT-registered businesses must prepare and submit an electronic “VAT control statement” on defined transactions carried out within the relevant period. The statement, which is designed to prevent VAT fraud and evasion, must be submitted monthly and must contain details of individual VAT documents (including the customer’s and the supplier’s VAT numbers, the date of the taxable supply, the tax document number, etc.). Although VAT payers generally must maintain such data as part of their normal VAT compliance obligations, the VAT control statement must be submitted separately from the VAT return and must be in a specified format. Compilation of the VAT control statement could create challenges for some VAT-registered businesses because their internal systems may not be set up to prepare the statement in the designated format or to include all of the required data. The VAT control statement should enable the tax authorities to undertake more timely and efficient automated reviews and to detect VAT fraud earlier.

European Union: The European Commission has launched a public consultation on improving double taxation dispute resolution mechanisms as part of the work on implementing the June 2015 action plan on corporate tax systems in the EU. The current mechanisms (mutual agreement procedure, arbitration) are provided by the bilateral tax treaties entered into by the EU member states and, specifically, by the EU multilateral arbitration convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises. The scope of the arbitration convention is limited to transfer pricing and the allocation of profits to a permanent establishment. The consultation closes on 10 May 2016.

Germany: The federal tax court (BFH) has referred to the constitutional court the question of whether the interest deduction limitation rule, which limits the tax deductibility of net interest expense to 30% of the tax EBITDA of a business, is in line with the German constitution. According to the BFH, the interest deduction limitation violates the principle that each taxpayer must be taxed based on its financial performance and financial capabilities, and there are no justifications (e.g. preventing abuse of law, fiscal stability) for the violation. The constitutional court likely will not issue a final decision on the issue for at least a couple of years.

Isle of Man: The budget for 2016 has been enacted and is the first step in a six-year plan to increase tax revenue by growing the economy (rather than by increasing tax rates) and keeping expenditure under tight control. The main tax measures, which generally will apply as from 6 April 2016, include the introduction of a tax holiday for qualifying land developments, under which relevant income or profits of a company will be exempt from income tax for up to five years. Additionally, a penalty is introduced for individuals found to have avoided Manx income tax (e.g. by not declaring all income) in contravention of general anti-avoidance provisions; the penalty will be 60% of the tax charged in the relevant assessment. No changes are made to the corporate or personal income tax rates; however, the personal allowance for individuals is increased and the higher income tax rate threshold is reduced, effectively resulting in a reduction in income tax for lower-paid individuals.

Italy: The tax authorities issued a press release on 29 December 2015, announcing that Italy is participating in the cross-border rulings project set up by the EU VAT Forum. The other 17 EU member states that have joined the project are Belgium, Cyprus, Denmark, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Portugal, Spain, Slovenia, Sweden and the UK. Under the project, which started in June 2013 and will continue until 30 September 2018, taxable persons planning cross-border transactions between two or more of the participating member states may request a ruling with regard to the VAT treatment of the relevant transactions.

Malaysia: The rollout of the registration module for the new “uCustoms” system, which was scheduled to go live in January 2016, has been postponed to 2017 due to technical issues. uCustoms is a new customs online system designed to operate as the country’s single national window for the declaration, payment and clearance of goods into Malaysia. Once implemented, uCustoms will replace the current customs system, which is not fully automated. Under the uCustoms system, traders will be able to manage permits and licensing and certificate of origin applications, as well as to pay customs duties and border taxes. The system also will be integrated with relevant trade-related agencies to facilitate the relevant import/export approvals. uCustoms is intended to ease the process for the declaration of goods and payment of customs duties/taxes at the customs checkpoints in Malaysia.

Romania: Changes to Romania’s standards for granting authorized economic operator (AEO) status became effective on 27 October 2015. AEO status is conferred on economic operators that satisfy certain criteria relating to their customs operations within the EU (e.g. supply chain security, financial solvency), allowing such operators to benefit from customs simplification procedures. The new standards clarify the role and responsibilities of the Romanian customs authorities involved in the AEO certification process and implement guidelines approved by the European Commission. AEO status is important because once the Union Customs Code becomes effective in the EU on 1 May 2016, customs procedures, such as inward or outward processing, customs warehousing, temporary admission and local clearance procedures, will be able to be carried out only by companies that meet AEO criteria.

Vietnam: A new law on offshore indirect investment, which is effective as from 15 February 2016, allows Vietnamese nationals to participate in overseas incentive share plans if certain requirements are met. Previously, the strict foreign exchange control regulations made it difficult for Vietnamese nationals to participate in such schemes because they were not allowed to remit funds overseas to acquire the shares. An overseas incentive share plan for purposes of the new rules is a plan issued overseas under which an multinational group grants incentive shares to Vietnamese nationals who work for the foreign enterprise in Vietnam. The procedures, execution schedule and other issues related to participation in the plan must adhere to the regulations of the State Bank of Vietnam. It is likely that, as a result of the new rules, foreign corporations will consider allowing Vietnamese national employees to participate in their share schemes, to diversify their remuneration packages. Further detailed guidance is expected on the rules.

BEPS corner

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

Australia-Germany: The new tax treaty signed shortly after the release of the final reports on the OECD BEPS project adopts most of the OECD's recommended treaty changes. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160226_1.html

European Union: The Netherlands, which currently holds the presidency of the council of the EU, has issued a roadmap that sets out plans to move forward with previous EU proposals, as well as future efforts on areas relating to the OECD's BEPS project. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160226_2.html

OECD: On 23 February 2016, the OECD agreed on a new framework that would allow all interested countries and jurisdictions to participate as BEPS "associates," in an extension of the OECD's Committee on Fiscal Affairs, to work with the OECD/G20 members on the remaining standard-setting work under BEPS (harmful tax practices, tax treaty abuse, country-by-country reporting requirements for transfer pricing and improvements in cross-border tax dispute resolution). The proposal will be presented to the G20 finance ministers at their next meeting on 26-27 February 2016.

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.

Australia-Germany: See article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160226_1.html

Chile-Italy: When in effect, the treaty signed on 23 October 2015 provides for a 5% withholding tax rate on dividends paid to a company that holds directly at least 25% of the capital of the payer company; otherwise, the rate will be 10%. However, as a result of special wording in the treaty, the reduced rates do not apply to limit the withholding tax payable on dividends distributed by a Chilean payer, which are subject to the domestic withholding tax rate, with credit for the corporate tax paid. A 5% rate will apply to interest paid to a bank or an insurance company, on bonds or securities that are regularly and substantially traded on a recognized securities market or in respect of credit sales of machinery and equipment; otherwise, the rate will be 15%. A 5% rate will apply to royalties for the use of, or the right to use, any industrial, commercial, or scientific equipment; otherwise, the rate will be 10%.

Chile-Japan: When in effect, the treaty signed on 21 January 2016 provides for a 0% withholding tax rate on dividends paid to pension funds, provided the dividends are not derived from the carrying on of a business by the pension fund or through an associated enterprise; a 5% rate will apply to dividends paid to a company that has owned directly, for a period of six months ending on the date on which entitlement to the dividends is determined, at least 25% of the voting power in the payer company; otherwise, the rate will be 15%. However, as a result of special wording in the treaty, the reduced rates do not apply to limit the withholding tax payable on dividends distributed by a Chilean payer, which are subject to the domestic withholding tax rate, with credit for the corporate tax paid. If Chile's domestic additional withholding rate exceeds 35% or the corporate tax paid ceases to be fully creditable, the treaty provides for a maximum 20% withholding tax rate to replace the 5% and 15% rates. A 4% rate will apply to interest paid to a bank, an insurance company or certain other companies primarily engaged in a lending or finance business; on trade receivables for machinery and equipment; or to certain other enterprises that issue bonds in the financial markets or take deposits at interest and that fulfill certain other conditions; otherwise, the rate will be 15% for the first two years the treaty is in effect, reducing to 10% thereafter. A 10% rate will apply to interest that otherwise would be subject to the 4% rate but is paid as part of an arrangement involving back-to-back loans or a similar arrangement. A 2% rate will apply to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate will be 10%.

China: The multilateral convention on mutual administrative assistance in tax matters (as amended) entered into force in respect of China on 1 February 2016 and will apply as from 1 January 2017.

Cyprus-Ethiopia: When in effect, the treaty signed on 30 December 2015 provides for a 5% withholding tax rate on dividends, interest and royalties.

Cyprus-Georgia: The 2015 treaty entered into force on 4 January 2016 and will apply as from 1 January 2017. When in effect, the treaty provides that dividends, interest and royalties will be taxable only in the state of residence of the recipient.

Estonia-Luxembourg: The 2014 treaty to replace the 2006 treaty entered into force on 11 December 2015 and applies as from 1 January 2016. The treaty provides for a 0% withholding tax rate on dividends paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%. A 0% rate applies to interest and royalties.

France-Germany: The 2015 protocol to the 1959 tax treaty (as amended by four other protocols) entered into force on 24 December 2015 and applies as from 1 January 2016. Under the protocol, where dividends are paid out of income or gains derived from immovable property by a tax-exempt investment vehicle that distributes most of its income or gains annually and the recipient of the dividends directly or indirectly holds 10% or more of the payer, the dividends may be taxed at the domestic rate applying in the source state. The protocol does not amend the withholding tax rates on other dividends, or interest or royalties.

India-Mauritius: See article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160226_3.html

Ireland-Botswana: The 2014 treaty entered into force on 3 February 2016. For withholding tax purposes, the treaty will apply as from 4 March 2016 in Botswana and as from 1 January 2017 in Ireland. When in effect, the treaty provides for a 5% withholding tax rate on dividends and a 7.5% rate on interest. A 5% rate will apply to royalties paid for industrial, commercial or scientific equipment; otherwise, the rate will be 7.5%.

Israel-Macedonia: When in effect, the treaty signed on 9 December 2015 provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership or a real estate investment company) that holds directly at least 25% of the capital of the payer company; otherwise, the rate generally will be 15%. However, where the payer company is a real estate investment company, the rate will be 15% where distributions are paid to a recipient that holds directly less than 10% of the capital of the payer company; otherwise, the domestic rate will apply. The rate on interest will be 10% and the rate on royalties will be 5%.

Korea-Serbia: When in effect, the treaty signed on 22 January 2016 provides for a 5% 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 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 tapes 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, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

Luxembourg-Senegal: When in effect, the treaty signed on 10 February 2016 provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) 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. A 6% rate will apply to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate will be 10%.

New Zealand-Samoa: The 2015 treaty entered into force on 23 December 2015 and applies as from 1 February 2016 for withholding tax purposes. The treaty provides for a 5% withholding tax rate on dividends paid to a company that holds directly at least 10% of the voting power of the payer company; otherwise, the rate is 15%. The rate on interest and royalties is 10%.

Russia: See article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160226_6.html

Singapore-Rwanda: The 2014 treaty entered into force on 15 February 2016 and will apply as from 1 January 2017 for withholding tax purposes. When in effect, the treaty provides for a 7.5% withholding tax rate on dividends. A 10% rate will apply to interest and royalties.

Singapore-Thailand: The 2015 treaty to replace the 1975 treaty entered into force on 15 February 2016 and will apply as from 1 January 2017 for withholding tax purposes. When in effect, the treaty provides for a 10% withholding tax rate on dividends. A 10% rate will apply to interest paid to a financial institution or insurance company, or to interest paid with respect to indebtedness arising as a result of a credit sale for equipment, merchandise or services, unless the sale is between persons not dealing with each other at arm's length; otherwise, the rate will be 15%. 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 tapes used for radio or television broadcasting; an 8% rate will apply to royalties paid for a patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate will be 10%.

Slovakia-Iran: When in effect, the treaty signed on 19 January 2016 provides for a 5% withholding tax rate on dividends and interest. A 7.5% rate will apply to royalties.

South Africa-Qatar: The 2015 treaty entered into force on 2 December 2015 and applies as from 1 January 2016. 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 is 10%. The rate on interest is 10%, with an exemption for interest arising in respect of a debt instrument listed on a recognized stock exchange. A 5% rate applies to royalties.

Taiwan-Italy: See article in this issue.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160226_7.html

United States: The Treasury Department released a new US model income tax treaty and preamble on 17 February 2016. The US model, which was last updated in 2006, is the text upon which the Treasury Department bases tax treaty negotiations with other countries. The treasury released five draft amendments to the model on 20 May 2015 (for prior coverage, see United States tax alert, 10 July 2015), and plans to release a detailed technical explanation of the 2016 model during the spring of 2016.
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-unitedstates-10-july-2015.pdf

United States: An intergovernmental agreement to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA) was signed with St. Lucia on 19 November 2015.

Vietnam-Iran: The 2014 treaty entered into force on 26 June 2015 and applies as from 1 January 2016 for Vietnam and as from 21 March 2016 for Iran. The treaty provides for a 10% withholding tax rate on dividends, interest and royalties.

Vietnam-Kazakhstan: The 2011 treaty entered into force on 18 June 2015 and applies as from 1 January 2016. The treaty provides for a 5% withholding tax rate on dividends paid to a company that holds directly at least 70% of the voting power of the payer company; otherwise, the rate is 15%. The rate on interest and royalties is 10%.

Vietnam-San Marino: The 2013 treaty entered into force on 13 January 2016 and will apply as from 1 January 2017. When in effect, the treaty provides for a 10% withholding tax rate on dividends paid to a company that has held directly at least 10% of the capital of the payer company for an uninterrupted period of at least 12 months prior to the decision to distribute the dividends; otherwise, the rate will be 15%. A 10% rate will apply to interest or royalties paid to a company that has held directly at least 10% of the capital of the payer company for an uninterrupted period of at least 12 months prior to the decision to pay the interest or royalties, respectively; otherwise, the rate will be 15%. (However, the relevant rate under domestic law may apply where this is lower than the treaty rate.)

Vietnam: A free trade agreement (FTA) with the EU was signed on 2 December 2015. Vietnam is the second ASEAN country to sign an FTA with the EU, following the EU-Singapore agreement signed in 2014. Under the FTA, the parties will eliminate over 99% of all customs tariffs. Vietnam's commitment is to liberalize 65% of its import duties on EU exports upon implementation of the FTA, and the remaining tariffs over a 10-year period. The EU tariffs will be eliminated over a seven-year period. For the remaining tariffs, the parties will grant each other certain tariff quotas or partial tariff reductions.

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United States
IRS files notice of appeal in *Altera* case
The Internal Revenue Service filed a notice of appeal in *Altera Corp. v. Commissioner* to the Ninth Circuit Court of Appeals on 19 February 2016. The Ninth Circuit will decide whether a regulation that mandates that stock-based compensation costs related to the intangible development activity of a qualified cost sharing arrangement (QCSA) must be included in the joint cost pool of the QCSA (the "all costs rule") is consistent with the arm's length standard as enunciated under Internal Revenue Code section 482.
Issue date: 23 February 2016
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-16-005-23-february-2016.pdf

IRS issues international practice units on transfer pricing topics
On 8 February 2016, the Internal Revenue Service released two new international practice units (IPUs) on the outbound transfer of domestic stock and pricing of a platform contribution transaction in cost sharing arrangement acquisitions of subsequent intellectual property. These two IPUs are in addition to the three issued on 4 February (intercompany interest rates under the situs rule of Internal Revenue Code section 482, outbound transfer of foreign stock and change in participation in a cost sharing arrangement – controlled transfer of interest and capability variation).
Issue date: 17 February 2016
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-16-004-17-february-2016.pdf

Temporary and proposed regulations issued addressing allocation of creditable foreign tax expenditures by a partnership to its partners
On 4 February 2016, the US treasury and the Internal Revenue Service published temporary and proposed regulations that provide guidance on the allocation by a partnership of creditable foreign tax expenditures. The temporary regulations, which are effective immediately, will affect partnerships that pay or accrue creditable foreign tax expenditures and their partners.
Issue date: 11 February 2016
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-united-states-11-february-2016.pdf