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In this issue:

India proposes restriction on deductibility of interest

One of the measures in India's 2017 budget, announced by the finance minister on 1 February 2017, is a proposal that would limit the deductibility of interest payments based on the OECD's recommendations under action 4 of the BEPS project (for prior coverage, see *World Tax Advisor*, 10 February 2017). The proposal, which is designed to prevent the erosion of India's tax base through the use of related party interest expense, would apply to interest accrued as from

1 April 2017. It is noteworthy that India currently does not have thin capitalization rules, although there are special rules that disallow deductions for interest on borrowings used to make investments that generate exempt income.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170210_1.html

Overview of the proposal

The proposed restriction would apply to Indian companies and branches of foreign companies operating in India that pay interest or similar consideration exceeding INR 10 million in a fiscal year on loans granted by a nonresident related party. The rules also would apply to loans granted by an unrelated party, where a related party (i) provides an implicit or explicit guarantee to the lender; or (ii) deposits a corresponding and matching amount of funds with the lender.

Under the proposed rules, an entity would not be permitted to claim a deduction for such interest in excess of 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA). Any disallowed interest would be able to be carried forward and deducted over the next eight tax years (subject to the 30%-of-EBITDA overall annual limit on the interest expense deduction).

Banking and insurance companies would be excluded from the scope of the rules.

Issues under the proposed rules

Definition of EBITA: The proposed rules would limit the deductibility of interest on applicable related party debt to 30% of EBITDA. Interestingly, BEPS action 4 envisages using the entity's EBITDA based on tax amounts, but under the Indian proposal, the term EBITDA would be based on financial accounting amounts.

"Similar consideration": The threshold for triggering the proposed interest expense deduction limitation is based on interest or "similar consideration" exceeding INR 10 million. However, the proposed rules would apply the actual disallowance only to interest; the proposed rules would not disallow a deduction for similar consideration but they do not provide any guidance on what would constitute similar consideration. Therefore, the tax authorities will need to address the definition of and the application of the proposed rules to similar consideration.

Deeming rules: Under the proposed rules, interest on third-party borrowings where a related party has provided an "implicit" guarantee to the lender would be deemed to be related party interest subject to the interest deduction restriction. To avoid disputes on which borrowings fall within the scope of the rules, the definition of "implicit guarantee" will need to be clarified by the tax authorities, or be removed from the rules.

In addition, it should be noted that the entire deeming provision in relation to third-party borrowings could lead to unintended results if not further clarified; for example, under one interpretation, borrowings from a third-party foreign bank could be covered, but not borrowings from a third-party Indian bank.

Interaction with GAAR: The general anti-avoidance rule (GAAR), scheduled to become effective in India as from 1 April 2017, will grant broad powers to India's tax authorities, including the ability to recharacterize debt as equity. It remains to be seen how the interest deduction limitation rules would interact with the GAAR.

Differences from BEPS action 4

BEPS action 4 focuses on interest deductions *per se*, whereas the proposed Indian rules limiting the deduction of interest expense would apply only to related party debt (or deemed related party debt). In addition, the Indian rules deal with gross interest expense, whereas BEPS action 4 envisages the disallowance of net interest expense. India's proposed rules do not contain a group ratio rule that would provide relief to companies that are highly leveraged with third-party debt for nontax reasons.

The proposed rules do not contain transitional provisions, nor would they "grandfather" existing financing structures – the rules would apply to any debt existing on 1 April 2017. In contrast, BEPS action 4 anticipates that a country introducing a fixed ratio rule would give entities reasonable time to restructure existing financing arrangements before the rules come into effect, and/or provide for transitional rules.

Comments

The Indian government is committed to implementing BEPS measures, and the first step toward this was taken in the 2016 budget, which included the introduction of an equalization levy (BEPS action 1); a patent regime (BEPS action 5); and the three-tier transfer pricing documentation requirement (BEPS action 13) (for prior coverage, see *World Tax Advisor*, 25 March 2016). In 2017, the interest deduction limitation is proposed to be introduced (BEPS action 4) and the GAAR will come into effect (BEPS action 6). India also has expressed its intent to implement BEPS actions involving amendments to tax treaties, by signing the OECD multilateral instrument. Clearly, BEPS is a priority for the government, and multinational enterprises operating in or doing business with India will need to monitor and track relevant BEPS developments.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160325_1.html

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Singapore's 2017 budget contains BEPS measures

Singapore's 2017 budget, presented by the finance minister on 20 February 2017, includes a proposal to introduce a "BEPS-compliant" patent box regime that would "incentivize" income derived from the exploitation of intellectual property (IP). The minister also announced that the government will consult with businesses on changes to be made to the goods and services tax (GST) regime with respect to the inbound supply of digital services.

The patent box proposal is in line with the substance-driven and development-linked approach in action 5 ("Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance") of the OECD BEPS project, and the consultation on the GST treatment of cross-border digital transactions is to ensure a level playing field between local GST-registered businesses and non-registered foreign businesses under BEPS action 1 ("Addressing the Tax Challenges of the Digital Economy").

Patent box

The introduction of a new IP Development Incentive (IDI) would be designed to attract innovation/IP to Singapore, help Singapore compete globally and implement the minimum standard under action 5. The IDI would incentivize income generated from the exploitation of IP arising from R&D activities carried out by a taxpayer in Singapore or outsourced to third parties. "IP income" for purposes of the IDI would encompass royalties from the licensing of IP and also likely would cover embedded royalties in the profit derived by a supply chain principal.

Two tax incentives currently offered by the Economic Development Board (EDB) – the Pioneer-Services/Headquarters incentive and the Development and Expansion Incentive (DEI)-Services/Headquarters incentive – cover IP income if such income arises from qualifying activities as prescribed under the relevant incentive award. The pioneer incentive provides a corporate tax exemption on income from qualifying activities for a specified period of time, and the DEI incentive provides for a reduced corporate tax rate of 5% or 10% on incremental income from qualifying activities for a specified period of time.

These incentives would be phased out in regard to the covered IP income – existing pioneer and DEI incentives would cover IP income until 30 June 2021, or until the relevant award expires, whichever occurs first, and new pioneer and DEI incentives granted after 30 June 2017 would not cover IP income.

The new IDI incentive would be administered by the EDB and would apply from 1 July 2017.

Although details of the IDI are not expected to be released by the EDB until May 2017, it is expected that the IDI will comply with the requirements set out in the final report on BEPS action 5. To be compliant, the IDI would not apply to marketing intangibles (e.g. trademarks); instead, patents and similar IP would be the focus. The IDI would incorporate the "nexus approach," which involves the use of a formula, with the effect that the IDI would apply only to the extent the relevant R&D is conducted by the taxpayer in Singapore or outsourced to third parties – it would not apply to the extent the R&D is performed by a related party. IP income from acquired IP also would be excluded from the benefit of the IDI. It can be expected that the new IDI will be in the form of a lower corporate income tax rate (possibly zero). Income other than IP income likely would continue to be covered under the pioneer and DEI incentives.

The proposed changes (such as the likely non-applicability to marketing intangibles, the likely coverage of embedded royalties and the requirement that the relevant R&D be conducted by the taxpayer in Singapore or outsourced to a third party) would impact a number of multinationals that currently enjoy tax incentives in Singapore.

Cross-border supplies of digital services

The minister announced that Singapore is studying whether changes should be made to equalize the GST treatment of cross-border supplies of services and imports of low value goods, in line with many other countries in the region. Under Singapore's current GST system, international purchases are taxed differently from local purchases (e.g. supplies of services purchased from a supplier based outside Singapore are not subject to Singapore GST, and where goods with a value of less than SGD 400 are imported via post, no GST is levied upon import). The report on BEPS action 1 made recommendations on how to address these issues.

Countries that already have adopted some of the recommended measures in action 1 include Japan, Korea and New Zealand. In these countries, overseas suppliers must register for local indirect tax, charge it on their sales of digital services to local consumers in those countries and account for the tax to the local government via a simplified indirect tax return. Australia also has announced changes, including the removal of the postal import threshold, so that with effect from 1 July 2017, imports of goods via post into Australia will be subject to Australian GST regardless of the value of the goods.

With respect to international purchases by local businesses, many countries apply a reverse-charge mechanism or impose a self-assessment requirement so that the acquiring business calculates and then recovers the tax, subject to its normal rules of recovery. Singapore has a similar provision in its law, but it has never been utilized. The most impacted sector under the reverse charge would be the financial services industry, which usually is unable to recover all of the GST incurred. The government will need to balance the potential revenue increase with the impact on such businesses. An unexpected increase in costs is unlikely to be welcomed.

Singapore will be carefully examining the steps taken by other countries to decide what would work best for its own economy. Whichever method Singapore adopts, businesses and consumers likely will have to pay more GST.

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Austria:
MOF updates list of comprehensive administrative assistance agreement countries

The Austrian Ministry of Finance (MOF) has published an updated list of jurisdictions that have concluded a comprehensive administrative assistance agreement for tax purposes with Austria as of 1 January 2017. The official list (published on 13 December 2016) now includes 106 jurisdictions.

For a jurisdiction to be included on the list, its administrative assistance agreement with Austria must provide for the comprehensive exchange of information that goes beyond the scope necessary for the application of a tax treaty. The agreement generally can be based on the EU automatic exchange of tax information directive, the OECD multilateral convention on mutual administrative assistance in tax matters or acceptable information exchange clauses in a tax treaty or tax information exchange agreement.

By issuing the updated list, the MOF has confirmed which countries have concluded a comprehensive administrative assistance agreement with Austria, which is required for Austrian taxpayers and multinational groups to qualify for certain tax benefits under Austria's tax rules, such as the following:

- The ability to set off losses of foreign group members against Austrian group profits under Austria's tax-consolidated group regime (a foreign subsidiary can be included in an Austrian tax-consolidated group only if the foreign subsidiary is tax resident in the EU or in a country that has concluded a comprehensive administrative assistance agreement with Austria);
- The ability to set off losses of a foreign permanent establishment (PE) of an Austrian resident company against profits of the Austrian head office, without the automatic recapture of such losses after three years (if the PE is located in a country that has not concluded a comprehensive administrative assistance agreement with Austria, recapture of the utilized losses for Austrian tax purposes is required by the third year after utilization against Austrian profits; otherwise, recapture is required only if (and when) the losses are utilized for tax purposes in the country of the PE); and
- The ability to exempt from Austrian tax dividends from participations that do not fall within the scope of Austria's international participation exemption, i.e. portfolio dividends from a shareholding of less than 10% (the exemption for portfolio dividends applies only if the payer company is resident in a country that has concluded a comprehensive administrative assistance agreement with Austria).

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Belgium:
Innovation income deduction now effective

The new Belgian innovation income deduction (IID) legislation was published in the official journal on 20 February 2017 and applies retroactively as from 1 July 2016 (for prior coverage, see *World Tax Advisor*, 9 September 2016). The IID, which is in line with the OECD recommendations on BEPS action 5 (countering harmful tax practices), replaces the patent income deduction (PID) that was abolished as from 1 July 2016 (however, a conditional "grandfathering" rule allows taxpayers to claim the PID regime until 30 June 2021 with respect to certain qualifying intellectual property (IP) rights).
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/160909_1.html

Qualifying IP rights include the following:

- Patents;
- Supplementary Protection Certificates (SPCs);
- Plant variety rights (filed as from 1 July 2016 or acquired after 30 June 2016);
- Orphan drugs (filed as from 1 July 2016 or acquired after 30 June 2016, but limited to the first 10 years of registration in the European register for orphan drugs);
- Data or market exclusivity granted by a public body (granted after 30 June 2016); and
- Computer programs protected by copyright, including upgraded software (if certain conditions are fulfilled), resulting from R&D activities and that have not generated income before 1 July 2016.

The types of income streams that may qualify for the application of the IID include the following:

- Income from licenses;
- IP income embedded in sales products or services;
- IP income embedded in production processes;
- Compensation for damages of IP right infringements; and
- Capital gains (if certain conditions are fulfilled).

The IID regime applies only to the net amount of qualifying IP income that exclusively relates to a qualifying IP right. For the first fiscal year in which the new IID regime is applied, relevant expenses connected to this fiscal year, as well as historic expenses of previous fiscal years that ended after 30 June 2016, must be taken into account. The historic expenses may be deducted immediately or spread over up to seven fiscal years.

The amount of net qualifying IP income subsequently must be multiplied by a "modified nexus fraction," based on the ratio of "qualifying expenditure" directly related to a qualifying IP right to "overall expenditure," which must be determined separately for each qualifying IP right (or type or group of products or services), on which an uplift of a maximum of 30% may be applied.

The amount resulting after calculating net income and applying the modified nexus fraction will be eligible for an 85% deduction on net innovation income (compared to 80% on gross patent/SPC income under the old PID regime).

Comments

Companies should verify their positions and IP strategies to access the new IID regime or to determine which system is or will become more beneficial, i.e. either the PID regime under the grandfathering provision, the IID or a combination of both regimes.

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European Union:
CJEU rules VAT deduction limit applies to businesses that hold participations

The Court of Justice of the European Union (CJEU) ruled on 12 January 2017 (without holding a hearing) that VAT on expenses incurred by a holding company related to the management of its subsidiaries was not deductible as input VAT where the holding company did not charge the subsidiaries for the management-related activities. According to the court, the costs could not be attributed to any taxable activities carried out by the holding company.

Facts of the case

The case involved MVM, a Hungarian state-owned energy company that engaged in the business of leasing power plants and fiber optic networks. MVM also owned a number of subsidiaries whose main business activity was to generate or sell electricity. MVM did not form a VAT group with the subsidiaries, and did not charge them for management services until several years later.

MVM was responsible for the strategic management of the group, and as such, it procured legal, business management and public relations services for its own benefit, for that of the group as a whole and for individual members of the group. MVM deducted the VAT it was charged by the suppliers of the services. Except in isolated cases, MVM did not charge its subsidiaries for the costs relating to the strategic management services, nor did it impose a general charge on the subsidiaries for its own management activities.

The Hungarian tax authorities allowed MVM a deduction for the VAT to the extent it related to service fees that had been used to effect taxable supplies of goods or services, but disallowed deductions for the VAT relating to services carried out in the interest of the other members of the group or where the services related mainly to the acquisition of shareholdings. MVM disagreed with the tax authorities and appealed the decision to the relevant Hungarian court, which then referred the case to the CJEU.

CJEU order

The CJEU has ordered that MVM should not be able to recover this VAT as input tax.

The CJEU stated that, based on established jurisprudence, a holding company that has as its sole purpose the acquisition of shares in other undertakings, and that does not involve itself directly or indirectly in the management of those undertakings, does not rise to the level of a taxable person. The involvement of a holding company in the management of companies in which it has acquired a shareholding constitutes an economic activity only where the holding company carries out transactions that are subject to VAT for those subsidiaries, such as the supply of administrative, financial, commercial and technical services.

The court found that MVM's mere involvement in the management of its subsidiaries without charging fees for the activities did not constitute an economic activity for VAT purposes. As a consequence, the court held that MVM was not entitled to deduct the VAT it paid on costs that had a direct and immediate link to its holding or management activities. However, the CJEU held that MVM could deduct the portion of the VAT it paid on general overhead that related to both MVM's leasing activities and its holding and management activities. While the court noted that it was difficult to imagine that the services at issue (i.e. services procured in the interest of other members of the group and business management services relating mainly to the acquisition of shareholdings) would have a direct and immediate link to MVM's leasing activities, the CJEU concluded that it is up to the Hungarian court to rule on this issue.

Comments

This decision does not break new ground in relation to the treatment of costs incurred by holding companies, but is a reminder of the need to take care when considering their supplies and VAT group membership.

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France:
Tax authorities release CbC reporting form

On 2 February 2017, the French tax authorities released the form that must be used by groups of companies that are required to file the country-by-country (CbC) report. CbC reporting (in line with the OECD's recommendations under action 13 of the BEPS project) was adopted in the 2016 Finance Law and included in the tax code as article 223 *quinquies* C (for prior coverage, see Global Transfer Pricing Alert 2016-032, 7 October 2016).
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-16-032-7-october-2016.pdf

The following entities are required to file the form:

- A French ultimate parent entity of a multinational group whose consolidated revenue is EUR 750 million or more; and
- French entities of a foreign group that falls within the scope of article 223 *quinquies* C, if the CbC report has not already been filed with a tax authority that would automatically share the report with the French tax authorities.

The form (Form 2258-SD) is in line with the template provided by the OECD in the final report on BEPS action 13, as well as the EU directive on the mandatory automatic exchange of information in the field of taxation. However, the French form also requires that the intra-EU VAT number and the exact address be disclosed, and certain information and explanations must be included in English.

Under France's CbC reporting rules, multinational companies must file an annual CbC report within 12 months of the financial year-end for financial years commencing on or after 1 January 2016.

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Ukraine:
Tax reform law includes withholding tax rate reduction and new limits on deductibility of royalty payments

A law that generally entered into effect on 1 January 2017 introduces a number of changes to Ukraine's tax rules, including changes affecting companies and tax administration. The law also makes changes to the transfer pricing rules. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170224_8.html

Tax rates

The standard corporate tax rate remains at 18%.

The withholding tax rate on interest paid to nonresidents on loans made to Ukrainian residents is reduced from 15% to 5% if the following requirements are met:

- The amounts loaned by the nonresident were generated from the issuance of Eurobonds listed on an international stock exchange recognized by the Cabinet of Ministers;
- The nonresident issued the Eurobonds for the purpose of providing direct or indirect financing to Ukrainian residents; and
- The nonresident (or the person receiving interest on behalf of such nonresident) is not tax resident in a "low tax jurisdiction," as defined by the Cabinet of Ministers on the date the Eurobonds were issued.

Thin capitalization rules

The thin capitalization (debt-to-equity) ratio remains at 3.5. Total deductions for interest on nonresident related party debt are limited to 50% of the taxpayer's earnings before interest, taxes, depreciation and amortization (EBITDA). Previously, the thin capitalization interest deduction restriction covered interest on all debt.

Deductibility of royalty payments to nonresidents

The restrictions on the deductibility of royalty payments made to nonresidents have been enhanced. Such payments (including payments made at arm's length) now are nondeductible if:

- The nonresident recipient is not the beneficial owner of the royalties;
- The rights to the underlying intellectual property originated in Ukraine; or
- The royalties are not subject to tax in the country where the recipient is resident.

Previously, a full deduction was allowed for royalty payments to nonresidents, provided the taxpayer could provide documentation to substantiate that the payment was made at arm's length.

Tax administration

The law requires the tax authorities to maintain on their website a public register of applications for extension/deferral of payment of tax liabilities, a database of individual tax rulings and the annual schedule of full-scope tax audits.

In addition, the previous two separate registers used for VAT refunds are merged into a single registry, which should provide for more transparency regarding refunds.

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Ukraine:
Scope of transfer pricing rules broadened and clarified

Amendments to Ukraine's transfer pricing rules that became effective on 1 January 2017 increase the monetary threshold for a transaction to be deemed a controlled transaction, extend the types of transactions that are considered controlled transactions and modify the penalties for transfer pricing reporting infractions. The new rules also codify certain criteria previously used in practice.

The following are the significant changes to the transfer pricing regime:

- The threshold for a transaction to be considered a controlled transaction is met where (i) the taxpayer's total income from all transactions exceeds UAH 150 million (increased from UAH 50 million); and (ii) the total of all transactions with one counterparty exceeds UAH 10 million (increased from UAH 5 million).
- The types of transactions subject to the transfer pricing rules now include all of the following transactions with nonresidents:
    - Related-party transactions, including those that involve independent intermediaries with no substantial functions (these transactions also were covered by the previous rules);
    - Transactions involving the sale or purchase of goods and services through nonresident commission agents (the previous rules covered only the sale of goods);
    - Transactions with nonresidents from low-tax jurisdictions, based on a list of such jurisdictions published periodically by the Cabinet of Ministers of Ukraine (CMU); this provision covers transactions with counterparties registered in a jurisdiction that has a corporate income tax rate at least five percentage points lower than Ukraine's rate (i.e. a rate below 13%), as well as transactions with residents of such jurisdictions (regardless of whether the entity is registered there); and
    - Transactions with nonresidents in specified organizational legal forms that do not pay corporate tax or are not tax residents of the country where they are registered. The list of relevant legal forms will be issued by the CMU.
- If information on comparable transactions is not available, a taxpayer can use the financial data of comparable companies in calculating the market margin range, provided the comparable company (i) carries out activities and functions comparable to the taxpayer's controlled transactions; (ii) does not hold more than 20% of (and/or is not more than 20% held by) another legal entity; and (iii) does not have losses in more than one reporting period. Some of these criteria previously were used in practice, but not codified.
- In making a self-initiated adjustment (self-initiated adjustments are allowed, provided they do not lead to a reduced tax liability), the taxpayer can calculate its tax liabilities based on the minimum/maximum level of the arm's length price range where there is a deviation from this range; however, during an audit, the tax authorities will make the adjustment based on the median of the arm's length range (which may be less advantageous for a taxpayer). In the previous version of the rules the median was used for both self-initiated adjustments and adjustments made by the tax authorities.
- The deadline for submitting the report on controlled transactions is now 1 October of the year following the reporting period (previously, the deadline was 1 May following the reporting period). As a result, the report on controlled transactions carried out in 2016 must be submitted to the tax authorities before 1 October 2017.
- The penalty regime for failure to comply with the transfer pricing reporting rules is modified.

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In brief

Australia: On 16 February 2017, Australia introduced its low value goods legislation, under which goods and services tax will be imposed on offshore sales of low value goods to Australian consumers (i.e. goods valued at AUD 1,000 or less at the time of supply). (For prior coverage, see *World Tax Advisor*, 25 November 2016.) The new rules will apply to supplies made on or after 1 July 2017.
URL: http://newsletters.usdbriefs.com/2016/Tax/WTA/161125_2.html

Australia: On 13 February 2017, the Australian government released a Treasury consultation paper seeking views on how to increase transparency of the beneficial ownership of companies, to prevent their misuse and aid governments in detecting illegal activities. The paper follows a commitment made at an anti-corruption summit hosted by the UK in May 2016 to explore, via public consultation, options for a beneficial ownership register for companies. The paper outlines the current ways in which beneficial ownership can be accessed by the public, considers relevant OECD standards and the UK and European approaches to date and proposes key consultation questions. The consultation will close on 13 March 2017, with recommendations on the details of a beneficial ownership register expected to be available by mid-2017 and recommendations on other areas to be available by the end of 2017.

European Union: Malta, which took over the EU presidency on 1 January 2017, has published its work program. During the next six months, the presidency will focus on six key areas: migration, single market, security, social inclusion, Europe's neighborhood and the maritime sector. Continuing work is promised on the amendments to the anti-tax avoidance directive to ensure hybrids are properly covered. There also will be initiatives on the dispute resolution mechanism, the re-launch of the Common Consolidated Corporate Tax Base, the e-commerce proposals and the reduced rates on e-publications proposals. Regarding company law, the presidency will build on the work carried out by the Netherlands and Slovak presidencies in continuing the work on the CbC reporting dossier.

European Union: On 21 February 2017, the Council of the EU (ECOFIN) reached agreement on the compromise text of the proposal for a directive (ATAD II) to amend the EU anti-tax avoidance directive (ATAD) in relation to hybrid mismatches with non-EU countries, which is in line with action 2 of the BEPS project (for prior coverage, see EU tax alert, 3 November 2016). The new rules, which include a carve-out for hybrid regulatory capital (limited in time to 31 December 2022) and financial traders, would enter into force on 1 January 2020, with a longer phasing-in period for the reverse hybrid mismatch provisions until 1 January 2022. The ultimate adoption of the ATAD II will require unanimity within the ECOFIN, after consultation with the European Parliament, and if the ATAD II is adopted, EU member states would be required to transpose the directive into domestic law by 31 December 2019 (or, in case of the reverse hybrid mismatch provisions, by 31 December 2021).
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-european-union-3-november-2016.pdf

Hong Kong: The 2017/18 budget, announced by the financial secretary on 22 February 2017, includes a proposal to set up a tax policy unit in the Financial Services and the Treasury Bureau to comprehensively examine the international competitiveness of the Hong Kong tax regime. The rebate on profits tax of 75% (up to HKD 20,000) is proposed to be extended and there is a proposal to extend the existing profits tax exemption to onshore privately-offered open-ended fund companies. The financial secretary also mentioned that the government plans to introduce a bill into the Legislative Council in 2017 to offer tax concessions to the aircraft financing business. Several measures are proposed that would benefit individuals.

Peru: The 2017 tax rate changes chart in World Tax Advisor, 13 January 2017 originally listed a 29% 2017 tax rate for Peru. The correct rate is 29.5%.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170113_8

Romania: The standard VAT rate decreased from 20% to 19% on 1 January 2017.

St. Lucia: The standard VAT rate decreased from 15% to 12.5% on 1 February 2017.

United Kingdom: On 7 February 2017, the tax authorities (HMRC) issued new guidance that addresses the transfer pricing issues created by cash pooling arrangements (CPAs). While the guidance acknowledges that CPAs generally are not set up for tax planning purposes, such arrangements give rise to complex transfer pricing issues. The guidance thus focuses on transfer pricing matters, including: the setting of interest rates; synergies achieved through cash pooling and how the benefit of a CPA should be apportioned among the cash pool header and the pool participants; the implications of long-term versus short-term balances; and the consequences of netting balances and the circumstances in which this may be appropriate. Overall, the guidance illustrates that HMRC, like tax authorities in other jurisdictions, is placing an increased emphasis on cash pooling.

BEPS corner

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

Belgium: An innovation income deduction, which is in line with BEPS action 5, has been introduced to replace the patent income deduction. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170224_4.html

Canada: On 3 February 2017, the Canada Revenue Agency (CRA) released the prescribed form for reporting country-by-country (CbC) information (Form RC4649). The form is consistent with the model CbC report templates included in the OECD's BEPS report on action 13, and requires the following information to be provided for each tax jurisdiction: revenue, income, taxes paid and accrued, stated capital, accumulated earnings, number of employees, tangible assets and certain information about each of the "constituent entities," including their primary activities. The Form RC4649 instructions provide useful guidance to assist Canadian taxpayers in understanding the CRA's expectations in respect of the CbC information to be reported, including definitions and detailed filing instructions.

European Union: The Council of the EU has reached agreement on the proposal for a directive to amend the EU anti-tax avoidance directive in relation to hybrid mismatches with non-EU countries, which is in line with BEPS action 2. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170224_ib.html#EU

France: The tax authorities released the form that must be used by groups of companies that are required to file the CbC report. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170224_6.html

India: A 2017 budget proposal would limit the deductibility of interest payments based on BEPS action 4 recommendations. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170224_1.html

Singapore: The government has proposed the introduction of a "BEPS-compliant" patent box regime and announced a consultation on the GST treatment of inbound supplies of digital services. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170224_2.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-Japan: When in effect, the treaty signed on 30 January 2017 to replace the 1961 treaty provides for a 0% withholding tax rate on dividends paid: (i) to a company that has owned, directly or indirectly, at least 10% of the voting power of the payer company for the six-month period ending on the date on which entitlement to the dividends is determined (however, the 0% rate will not apply if the payer company is entitled to a deduction for dividends paid to its beneficiaries in computing its taxable income) or (ii) to a pension fund, provided the dividends are derived from specified activities; otherwise, the rate will be 10%. The rate on interest will be 0%, except for (i) income derived from debt claims carrying a right to participate in profits, including income derived from profit participating loans and profit participating bonds, which will be taxable in Austria at the domestic rate, or (ii) certain contingent interest, which will be taxable in Japan at the domestic rate. Royalties will be taxable only in the state of residence of the recipient.

Austria-Iceland: The 2016 treaty will enter into force on 1 March 2017 and will apply as from 1 January 2018. 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%. Interest will be taxable only in the state of residence of the recipient. The rate on royalties will be 5%.

Chile-Czech Republic: The 2015 treaty entered into force on 21 December 2016 and applies as from 1 January 2017 for withholding tax purposes. The treaty provides for a 15% withholding tax rate on dividends. However, as the result of special wording in the treaty, the reduced rate does not apply to limit the withholding tax payable on dividends distributed by a Chilean payer company, provided the corporate tax paid is fully creditable against the withholding tax on dividends. A 5% rate applies to interest paid to banks or insurance companies; otherwise, the rate is 15%. A 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%.

Finland-Turkmenistan: The 2015 treaty entered into force on 10 February 2017 and will apply as from 1 January 2018. 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 25% of the capital of the payer company; otherwise, the rate will be 15%. The rate on interest and royalties will be 10%.

Hong Kong-Pakistan: When in effect, the tax agreement signed on 17 February 2017 provides for a 10% withholding tax rate on dividends, interest and royalties.

Latvia-Switzerland: When in effect, the protocol to the 2002 treaty signed on 2 November 2016 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 for at least one year prior to the payment of the dividends, or to a pension fund; otherwise, the rate will be 15%. A 0% rate will apply to interest paid: (i) by one company to another, (ii) to a pension fund or (iii) on a bank loan; otherwise, the rate will be 10%. A 0% rate will apply to royalties paid to a company; otherwise, the rate will be 5%.

Slovakia-Armenia: The 2015 treaty entered into force on 1 February 2017 and will apply as from 1 January 2018. 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 10%. A 10% rate will apply to interest and a 5% rate will apply to royalties.

Slovenia-Kazakhstan: The 2016 treaty entered into force on 30 December 2016 and applies as from 1 January 2017. The treaty 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 is 15%. The rate on interest and royalties is 10%.

South Africa-Zimbabwe: The 2015 treaty to replace the 1965 treaty entered into force on 1 December 2016 and applies as from 1 February 2017 for withholding tax purposes. The treaty 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 is 10%. A 0% rate applies to interest arising from a debt instrument listed on a recognized stock exchange; otherwise, the rate is 5%. The rate on royalties is 10%.

Turkey-Qatar: When in effect, the treaty signed on 18 December 2016 to replace the 2001 treaty 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 10%. A 10% rate will apply to interest and royalties.

United States: Intergovernmental agreements to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA) have been signed with Anguilla (dated 15 January 2017), Greenland (dated 17 January 2017) and Ukraine (dated 7 February 2017).

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Switzerland
Voters reject proposed form of Corporate Tax Reform III
In a referendum held on 12 February 2017, the Swiss electorate voted to reject the Corporate Tax Reform III, which had been approved by the parliament and was scheduled to become effective on 1 January 2019. The main objectives of the tax reform were to align domestic tax law with international standards and enhance Switzerland's attractiveness as a location for multinational companies.
Issue date: 12 February 2017
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-switzerland-12-february-2017.pdf

United States
IRS releases initial list of LB&I campaigns
On 31 January 2017, the US Internal Revenue Service's Large Business and International Division announced the identification of 13 "campaigns" that will be the focus of the agency's issue-based examination and enforcement efforts.
Issue date: 15 February 2017
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-002-15-february-2017.pdf