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**In this issue:**



## Azerbaijan tax reform includes new transfer pricing and anti-avoidance rules

Substantial changes to Azerbaijan's tax code – including the introduction of a transfer pricing regime, rules governing payments to residents located in jurisdictions with a preferential tax regime and enhanced powers granted to the tax authorities – generally apply as from 1 January 2017. The rules were approved by parliament on 23 December 2016 to reflect the reforms included in a presidential decree dated 4 August 2016. The most important changes affecting multinational companies are highlighted below.

**Transfer pricing rules**

The concept of transfer pricing is formally introduced into the tax code, including relevant definitions (previously, the tax authorities were entitled to adjust the contract price in certain cases where a transaction was not carried out on arm's length terms, but there were no comprehensive transfer pricing rules). The new rules are in line with the OECD's transfer pricing guidelines.

Permissible transfer pricing methods include the comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split methods. (The rules give priority to the cost plus method where this method may be applied.)

The transfer pricing rules apply to "controlled transactions," which are transactions that take place between the following parties:

- An Azerbaijan resident and a nonresident related party;
- An Azerbaijan permanent establishment (PE) of a nonresident and the nonresident (or its PE, branch office or any other division in a foreign country); and
- An Azerbaijan resident or Azerbaijan PE of a nonresident and an entity established (registered) in a country with a preferential tax regime.

Parties (whether individuals or legal persons) will be considered to be related in the following situations:

- One person directly or indirectly holds at least 20% of the shares or voting power in the other person;
- One person reports to, or is under the direct or indirect control of, the other person;
- Both persons are under the direct or indirect control of a third person;
- Both persons have direct or indirect control of a third person; or
- The persons are family members, as defined in the tax code.

Transfer pricing documentation requirements also are introduced. A taxpayer must submit a report on its controlled transactions where the aggregate amount of such transactions in a calendar year exceeds AZN 500,000. The report must be submitted by 31 March of the year following the year of the transactions (i.e. the first reports will be due by 31 March 2018 for the 2017 calendar year). Failure to submit the report may result in a penalty of AZN 500. Taxpayers also will be required to provide supporting transfer pricing studies and other related documentation during a tax audit.

**Anti-avoidance rules**

Anti-avoidance rules have been added to the tax code that may be invoked where the tax authorities discover during a tax audit that a taxpayer has used a "tax avoidance scheme," which is defined as any transaction conducted with an intent to obtain a tax advantage. Where these rules apply, the tax authorities are authorized to make adjustments to assess an additional tax liability.

The authorities will update (on an annual basis) the list of countries and territories that are considered to have a preferential tax regime; transactions with taxpayers in jurisdictions on the list may be subject to certain anti-avoidance rules. In addition, payments made to a person located in a jurisdiction with a preferential tax regime are deemed to be Azerbaijan-source income and subject to a 10% withholding tax.

**Tax administration**

- An advance tax ruling procedure is introduced, under which a taxpayer can obtain confirmation of the tax and legal consequences of a transaction before it is carried out. To obtain a ruling, a taxpayer must submit an application to the tax authorities, along with supporting documentation, and the value of the relevant transaction must be at least AZN 10 million.

- A voluntary tax disclosure scheme is introduced, under which a taxpayer may declare a tax liability that has not been discovered in a completed on-site tax audit and pay only the principal amount of the outstanding tax liability (no interest or penalties are levied on this amount).
- A "tax agent" will include a person appointed by a nonresident for the payment of taxes on the nonresident's taxable income that is generated from an Azerbaijani source and not taxed at source. Nonresidents deriving Azerbaijani-source income through a transfer of property that is not connected with a PE in Azerbaijan also will be able to appoint a tax agent for the payment of taxes on such income. The tax agent is required to provide a written notification to the tax authorities in a special form within 30 days after the date of appointment.
- Banks and financial institutions, upon "onboarding" customers or providing any other financial services, are required to comply with relevant Azerbaijani laws, as well as treaties on the exchange of tax and financial information that have been ratified by Azerbaijan (e.g. the intergovernmental agreement with the US to implement the Foreign Account Tax Compliance Act (FATCA)). The tax authorities may conduct any necessary monitoring or audits, and request documentation from banks and financial institutions; penalties apply for failure to comply with the rules.
- Changes are made to the rules governing tax audits:
  - The right of the tax authorities to conduct an off-site tax inspection is limited to 30 business days from the date the tax return is filed. Any errors discovered by the tax office after this period may be corrected by sending a notification instructing the taxpayer to file an amended tax return within 10 days.
  - A tax inspection conducted remotely by way of an electronic tax audit now may be considered an "on-site" tax inspection. This likely would require granting full access to the tax authorities to the information technology systems where the relevant financial information is stored.
  - The scope of an "operative" tax inspection (a type of inspection carried out in stores and trading premises) is broadened and now requires compliance with the rules on "cashless" transactions and electronic invoicing, etc.

**Other measures**

- Taxpayers providing goods and services, as well as those performing works, are required to issue electronic invoices through the web page of the Ministry of Taxes, effective from 1 April 2017 for VAT payers and from 1 January 2018 for non-VAT payers. Although the government has yet to introduce detailed rules for electronic invoicing, it has stipulated that a taxpayer acquiring goods or services without an electronic invoice may be subject to a penalty of up to 40% of the transaction value.
- The types of transactions that can be carried out with a cash payment are restricted, and measures are included to encourage the use of electronic payments. These measures also apply as from 1 April 2017 and 1 January 2018 for VAT and non-VAT payers, respectively, with penalties applying for failure to comply (up to 40% of the value of the relevant transaction).
- A 1% simplified tax is introduced for cash withdrawals from bank accounts by legal entities and sole entrepreneurs. Individuals who are not registered for tax purposes are outside the scope of this tax.

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## Japan:
## 2017 tax reform enacted

Japan's National Diet enacted the 2017 tax reform proposals on 27 March 2017 (for prior coverage, see tax@hand, 25 January 2017), which include the following major corporate tax changes:
**URL:** https://www.taxathand.com/article/6079/Japan/2017/2017-tax-reform-proposals

- The R&D tax credit regime is revised to increase competitiveness.
- The deductibility of director compensation is amended, including revisions to increase flexibility for companies to use profit-linked compensation.

- Provisions related to corporate reorganizations are revised, including the expansion of the definition of a tax-qualified horizontal-type corporate division to include certain horizontal-type corporate divisions via incorporation. The scope of tax relief for small and medium-sized enterprises will be limited for fiscal years beginning on or after 1 April 2019.
- The controlled foreign corporation rules are fundamentally revised in accordance with the basic concepts of the OECD's BEPS project. The new rules will become effective for accounting years beginning on or after 1 April 2018 of the foreign related company.

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## Philippines: Rules for claiming tax treaty benefits revised

On 28 March 2017, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order (RMO) No. 8-2017, which provides revised procedures for nonresident recipients of Philippine-source income to claim reduced withholding tax rates on dividends, interest and royalties under the Philippines' tax treaties. The revised guidance, which will apply as from 26 June 2017, generally will supersede guidance issued in 2010 (RMO No. 72-2010) for purposes of the application of reduced treaty rates on these types of income.

Under the revised guidance, a nonresident will be required to submit a Certificate of Residence for Tax Treaty Relief (CORTT) form instead of a tax treaty relief application (TTRA) to claim reduced treaty rates on dividends, interest and royalties. The nonresident recipient of the income and the Philippine payer will have to comply with the following procedures:

- The nonresident will have to submit a completed CORTT form (or a "consularized" certificate of residence with Parts I and II of the CORTT form) to the withholding agent/income payer before the income is paid or credited.
- The withholding agent/income payer will have to file specific forms (Forms 1601F and 1604CF) with the BIR and pay the withholding tax due.
- The withholding agent/income payer will have to submit the original copy of the CORTT form to the International Tax Affairs Division of the BIR and the Revenue District Office within 30 days after payment of the withholding tax.

The revised procedures will apply only to dividends, interest and royalties, and not to other types of income, such as business profits, income from services, etc., which remain subject to the procedures under RMO No. 72-2010 that require the income recipient to secure and file a TTRA, together with numerous required documents, before the first relevant taxable event.

Nonresidents that submitted TTRAs to the BIR before the effective date of the new guidance can benefit from reduced treaty rates, but the BIR will perform a compliance check. If the relevant certificate of residence is not included in the submitted documents, the withholding agent/income payer will be requested to submit the documents.

The new guidance will apply 90 days after its issuance to give nonresident recipients of Philippine-source income time to secure the required CORTT form or consularized certificate of residence from their countries of residence.

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## Russia:
## New rules in effect for claiming tax treaty relief

Amendments to Russia's tax law that apply as from 1 January 2017 introduce new requirements with respect to the documents that foreign companies receiving income from Russia are required to submit to claim reduced withholding tax rates under the country's tax treaties. The rules are consistent with guidance previously issued by the Ministry of Finance (for prior coverage, see *World Tax Advisor*, 26 February 2016). To receive treaty benefits, the foreign company must produce documentary evidence that it meets Russia's beneficial ownership requirements, in addition to providing a tax residence certificate, an apostil and a notarized Russian translation of all documents in foreign languages.
**URL:** http://newsletters.usdbriefs.com/2016/Tax/WTA/160226_6.html

Prior to 1 January 2017, Russian tax law allowed a foreign company receiving Russian-source passive income (e.g. dividends, interest, royalties) to enjoy reduced withholding tax rates under an applicable income tax treaty if the foreign company provided a tax residence certificate to the Russian withholding tax agent (i.e. the company paying the income). The withholding tax agent was entitled (but not required) to request any documentary evidence that the foreign company was the beneficial owner of the income.

Starting from 1 January 2017, to apply for a withholding tax rate reduction under a tax treaty, the status of the beneficial owner must be proven by documentation. The list of required documents is not specified in the Russian Tax Code; however, the Ministry of Finance has issued clarifications on the issue, noting that the Tax Code prioritizes the substance and the content of documents over their form.

A "self-declaration letter" prepared by a foreign company is likely to be one of the acceptable options (or a minimum option) to confirm the company's beneficial ownership of the relevant income. Such a letter should be carefully drafted because a mere statement of the company's beneficial owner status without specific details may be considered insufficient. The documentation should demonstrate that:

- The recipient of Russia-source income is engaged in genuine entrepreneurial activities in the treaty partner country;
- The income recipient does not transfer the income received (fully or partially) to a person/party not entitled to the same or similar tax benefits as the direct income recipient;
- The income recipient has the right and the authority to use and dispose of the income received independently, and has no contractual or other legal or practical obligation to transfer the income to another person; and
- The functions performed and the risks assumed by the income recipient correspond to the income received.

Where a "look through" approach applies, a direct recipient of income that is not the beneficial owner should send a letter to the Russian payer relinquishing its right to claim treaty benefits and informing the tax agent that it acts on behalf of, and in the interest of, a third party (the beneficial owner) with respect to certain income and thus is not a beneficial owner. An indirect owner of income that is a beneficial owner, in turn, must provide documentary evidence to the Russian payer confirming its right to receive the income and claim the treaty benefits.

Failure to comply with the above documentation requirements may result in the Russian payer being held liable for the difference between the tax actually withheld and the tax that would have been withheld at the rate applicable under Russian domestic law (e.g. 15% on dividends and 20% on interest and royalty payments) and being subject to fines (20% or 40% of the understated tax) and late payment penalties.

### Comments

The tax treaties concluded by Russia may offer significant tax benefits through reduced withholding tax rates on certain types of Russian-source income. To enjoy these benefits, the foreign company must meet the Russian beneficial ownership requirements and provide the Russian withholding tax agent with all necessary documentation. Companies should carefully consider the above rules before making or receiving any payments of income from Russia.

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## Saudi Arabia:
## Minister of Finance issues new zakat regulations

Saudi Arabia's Minister of Finance issued a resolution on 28 February 2017 that contains new zakat regulations. The resolution, which is effective as from the date of issuance, consolidates the current practices of the General Authority for Zakat and Tax (GAZT) relating to the collection of zakat and replaces all previous pronouncements on the topic. The regulations represent an important step in achieving Saudi Arabia's "Vision 2030," whose goals include the expansion of the zakat tax base and reforms to the tax structure.

Zakat (an annual levy under Islamic law) will apply to all activities carried out for the purposes of earning a profit, including commercial, investment, industrial and financial activities, and the provision of services. Zakat payers include Saudi resident companies (on the shareholdings of Saudi and Gulf Cooperation Council nationals, as well as any shares of Saudi government entities and agencies).

Zakat will be assessed at the applicable rate regardless of whether the zakat payer uses the Hijri or Gregorian calendar as its fiscal year. There are detailed rules addressing items that may be deducted from the zakat base, including the following:

- Fixed assets may be deducted only if they are owned by the zakat payer;
- Leasing transactions will be considered a sale by the lessor to the lessee, with the latter deemed to be the owner and, therefore, entitled to claim depreciation and a deduction of assets; and
- Salaries and bonuses paid to the president, vice president and members of the board of directors of a Saudi company who also are shareholders may be deducted, provided the recipients are registered with the General Organization for Social Insurance.

Holding companies and their wholly owned subsidiaries must submit consolidated accounts and a consolidated zakat return, subject to specified conditions.

The GAZT is granted enhanced powers under the new resolution, and there is no time limit for the GAZT to make an assessment or an adjustment; the authorities can make an arbitrary assessment if the zakat payer fails to submit a return. Zakat payers can object to an assessment by filing an appeal within 60 days of receipt of the assessment.

An overpayment of zakat will automatically be carried forward to the next year unless the zakat payer requests a refund. The GAZT has 30 days from the date of a request to make the refund.

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## Switzerland:
## Update on revised corporate tax reform proposal

Switzerland's Federal Department of Finance (SFDF) announced on 10 April 2017 that the designated steering committee of the Swiss Federation and the cantons has successfully concluded a first round of hearings with representatives of the business community, political parties and cities and municipalities, on the "Tax Reform Proposal 17" (TRP 17). The TRP 17 is intended to replace the Corporate Tax Reform III, which was rejected by the Swiss electorate on 12 February 2017 (for prior coverage, see Switzerland tax alert, 12 February 2017).
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-switzerland-12-february-2017.pdf

The TRP 17 enjoys broad support among the various stakeholders. The need for comprehensive corporate tax reform is undisputed, and there is common ground in regard to the objectives of the TRP 17 – namely, to restore international acceptance of Swiss corporate tax law and to maintain the attractiveness of Switzerland internationally as a business location, while ensuring adequate tax revenue at the federal, cantonal and communal levels.

In the interest of legal certainty, the stakeholders wish for the reform to enter into force as soon as possible. At its meeting on 7 April 2017, the steering committee reaffirmed that the Swiss Federation and the cantons should ensure the greatest possible transparency in regard to the legislative process and the financial implications of the proposed tax reform, and that cities and municipalities should be closely involved in the process.

The exact parameters of the TRP 17 currently are uncertain. However, it can reasonably be assumed that the revised legislation likely will represent a compromise built around the measures of CTR III that were largely undisputed. One measure that appears unlikely to remain in the revised legislation is the introduction of a notional interest deduction regime at the federal level and at the discretion of the individual cantons.

**Next steps**

The steering committee is led by the Finance Minister, who is tasked with submitting the tax reform proposal to the Federal Council. The steering committee will evaluate the findings from the hearings and will re-approach the cities and municipalities in a second round of hearings to be held at the beginning of May. It is expected that the Federal Council will determine the basic parameters of the TRP 17 and decide on further procedures and the relevant timeline in June 2017.

Although it still may be possible for revised legislation to meet the original 1 January 2019 introduction timetable at the federal level if the Swiss parliament decides on the revised legislation in its winter 2017/2018 session, the cantons need adequate time to introduce the law into cantonal legislation, so the introduction of the law could be postponed by one to two years, i.e. to 1 January 2020 or 2021.

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## United Kingdom: Scope of double taxation treaty passport scheme expanded

The UK government published its response to a consultation held on the “double taxation treaty passport” (DTTP) scheme on 20 March 2017, as well as a document that includes some new terms, conditions and guidance on the DTTP (for prior coverage, see United Kingdom tax alert, 8 March 2017). The consultation was held in 2016 to explore whether the DTTP scheme still meets its purpose and whether the scope of the scheme should be expanded. The new guidance, which removes some restrictions under the DTTP scheme, applies to loans entered into on or after 6 April 2017.
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-united-kingdom-8-march-2017.pdf

Introduced in 2010, the DTTP is designed to provide a simpler process for foreign corporations lending to UK companies to obtain treaty clearance on loan interest payments and to eliminate the need to apply for clearance on the application of a lower withholding tax rate under an applicable treaty on a loan-by-loan basis. Under UK law, a 20% domestic withholding tax must be deducted from interest payments made to nonresidents unless the rate is reduced under an applicable tax treaty, and advance clearance is required from the UK tax authorities before a reduced rate of withholding can be applied. Before the introduction of the passport scheme, clearance was required for each loan, a cumbersome process that the UK tax authorities recognized could lead to delays before interest could be paid.

The scheme enables foreign companies lending to UK borrowers to obtain a DTTP, confirming that they meet the requirements of the relevant tax treaty with the UK. The effect of a DTTP is that the treaty rate should be available to all loans made by the foreign company, without the need to apply for advance clearance on each loan. Notably, the scheme is available only to lenders that are resident in a country that has concluded a tax treaty with the UK that provides relief at source on UK interest payable. If a “treaty passport” is granted, the lender can make multiple loans to UK borrowers by simply providing the details of the passport to the UK borrower (who then notifies the UK tax authorities). Passports are valid for a five-year period, after which they may be renewed. The UK tax authorities maintain a public register of passport holders, which includes details on the overseas lenders.

Before the effective date of the new guidance, the DTTP scheme applied only where both the lender and the borrower were corporate entities, thus creating a burden for the foreign lender where loans were made to noncorporate UK borrowers. Under the updated guidance, the scheme is available to all UK borrowers that have an obligation to deduct withholding tax from interest payments, where a tax treaty applies, including UK partnerships, individuals and charities.

Transparent entities (including partnerships) will be admitted to the scheme as lenders where all of the constituent beneficial owners of the income are entitled to the same treaty benefits under the same treaty. Overseas partnerships can apply for a treaty passport if all partners are resident in the same jurisdiction and are entitled to the same treaty benefits. Sovereign wealth funds and pension funds that are relying on the withholding tax rates under a tax treaty also will be admitted as lenders.

Since the new guidance applies to loans entered into on or after 6 April 2017, loans obtained before that date will continue to be subject to the old rules, i.e. the passport scheme applies only to corporate-to-corporate loans.

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## United States:
## White House unveils largely familiar tax reform principles

The Trump administration released a one-page fact sheet on 26 April 2017, outlining principles for overhauling the US tax code that include, among other things, lowering the top income tax rate for corporations and passthrough entities to 15%, as well as shaving individual rates, compressing the rate brackets and significantly increasing the standard deduction.

Many of the principles resemble those that then-presidential candidate Donald Trump put forward on the campaign trail in 2016. The administration did not couch its principles in legislative language, nor did it provide technical descriptions explaining how specific provisions would operate. Treasury Secretary Steven Mnuchin and National Economic Council Director Gary Cohn explained at a 26 April press briefing that the administration would develop those details in consultation with congressional leaders and release a formal proposal later this summer.

**Business provisions:** Significantly lower rates and a territorial tax system

On the business side, the White House is continuing with Trump’s campaign pledge to lower the corporate rate down to 15% (from 35%).

**Passthroughs:** Also in keeping with previous campaign proposals, the plan calls for making the 15% rate available to businesses organized as passthroughs (that is, businesses without an entity-level tax, which currently are taxed as individuals).

Mnuchin assured reporters during the 26 April press briefing that the administration would work with Congress to develop anti-abuse rules to prevent wealthy individuals from “gaming” the tax code by recharacterizing wage income as more lightly taxed business income.

**Territorial tax system:** Significantly, the plan also calls for a transition to a territorial system of taxation, meaning domestic multinational businesses would only be taxed on their income connected with the US. Systems like these are much more common around the world, which explains why the fact sheet says the proposal would “level the playing field for American companies." This was likely the biggest change from the Trump campaign proposals, which called for ending deferral but otherwise retaining the current worldwide regime for taxing offshore business income of US multinationals.

**Deemed repatriation:** The plan repeats a call Trump made during the campaign for a one-time deemed-repatriation tax on previously untaxed earnings held overseas. The fact sheet does not cite a specific rate for the one-time levy. (The campaign proposal called for a rate of 10%.) When asked about this at the 26 April press briefing, Mnuchin told reporters that the administration would work with the House of Representatives and Senate to determine the appropriate rate and that the rate would be "competitive."

The plan also is silent on whether the repatriation rate would be bifurcated for cash and noncash assets, or if the tax would be paid all in one year or ratably over a longer period (as proposed in the House GOP tax reform blueprint released last June (for prior coverage, see tax@hand, 5 July 2016) and the comprehensive tax reform proposal introduced by then-House Ways and Means Committee Chairman Dave Camp in 2014 (for prior coverage, see United States Tax Alert, 28 February 2014).
**URL:** https://www.taxathand.com/article/4130/United-States/2016/House-GOP-tax-reform-blueprint-proposes-across-the-board-rate-cuts
**URL:** http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-unitedstates-280214.pdf

**No discussion of border adjustment tax:** The plan does not address whether the administration embraces the destination-based cash flow tax included in the House Republican tax reform blueprint. That proposal, which is estimated to raise over USD 1 trillion to help offset the cost of a proposed corporate rate cut, provides for "border adjustments" through a not-yet-specified mechanism that would serve to eliminate US tax on products, services and intangibles exported abroad (regardless of their production location) and impose a 20% US tax on products, services and intangibles imported into the US (also regardless of production location). Rival taxpayer advocacy coalitions representing export-heavy and import-heavy interests have been active on Capitol Hill recently in an effort to rally House and Senate members to their side, and there are a number of vocal skeptics of the proposal among Republicans in both chambers.

Trump, for his part, has yet to take a firm position on the proposal. In the past, he has criticized the border adjustment tax as "too complicated," and at other times he has expressed interest in the notion of an as-yet undefined "reciprocal tax" on imports.

**Corporate tax expenditures:** The plan proposes – without elaboration – to "eliminate tax breaks for special interests." (On the campaign trail, Trump made a similarly general call to broaden the tax base by repealing "most corporate tax expenditures.")

No infrastructure proposals: The plan does not include proposals to use any one-time revenue from business tax reform to finance new infrastructure spending. (Reports had circulated ahead of the release that President Trump might include such a proposal as a way to win support from congressional Democrats, who so far have been united in their opposition to Republican tax reform efforts.)

**Individual provisions: Lower rates, fewer incentives**

On the individual side, the administration proposes to provide tax relief by compressing the seven income tax rate brackets under current law (ranging from 10% to 39.6%) to three brackets of 10%, 25% and 35%. (This is similar what Trump proposed on the campaign trail in 2016, although that plan called for a bottom rate of 12% and a top rate of 33%.) The fact sheet does not specify income thresholds for the rate brackets, however. Cohn and Mnuchin stated at the press briefing that those decisions would be finalized in consultation with congressional leaders.

**Capital gains:** The administration proposes to repeal the 3.8% tax on net investment income that was enacted under the Patient Protection and Affordable Care Act of 2010. Cohn indicated during the press briefing that the tax rate on capital gains would remain at 20%, as under current law.

**Standard deduction:** The plan calls for increasing the standard deduction to USD 24,000 for joint filers and USD 12,000 for individuals, similar to a proposal in the House Republican tax reform blueprint. (During the presidential campaign, Trump called for hiking the standard deduction to USD 30,000 for joint filers and USD 15,000 for individuals.)

**Alternative minimum tax (AMT):** The plan also repeats proposals made during the presidential campaign to repeal the estate tax and the individual AMT. The fact sheet does not mention changes to the corporate AMT.

**New incentives for child care expenses:** The plan includes a proposal to provide tax relief to families facing child and dependent care expenses. (Although the fact sheet does not go into specifics, Trump offered a series of proposals during the presidential campaign that called for an above-the line deduction for taxpayers facing certain child care and elder care expenses, a new tax-preferred savings account to encourage families to set aside funds for caregiving expenses and expanded incentives for employers who offer on-site child care to their employees.)

**Many current incentives targeted for elimination:** The administration also proposes to simplify the tax rules for individuals by eliminating "targeted tax breaks that mainly benefit the wealthiest taxpayers." Although the fact sheet provides no details, Mnuchin and Cohn stated during their press briefing that the administration intends to snuff all current-law tax incentives *except* for those tied to the mortgage interest deduction and charitable giving. (During the campaign, Trump generally proposed to cap itemized deductions at USD 200,000 for joint filers and USD 100,000 for single filers.)

In response to a reporter's question, Cohn confirmed that the deduction for state and local income taxes is among those that are proposed to be on the chopping block.

**Next steps**

Mnuchin and Cohn indicated during their press briefing that White House officials intend to spend the month of May holding "listening sessions" with stakeholders and working with House and Senate leadership to refine the plan, fill in many of the technical details that are currently missing and turn it into a formal legislative proposal. According to Mnuchin, the administration is "determined to move this as fast as we can, and get this done this year."

In a joint statement, House Speaker Paul Ryan, Senate Majority Leader Mitch McConnell, House Ways and Means Committee Chairman Kevin Brady and Senate Finance Committee Chairman Orrin Hatch characterized the principles put forward by the White House as "*critical guideposts for Congress and the administration as we work together to overhaul the American tax system and ensure middle-class families and job creators are better positioned for the 21st century economy. …With an eye toward fairness and simplicity, we're confident we can rebuild our tax code in a way that will grow our economy, better promote savings and investment, provide our job creators with a competitive advantage and bring prosperity to all Americans.*"


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## In brief

**China:** On 19 April 2017, the State Council announced that the number of VAT rates (currently 17%, 13%, 11% and 6%) would be reduced from four to three by eliminating the 13% rate (affected supplies will be subject to the 11% rate) as from 1 July 2017. Additionally, the State Administration of Taxation issued guidance on 20 April 2017 that addresses issues relating to the construction and installation business and extends the time period to verify a VAT special invoice from 180 days to 360 days.

**Netherlands:** On 31 March 2017, the Dutch government released draft legislation for the creation of an ultimate beneficial owner (UBO) register that must be implemented based on the fourth EU anti-money laundering directive (AMLD) (for prior coverage of the directive, see *World Tax Advisor*, 12 June 2015). The AMLD contains a requirement for legal persons to maintain adequate, accurate and current information that identifies individuals who hold ultimate

beneficial ownership of their entities. Identification and verification of beneficial owners extends to legal entities that own other legal entities, as well as to individuals who ultimately exercise control of the legal entity via ownership or other means (control for these purposes would exist where an individual controls more than 25% of the assets of the relevant legal entity). EU member states will be required to make part of the UBO's personal information publicly available in their registers, which will be accessible to investigative services, specific professional groups and third parties that have a legitimate interest. A public consultation on the proposal will run until 28 April 2017.
**URL:** http://newsletters.usdbriefs.com/2015/Tax/WTA/150612_ib.html

**OECD:** On 6 April 2017, the OECD announced the publication of a new version of its Common Reporting Standard (CRS)-related frequently asked questions and the second edition of the Standard for Automatic Exchange of Financial Account Information in Tax Matters (AEOI standard). The AEOI standard expands on the CRS XML Schema User Guide and includes additional guidance on handling corrections and cancellations within the CRS XML Schema.

**Peru:** The tax authorities issued regulations on 10 March 2017 that contain rules for the application of a temporary regime that allows taxpayers to pay outstanding tax liabilities and other tax debts in installments. The regime applies as from 8 December 2016 (the date it was announced). Under the regime, which applies to certain corporate and individual taxpayers, taxpayers with specific types of outstanding tax debt on 30 September 2016 can opt to pay the debt by installment, even if collection actions or litigation proceedings have already commenced. Applications to participate in the special regime must be submitted by 31 July 2017.

**Switzerland:** A new law that requires the automatic exchange of information on tax rulings became effective on 1 January 2017, with the first exchanges expected to take place as from 1 January 2018 (relating to the 2017 tax period, but covering tax rulings obtained in 2010 or thereafter that are valid and in place in 2018).

**United Kingdom:** The UK Department for Business, Energy & Industrial Strategy released a consultation document on 5 April 2017, seeking views on a new register that would show who owns and controls overseas companies and other legal entities that own UK property or participate in UK government procurement. The new register would impose requirements similar to those imposed by the register of UK company beneficial ownership that was introduced in 2016. Following a transitional period, overseas companies generally would not be able to purchase or sell UK property unless they have provided the information about their beneficial owners for the new register. The consultation period is open until 15 May 2017.

**United Kingdom:** A new regime that restricts the deduction of interest expense applies as from 1 April 2017 (for prior coverage, see *World Tax Advisor*, 16 December 2016). The Finance (No. 2) Bill 2017, published on 20 March 2017, revises the restrictions (following the publication of the legislation on 5 December 2016 and revisions released on 26 January 2017). The operation of the rules remains broadly unchanged from the version published in January, although there are some changes, many of which were announced in Spring Budget 2017 as the result of comments received on the previous versions (for prior coverage of the Spring budget, see United Kingdom tax alert, 8 March 2017).
**URL:** http://newsletters.usdbriefs.com/2016/Tax/WTA/161216_1.html
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-united-kingdom-8-march-2017.pdf

**United States:** On 31 March 2017, the Internal Revenue Service (IRS) added two new frequently asked questions (FAQs) to the Foreign Account Tax Compliance Act (FATCA) general FAQs webpage, addressing the qualified intermediary, withholding foreign partnership and withholding foreign trust agreement renewal process. On 6 April 2017, the IRS added three additional new FAQs addressing foreign tax identification number (TIN) collection on withholding certificates. The FAQs indicate that a withholding agent is not required to invalidate a withholding certificate obtained in 2017 for failure to provide a foreign TIN, and, although it must collect a date of birth for an individual beneficial owner, a withholding agent can rely on a date of birth in its files rather than invalidating the certificate.

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## BEPS corner

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

**Australia:** New penalty laws may apply for late filing of the master file, local file and CbC report. See Global Transfer Pricing Alert 2017-014, 20 April 2017.
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-014-20-april-2017.pdf

**Brazil-United States:** Whether a competent authority agreement between Brazil and the US is concluded before 31 July 2017 will affect the CbC reporting obligations of certain US multinational enterprises. See Global Transfer Pricing Alert 2017-013, 19 April 2017.
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-013-19-april-2017.pdf

**Japan:** The 2017 tax reform includes revisions to the controlled foreign corporation rules that are in accordance with the basic concepts of the BEPS project. See the article in this issue.
**URL:** http://newsletters.usdbriefs.com/2017/Tax/WTA/170428_2.html

**United States:** The US Internal Revenue Service (IRS) on 18 April 2017 posted two documents to its website: (i) the US model competent authority agreement for the exchange of country-by-country (CbC) reports (on the basis of a tax treaty); and (ii) the US model competent authority agreement for the exchange of CbC reports (on the basis of a tax information exchange agreement). The model agreements provide that the US and foreign competent authorities intend to exchange reports with respect to fiscal years beginning on or after 1 January 2016, which would therefore include reports filed voluntarily with the IRS for so-called "gap years" beginning on or after that date but before the effective date of the final regulations on 30 June 2016 (for prior coverage, see Global Transfer Pricing Alert 2017-001, 27 January 2017).
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-001-27-january-2017.pdf

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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.

**China-Macao:** The 2016 protocol to the 2003 tax arrangement entered into force on 12 December 2016 and applies as from that date. The protocol provides for a 5% withholding tax rate on royalties paid in respect of the rental of aircraft and ships; otherwise, the rate is 10%. The withholding tax rates on dividends and interest are not affected by the protocol.

**Cyprus-India:** The 2016 treaty to replace the 1994 treaty entered into force on 14 December 2016 and applies as from 1 January 2017 for Cyprus and as from 1 April 2017 for India. The treaty provides for a 10% withholding tax rate on dividends, interest and royalties. The 10% rate also applies to technical service fees.

**Cyprus-Iran:** The 2015 treaty entered into force on 5 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 25% of the capital of the payer company; otherwise, the rate will be 10%. A 5% rate will apply to interest and a 6% rate will apply to royalties.

**Cyprus-Jersey:** The 2016 treaty entered into force on 17 February 2017 and will apply as from 1 January 2018. When in effect, the treaty provides that dividends, interest and royalties will be taxable only in the state of residence of the recipient.

**Czech Republic-Ghana:** When in effect, the treaty signed on 11 April 2017 provides for a 6% withholding tax rate on dividends. A 0% rate will apply to interest paid in connection with the sale of merchandise or equipment on credit, or on a loan or credit granted by a bank; otherwise, the rate will be 10%. The rate on royalties and services fees will be 8%.

**Hong Kong-Korea:** The 2014 tax agreement entered into force on 27 September 2016 and applies as from 1 April 2017 for withholding tax purposes. The agreement provides for a 10% 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%.

**Hong Kong-Russia:** The 2016 tax agreement entered into force on 29 July 2016 and applies as from 1 April 2017 for Hong Kong and as from 1 January 2017 for Russia. The agreement provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) that holds directly at least 15% of the capital of the payer company; otherwise, the rate is 10%. Interest is taxable only in the state of residence of the recipient, and the rate on royalties is 3%.

**India-Indonesia:** The 2012 treaty to replace the 1987 treaty entered into force on 5 February 2016 and applies as from 1 April 2017 for India and as from 1 January 2017 for Indonesia. The treaty provides for a 10% withholding tax rate on dividends, interest and royalties. The 10% rate also applies to technical service fees.

**India-Korea:** The 2015 treaty to replace the 1985 treaty entered into force on 12 September 2016 and applies as from 1 April 2017 for India and as from 1 January 2017 for Korea. The treaty provides for a 15% withholding tax rate on dividends. The rate on interest and royalties is 10%. The 10% rate also applies to technical service fees.

**Kenya-Korea:** The 2014 treaty entered into force on 3 April 2017 and will apply as from 1 January 2018. When in effect, the treaty provides for an 8% 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 12% and the rate on royalties will be 10%.

**Latvia-Singapore:** When in effect, the protocol signed on 20 April 2017 to the 1999 treaty provides for a 0% withholding tax rate on dividends paid to a company (other than a partnership); otherwise, the rate will be 10%. A 0% rate will apply to interest paid (i) by one company (other than a partnership) to another, or (ii) to a financial institution; otherwise, the rate will be 10%. A 5% rate will apply to royalties.

**Philippines:** See the article in this issue.
**URL:** http://newsletters.usdbriefs.com/2017/Tax/WTA/170428_3.html

**Portugal-Andorra:** The 2015 treaty entered into force on 23 April 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 has held directly at least 10% of the capital of the payer company for the period of twelve months ending on the date on which entitlement to the dividends is determined; otherwise, the rate will be 15%. A 10% rate will apply to interest and a 5% rate will apply to royalties.

**Russia:** See the article in this issue.
**URL:** http://newsletters.usdbriefs.com/2017/Tax/WTA/170428_4.html

**Singapore-Ghana:** When in effect, the treaty signed on 31 March 2017 provides for a 7% withholding tax rate on dividends, interest and royalties.

**Slovakia-United Arab Emirates:** The 2015 treaty entered into force on 1 April 2017 and will apply as from 1 January 2018. When in effect, the treaty provides for a 0% withholding tax rate on dividends and a 10% rate on interest and royalties.

**Switzerland-Pakistan:** A new treaty was signed on 21 March 2017 to replace the 2005 treaty, but the new treaty is not yet in force. When in effect, the withholding tax rates on dividends, interest and royalties will remain the same: a 10% rate will apply to 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 20%. The rate on interest and royalties will be 10%.

**United Kingdom:** See the article in this issue.
**URL:** http://newsletters.usdbriefs.com/2017/Tax/WTA/170428_7.html

## Global tax alerts

**Australia**
**Australia's new penalty laws for CbC reporting and an update on its implementation approach**
On 4 April 2017, the Australian government passed legislation to significantly increase late filing penalties for Australian taxpayers that are members of an accounting consolidated group with annual global income in the preceding period of AUD 1 billion or more. The master file, local file and CbC report constitute separate statements subject to the penalty regime.
Issue date: 20 April 2017
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-014-20-april-2017.pdf

**Brazil**
**Status of US-Brazil bilateral competent authority agreement on automatic exchange of CbC report**
If the US and Brazil have not concluded a competent authority agreement before 31 July 2017, US multinational enterprises that meet Brazil's CbC report secondary filing requirements will need to either file the report in Brazil by 31 July 2017 or choose a surrogate parent entity that has a CbC report exchange relationship with Brazil to file their 2016 CbC report.
Issue date: 19 April 2017
**URL:** https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-013-19-april-2017.pdf