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In this issue:

Luxembourg revises tax ruling practice, transfer pricing rules

On 19 December 2014, the Luxembourg parliament adopted the 2015 budget and the first part of the package for the future introducing new tax measures for corporations. (The current corporate income tax rate of 22.47% (including the Employment Fund surcharge) continues to apply for 2015.) The new measures are applicable as from 1 January 2015. The relevant measures affecting corporate entities are outlined below.

Advance tax decisions practice

The government has legally formalized its advance tax decisions practice by including a provision in the tax law. A specific tax regulation provides further details on the procedures and conditions to obtain an advance tax decision:

- Upon a written request made in the proper form, the tax inspector of the relevant tax office may issue an advance tax decision.
- The advance tax decision may not result in a tax exemption or a tax reduction.
- The advance tax decision will be valid for a specified period of time that cannot exceed five tax years. The decision will bind the direct tax authorities, except in the following cases:

    - The circumstances or the transactions were incomplete or inaccurately described in the taxpayer's request;
    - Subsequent circumstances or transactions differ from those on which the tax authorities based the advance tax decision; or
    - The advance tax decision does not conform to national, EU or international law.
- Requests related to business taxation will be submitted by the tax inspector to a newly formed commission for its opinion.
- An applicant (a corporate taxpayer, an undertaking or an independent professional) requesting an advance tax decision related to business taxation will have to pay an administrative fee that will range from EUR 3,000 to EUR 10,000, depending on the complexity of the case and the volume of work required by the tax authorities. The fee will be due within one month from the date on which the fee is set by the head of the tax authorities, and the tax authorities will not issue their decision until the fee is paid. The fee will not be refunded even if the taxpayer withdraws its request or if the tax authorities issue a negative decision.
- Written requests that were submitted before the end of 2014 and that still are being processed by the tax authorities will be submitted to the new commission, but the fee will not be charged for such requests.
- Advance tax decisions will be published anonymously in the tax authorities' annual activity report (with the first publication in 2016).

Transfer pricing

In line with previous announcements made by the government, the new law contains clarifications on the Luxembourg transfer pricing framework. The current legal basis for allowing an upward adjustment of the taxable base based on the arm's length principle is found in article 164(3) of the income tax law (ITL), and article 56 previously allowed an upward adjustment in cases of a special relationship with an entity located abroad.

A new article 56 to replace the former article now covers transfer pricing adjustments to the tax base, while keeping article 164(3) of the ITL in its current form that permits recharacterization of transactions as hidden dividend distributions.

Additionally, a new provision is inserted into the procedural section of the tax law that permits the tax authorities to request transfer pricing documentation to investigate transactions with related parties.

The tax authorities intend to issue more detailed guidance in the near future on certain transfer pricing issues.

Minimum income tax

Collective entities are subject to a minimum income tax of EUR 3,210 or a progressive minimum income tax from EUR 535 to EUR 21,400 that depends on the total assets on their balance sheet.

The criteria for the application of the minimum income tax of EUR 3,210 have been revised. A collective entity must own qualifying holding and financial assets that exceed 90% of its balance sheet and have a total balance sheet exceeding EUR 350,000 to be liable for the EUR

3,210 minimum income tax. Entities that meet the 90% test and have a total balance sheet below EUR 350,000 will be liable to a minimum income tax of EUR 535 (also previously EUR 3,210).

VAT

The standard VAT rate of 15% has increased to 17%, which remains the lowest standard rate within the EU. The reduced VAT rates of 6% and 12% also have increased by 2% (to 8% and 14%; the 3% VAT rate remains unchanged).

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China:
New measures announced on FTZs and pilot reforms

China's State Council announced the following initiatives on 12 December 2014:

- To further reduce the number of items in the "negative list" that applies to foreign-invested entities engaging in business in the China (Shanghai) Pilot Free Trade Zone (FTZ). The negative list sets out the industries and activities for which foreign investment is restricted or prohibited. More restrictions will be lifted in the service and high-end manufacturing sectors, and certain relaxations will be extended to the entire Pudong New Area of Shanghai;
- To establish three new FTZs in Guangdong, Tianjin and Fujian, based on the existing special zones in these areas. The rules in the new FTZs are expected to be similar to those in the China (Shanghai) Pilot FTZ, but also may contain some pilot aspects that reflect the features of the specific region; and
- To roll out nationwide 28 pilot measures on investment, trading, finance and the opening up of service sectors, as well as six pilot measures applicable to Customs and inspections/quarantines in special Customs areas.

It generally is anticipated that the new FTZs in Guangdong and Fujian will be aimed at promoting economic cooperation between Mainland China and Hong Kong, Macau and Taiwan and that the new FTZ in Tianjin will focus on key industries, such as high-end manufacturing, financial services and logistics and transportation.

The government has not yet announced when the initiatives will be launched.

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Korea:
Rules on individual residence status and tax incentives for foreign employees revised

On 2 December 2014, Korea's National Assembly approved several changes that will affect foreign individuals living in the country. The most salient points of the new rules, which apply as from 1 January 2015, are as follows:

- The time period for an individual to qualify as a Korean tax resident has been reduced. Under the new rules, an individual qualifies as a tax resident if he or she (1) resides in Korea for 183 days or more in any two consecutive tax years (reduced from one year (365 days) or more in any two consecutive tax years), or (2) has an occupation that generally would require him or her to reside in Korea for 183 days or more (reduced from one year or more). However, this change is not expected to have a substantial impact since, under the Individual Income Tax Law, if a foreign tax resident has resided in Korea for less than five years in the previous 10-year period, foreign-source income is taxable in Korea only if such income is either remitted to Korea or paid in Korea. Accordingly, in most cases, an inbound foreigner qualifying as a short-term resident alien will be taxed only on Korea-source income. This is the same treatment as for a nonresident, except that the only deduction permitted to a nonresident is an individual exemption, whereas a Korean resident (including a short-term resident alien) is allowed full deductions.
- The sunset date for the incentive that allows foreign individuals to elect to apply a flat tax rate to their gross earned income (with no deductions, income exclusions or tax credits allowed), as an alternative to the regular progressive individual income tax rates, is extended to 31 December 2016. There is no expiration date for the incentive for employees of qualified headquarters companies.
- The sunset date for the special tax exemption under which 50% of wages received by a qualified foreign technician/engineer providing services to a domestic entity in Korea may be eligible for a tax exemption for two years from the date on which the foreign technician/engineer commences rendering services in Korea is extended to 31 December 2018. However, the scope of the exemption is tightened to cover only foreign technicians/engineers working in the qualified R&D centers of foreign-invested companies or providing services in Korea under a qualified "technology inducement contract." Foreign technician/engineers commencing services in Korea before 1 January 2015 still are eligible for the exclusion under the previous qualification requirements.

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Netherlands:
Tax court confirms CJEU decision on fiscal unity regime

The Second Instance Tax Court of Amsterdam issued a decision on 11 December 2014 on the compatibility of the Dutch fiscal unity regime with EU law. The court confirmed the conclusions reached by the Court of Justice of the European Union (CJEU) in a 12 June 2014 decision (joined cases C-39-41/13), in which the CJEU held that the fiscal unity regime in the Netherlands Corporate Income Tax Act is incompatible with the freedom of establishment principle in the Treaty on the Functioning of the European Union (for prior coverage of the CJEU decision, see European Union Tax Alert, 12 June 2014). (The case was referred back to the Amsterdam court to issue a final decision in the case.)
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-eu-120614.pdf?id=us:em:na:wta:eng:tax:010915

Overview of fiscal unity regime

Under the fiscal unity regime, two or more companies can be treated as a single taxpayer if certain requirements are met. Fiscal unity status offers a number of benefits: (1) entities within the group can offset profits and losses; (2) intragroup transactions are ignored; and (3) tax compliance is facilitated because the group can submit a consolidated tax return. Since only one company will exist for Dutch corporate income tax law purposes, the profits and losses of all companies in the fiscal unity can be consolidated.

The following requirements must be met for a fiscal unity to be formed:

- The head of the fiscal unity must hold at least 95% of the shares of each entity in the group;
- The companies to be consolidated must have a qualifying legal form;
- The companies to be consolidated must be resident in the Netherlands (this includes a Dutch permanent establishment (PE) of a foreign company);
- All companies in the fiscal unity must use the same financial year and the same rules for the determination of their profits; and
- Each participating company must submit a request for application of the regime.

Indirectly held companies can be included in a fiscal unity, but only if all intermediary companies are included in the group. As a result, in practice, a fiscal unity can exist between a Dutch parent company and its “sub-subsidiary” only if the indirectly held company is at least 95% directly held by another Dutch entity, and the intermediary company also is included in the fiscal unity. A comparable approach applies for sister companies, i.e. they can be part of a fiscal unity only if the connecting joint parent company (and any other intermediary companies) also are included in the fiscal unity.

Background of cases

In three cases relating to the fiscal unity regime – all involving group structures and having the common feature that some companies in each group were established in another EU member state – the issue was whether denial of a fiscal unity would infringe EU law. These cases primarily involved two fact patterns:

- A Dutch resident company held 100% of the shares of another EU company, which, in turn, held 100% of the shares in a second Dutch resident company; and
- Multiple Dutch resident sister companies were held by the same EU parent company.

In all cases, the fiscal unity requests were limited to the Dutch resident companies; the connecting EU companies and the nonresident parent companies were not included. The Dutch tax authorities denied the requests.

The more detailed facts of the cases are as follows:

1. A Dutch parent company held 100% of the shares of its German subsidiary that, in turn, held 99% of the shares of a Dutch subsidiary. The Dutch parent submitted a request to the Dutch tax authorities to form a fiscal unity with its Dutch (second tier) subsidiary, without including the German intermediary company. The tax authorities denied the request because the Dutch corporate income tax law requires that *all* intermediary companies be included in a fiscal unity. In the cases, however, the German intermediary company could not be included because it was a resident of another EU member state and did not have a PE in the Netherlands.
2. Sister companies established in the Netherlands were held, directly or indirectly, by a common German parent company that did not have a PE in the Netherlands. The sister companies filed an application to form a fiscal entity without the German parent; the application was denied for the same reasons as above.

The situation in 1) is similar to the fact pattern that led to the 2008 CJEU decision in the *Papillon* case, which involved France's tax consolidation regime. Under the French tax rules, a parent company could form a group to consolidate the profits and losses of group companies and, like the Dutch tax law, the French rules required all companies in the consolidated group to be resident in France and any intermediary companies also to be part of the group (meaning they must be French resident companies as well). The French parent in *Papillon* held all of the shares in its French sub-subsidiaries through its Dutch intermediary company. The French tax authorities denied the consolidation of the French sub-subsidiaries. The CJEU ruled that a denial of a tax consolidation in this situation violated the freedom of establishment principle in EU law because, had the intermediary company been a French resident company, the results of the French parent company and its sub-subsidiary could have been consolidated (including the results of the French intermediary company).

Following this decision, the European Commission initiated an infringement procedure against the Netherlands on the grounds that the Dutch law disallowing a fiscal unity between two sister companies (without consolidation of the joint parent company that is a resident of another EU member state) infringed EU law. At the same time, a taxpayer brought another similar case before the Dutch lower tax courts.

When the cases mentioned above were brought before the Second Instance Tax Court of Amsterdam, the taxpayers argued that the denial of a fiscal unity between (1) the Dutch parent and its resident lower-tier subsidiary, and (2) the Dutch sister companies is incompatible with the freedom of establishment. The court then referred the cases to the CJEU to determine whether the denial of a fiscal unity between the Dutch resident companies violates EU law.

CJEU decision and final decision of Dutch tax court

The CJEU decision mainly followed the earlier *Papillon* decision. The court determined that the denial of the requested fiscal unities in all three cases is incompatible with EU law.

The Second Instance Tax Court of Amsterdam agreed with the CJEU and considered it irrelevant that, in a purely domestic situation with Dutch connecting companies, it also would not have been possible to form a fiscal unity between the Dutch resident parent company and its sub-subsidiary, or between the Dutch sister companies. In those situations, however, as the CJEU previously noted, it at least would have been possible to form a fiscal unity by including the connecting entities; in contrast, this would not be possible where the connecting entity was established in another EU member state.

Unlike the CJEU, the Second Instance Tax Court noted that such an infringement of the freedom of establishment could be justified by an overriding reason in the public interest. Restrictive conditions aimed at protecting the coherence of the Dutch tax system and preventing the risk of double loss deductions could – under certain circumstances – justify the restriction of the EU fundamental freedoms. However, in the instant cases, the restriction is not justified because the conditions are more restrictive than what is necessary to achieve the objective of the fiscal unity regime; the Amsterdam tax court considers the restriction disproportionate. The court explained that the legislature is entitled to create more narrowly tailored anti-abuse measures to avoid potential double loss relief and to safeguard the coherence of the tax system.

Comments

The Amsterdam tax court's decision that, in both parent-(sub-)subsidiary situations and in sister company situations, fiscal unities between Dutch resident entities should be allowed was not unexpected. The Ministry of Finance has indicated it will not appeal the decision to the Dutch Supreme Court. A bill will be presented to parliament during the first half of 2015 that would align the fiscal unity regime with EU law.

In anticipation of the new legislation, the Dutch government has published an update of the fiscal unity decree. Based on this update, a request for a fiscal unity between a Dutch parent and a Dutch lower-tier subsidiary held through one or more intermediary companies in another EU/EEA member state, or a request for a fiscal unity between Dutch subsidiary (sister) companies directly or indirectly held by a parent company in another member state may be approved. The decree applies only to situations in which all connecting companies are resident in an EU/EEA member state.

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Singapore:
Tax filing requirements for employers of frequent business travelers clarified

In view of the practical issues faced by employers in meeting the tax clearance filing deadlines for frequent business travelers (FBTs) (i.e. foreign employees who have an employment base outside Singapore but are required to make frequent business trips to Singapore), the Inland Revenue Authority of Singapore (IRAS) has provided clarity on the filing deadlines for the tax clearance returns for FBTs ceasing employment or departing from Singapore.

Background

Generally, an employer is required to notify the IRAS by filing the relevant form (Form IR21) at least one month in advance of the expected cessation/departure date when (1) an employee who is neither a Singapore citizen nor a Singapore permanent resident (SPR) (under immigration rules) is ceasing employment or departing from Singapore, or (2) a SPR employee is leaving Singapore permanently (including an overseas posting for a period of more than three months). The employer also is required to withhold any monies due and payable to such an employee until 30 days after the IRAS receives such notification, or until a tax clearance is obtained from the IRAS, whichever is earlier.

Where the employee's tax liability is fully borne by the company, the IRAS will grant a two-month extension of time from the date of cessation of the Singapore employment to file the Form IR21, and the withholding of monies may not be required.

The tax clearance requirements generally apply only to FBTs who have exercised employment in Singapore for more than 60 days in the calendar year. FBTs whose business trips to Singapore do not exceed 60 days during the calendar year may be treated as short-term nonresident visiting employees, and may be exempt from tax in respect of income from employment. However, this exemption does not apply to income derived by a director of a company.

Where applicable, the tax clearance requirements for FBTs have proven to be challenging, as such individuals typically are not official employees of Singapore entities (although the Singapore entities may act as sponsors for the work pass) and, at times, work passes may not have been obtained for the individuals in Singapore. This, combined with the IRAS's tightened enforcement of the tax clearance requirements and imposition of penalties for the late filing of the tax clearance return and/or issuance of estimated tax assessments where the tax clearance return has not been filed, has made the tax reporting for FBTs extremely onerous on the employer/sponsoring Singapore entity.

Clarification of tax filing requirements for FBTs

The IRAS has announced it will allow an extension of time for the filing of the tax clearance return (Form IR21) for FBTs (regardless of whether the employee's tax liability is fully borne by the employer), as follows:

- If the work has ended and the FBT will not be making further business trips to Singapore (with or without a work pass), the filing deadline is two months from the date of the last business visit;
- If the company cancels the FBT's work pass or the work pass expires, the filing deadline is two months from the date of cancellation or expiration of the work pass;
- If the FBT's business trips will span more than one year and no work pass has been obtained, the company has until 31 January of the following year to complete an annual review of the FBT's travel days to Singapore and, if required, Form IR21 is due by 31 March (i.e. two months from 31 January of the following year); and
- If the FBT's business trips will span more than one year and a work pass has been obtained, Form IR21 is due two months from the date of the last business visit. Other specific deadlines and filing requirements also may apply.

For the filing extensions to apply, the employer must indicate that the employee is an FBT in a cover letter submitted to the IRAS with the Form IR21, together with the FBT's travel schedule.

Comments

By providing clarity on the filing timelines for FBTs who spend more than 60 days in Singapore each calendar year, the IRAS has indicated that it expects employers to track the travel of their FBTs into Singapore and to ensure that the appropriate tax reporting requirements are met.

It therefore is important for companies to review their tracking mechanisms for FBTs to Singapore and to implement processes to collate the necessary compensation information required to fulfil the tax reporting requirements, to avoid potential penalties and enforcement actions by the IRAS.

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Thailand:
Cabinet approves draft measures to promote IHQs and ITCs

The Thai Cabinet recently approved measures proposed by the Ministry of Finance that would promote the establishment of international headquarters (IHQs) and international trading centers (ITCs) in the country. The proposed measures under the IHQ and ITC regimes would relax some of the conditions that currently are imposed on regional operating companies and expand the tax and nontax benefits granted to qualifying companies, with a view to attracting multinationals to set up their hub activities in Thailand.

An IHQ would be entitled to the following key tax benefits:

- A corporate income tax exemption on net profits derived by an offshore associated company or branch;
- A reduced income tax rate of 10% (reduced from the standard 20% rate) on the net profits of a Thai associated company or branch;
- A withholding tax exemption on dividends distributed by the IHQ to a nonresident entity;
- A reduced income tax rate of 15% on the income of expatriate employees of the IHQ; and
- An exemption from the specific business tax and withholding tax on intercompany loans.

An ITC would be entitled to the following key tax benefits:

- A corporate income tax exemption on income derived from the purchase/sale of goods outside Thailand to/from associated parties in cases where the goods are not brought into Thailand ("out-out transactions"), which also would apply to associated services from which income is derived outside of Thailand;
- A reduced income tax rate of 10% on income from the purchase of raw materials or intermediate goods in Thailand for sale to associated companies for manufacturing goods outside Thailand (i.e. "in-out transactions");
- A withholding tax exemption on dividends distributed by the ITC to a nonresident entity; and
- A reduced income tax rate of 15% on the income of expatriate employees of the ITC.

Nontax incentives also would be granted to promoted IHQ and ITC projects by the Thailand Board of Investment, including a 100% foreign ownership allowance; relaxation of restrictions on participation by foreigners that would allow promoted companies to bring in foreign nationals for feasibility studies; permission for companies to bring in foreign technicians and experts to work on promoted projects; permission for companies to own land for promoted activities; and permission for companies to receive or remit foreign currencies abroad.

The incentives for IHQs and ITCs must be included in a Royal Decree before they can become effective, and until a decree is issued, the proposals may be further amended.

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2015 rate changes

The following chart summarizes some of the tax rate changes that are effective as of 1 January 2015 (unless otherwise noted):

Country	Type of tax		
	Corporate income tax	**Withholding tax on dividends, interest and royalties paid to a nonresident**	**VAT**
Albania		Rates on dividends, interest and royalties increased from 10% to 15%	
Brunei	Reduced from 20% to 18.5%		
Chile	First category income tax rate increased from 21% to 22.5%		
Denmark	Reduced from 24.5% to 23.5%		
Dominica	Reduced from 30% to 28%		
Dominican Republic	Reduced from 28% to 27%	Rate on royalties reduced from 28% to 27%	Standard rate reduced from 18% to 16%
Estonia	Reduced from 21% to 20%		
Guatemala	Rate under general regime reduced from 28% to 25%		
Iceland			Standard rate reduced from 25.5% to 24%
Luxembourg			Standard rate increased from 15% to 17%; reduced rates of 6% and 12% increased to 8% and 14%, respectively
Palestinian Territories		10% withholding tax on dividends introduced	
Peru	Reduced from 30% to 28%	Rate on dividends increased from 4.1% to 6.8%	
Portugal	Reduced from 23% to 21%		
South Africa		Rate on royalties increased from 12% to 15%; a 15% interest withholding tax is expected to be introduced as from 1 March 2015	

Country	Type of tax		
	Corporate income tax	**Withholding tax on dividends, interest and royalties paid to a nonresident**	**VAT**
Spain	Reduced from 30% to 28%	Rate on dividends and interest reduced from 21% to 20%; rate on royalties reduced from 24.75% to 20% for income derived by residents of the EU/EEA, and to 24% for all other nonresidents	
United Kingdom	Standard rate will reduce from 21% to 20% on 1 April 2015		
Uzbekistan	General rate reduced from 8% to 7.5%		

In brief

Bulgaria: As from 1 January 2015, Bulgaria has fully implemented the EU interest and royalties directive and, therefore, will grant a withholding tax exemption for interest and royalties paid to an associated company of another member state or to a permanent establishment of an associated company situated in another member state, subject to certain conditions.

China: The State Administration of Taxation (SAT) released its fifth annual advance pricing agreement (APA) report on 5 December 2014. The report, which covers APAs signed in 2013, is intended to provide guidelines to enterprises interested in entering into APAs with the SAT for transfer pricing methods and corresponding calculation methods for future transactions in accordance with the arm’s length principle. The executive summary of the report sets out the factors the SAT considers when prioritizing APA requests.

China: The State Council issued a notice on 9 December 2014 that requires local governments to “clean up” and regulate preferential policies (e.g. tax incentives). Specifically, existing local incentives that violate state laws will have to be abolished and local governments will be prohibited from offering such policies; incentives that are not in violation of state laws and that are deemed to be essential to the regional/local government will have to be approved by the State Council. Local governments are required to take appropriate actions by March 2015.

European Union: The European Commission has expanded the inquiry into the tax ruling practice under state aid rules to cover all EU member states. Member states will be asked to provide information on their tax ruling practices, specifically, whether they provide tax rulings. If so, the Commission will request a list of all companies that received a tax ruling during the period from 2010 to 2013. The Commission already requested similar information on tax rulings from several member states in June 2013. It has stated in the past that tax rulings are not objectionable in themselves; however, they may involve unlawful state aid if they are used to provide selective advantages to a specific company or group of companies.

France: The Administrative Supreme Court has requested a preliminary ruling from the Constitutional Court on the constitutionality of the computation of turnover for purposes of the temporary surcharge on corporate income tax. The temporary surcharge is levied on enterprises whose turnover exceeds EUR 250 million, and amounts to 10.7% of the corporate income tax. Where a company does not belong to a tax-consolidated group, the turnover is assessed at the level of the company; however, if a group exists, the turnover is assessed by adding up the turnover of all companies in the group. A taxpayer has argued that the computation of turnover within a tax-consolidated group violates the equality clause of the French constitution.

Italy: A decree published on 23 December 2014 removes Luxembourg, with respect to the 1929 holding companies law, from Italy's list of jurisdictions that generally are not deemed to be low-tax jurisdictions for purposes of the controlled foreign company rules but that, because of specific legislation or other tax incentives, are deemed to be tax havens with respect to specified low-tax activities.

Lithuania: Lithuania joined the eurozone on 1 January 2015.

Peru: Law 30296 was published in the official gazette on 31 December 2014 and applies as from 1 January 2015 (see Peru Tax Alert, 19 December 2014).
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-peru-191214.pdf?id=us:em:na:wta:eng:tax:010915

Philippines: The Bureau of Internal Revenue (BIR) issued a regulation on 10 December 2014, expanding the types of taxpayers required to file returns and pay taxes through the electronic filing and payment system. Included in the expansion are: a) individual or legal entities identified by the Revenue District Office based on selection criteria pursuant to existing revenue issuances; and b) accredited and prospective importers and customs brokers required to secure accreditation from the BIR. The new regulation will apply once it is published in a newspaper of general circulation.

Russia: As from 1 January 2015, the due date for filing the VAT return and paying tax due changed from the 20th to the 25th day of the month following the tax period, and the list of activities subject to the 0% VAT rate was extended to include certain services rendered by Russian companies for the air transportation of goods.

United States: On 19 December 2014, the president signed legislation that retroactively extended for one year the bulk of the temporary tax deductions, credits and incentives that expired at the end of 2013. For prior coverage, see *World Tax Advisor*, 12 December 2014.
URL: http://newsletters.usdbriefs.com/2014/Tax/WTA/141212_11.html

Vietnam: A new transfer pricing form for declaring information about related party transactions is required for tax periods/fiscal years beginning as from 1 January 2014. The new form requires enterprises to self-assess the arm's length nature of related party transactions in relation to both income and expenses recorded during the year, and to declare any differences between their accounting records and the reassessed price based on the market price. Reassessment seems to be required only when it will result in an increase of an enterprise's profits and tax liability; no guidance has been provided regarding decreases in profits.

BEPS corner

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

China: The State Administration of Taxation has issued regulations on the application of the general anti-avoidance rule (GAAR) that will apply from 1 February 2015, which are timely given the increasing importance of GAARs in the current environment of the BEPS initiative. See China Tax Alert, 19 December 2014.
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-china-191214.pdf?id=us:em:na:wta:eng:tax:010915

OECD: On 15 December 2014, the OECD hosted its fifth webcast providing an update on the BEPS initiative. Topics covered included: 2014 deliverables and G20 Finance Ministers’ and leaders’ reactions; strengthening the engagement with developing countries; follow-up work on the 2014 deliverables; and work on 2015 deliverables.

OECD: As expected, the OECD issued seven public discussion drafts on BEPS issues during the period 16-19 December 2014 (see OECD Tax Alert, 20 December 2014 and OECD Tax Alert, 22 December 2014):
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-oecd-201214.pdf?id=us:em:na:wta:eng:tax:010915
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-tpalert-25-221214.pdf?id=us:em:na:wta:eng:tax:010915

- Action 4: Limit base erosion via interest deductions and other financial payments;
- Actions 8, 9 and 10: Assure that transfer pricing outcomes are in line with value creation: Discussion draft on revisions to chapter I of the transfer pricing guidelines (including risk, recharacterization and special measures). These actions address a number of closely related topics and the draft is comprised of two parts: (1) a revision of chapter I of the transfer pricing guidelines; and (2) options for special measures; and
- Action 14: Make dispute resolution mechanisms more effective.

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China

SAT issues regulations on the application of the GAAR

On 2 December 2014, China's State Administration of Taxation issued regulations on the application of the general anti-avoidance rule (GAAR). The regulations will apply from 1 February 2015.

Issue date: 19 December 2014

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-china-191214.pdf?id=us:em:na:wta:eng:tax:010915

Germany

Anti-hybrid/anti-double dip rules not to be implemented in 2014

Germany's upper house of parliament approved the 2015 tax bill on 19 December 2014 without the original proposed anti-hybrid and anti-double-dip rules and several other proposed measures.

Issue date: 19 December 2014

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-germany-191214.pdf?id=us:em:na:wta:eng:tax:010915

OECD

Discussion draft released on deductibility of interest expense

On 18 December 2014, the OECD, as part of its work on the action plan to address base erosion and profit shifting (BEPS), released a discussion draft on Action 4 in relation to the deductibility of interest expense and economically equivalent financing payments. The discussion draft outlines three main alternatives to tackle non-taxation through the use of interest deductions, summarizes a number of areas where further work is needed and sets out how Action 4 may interact with other BEPS measures, such as the hybrid mismatch proposals in Action 2 and the CFC proposals in Action 3.

Issue date: 20 December 2014

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-oecd-201214.pdf?id=us:em:na:wta:eng:tax:010915

OECD Releases Five Transfer Pricing Discussion Drafts

As expected, the Organization for Economic Cooperation and Development issued five public discussion drafts on transfer pricing issues during the week of 15-19 December.

Issue date: 22 December 2014

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-tpalert-25-221214.pdf?id=us:em:na:wta:eng:tax:010915

Peru

Parliament approves tax reform bill

Peru's parliament approved a bill on 11 December 2014 that contains several tax measures intended to stimulate the economy, including a progressive reduction of the corporate income tax rate, changes to the dividend tax regime and the introduction of a binding private rulings regime. The law was published in the official gazette on 31 December 2014.

Issue date: 19 December 2014

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-peru-191214.pdf?id=us:em:na:wta:eng:tax:010915