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In this issue:

Kuwait government issues guidance on foreign direct investment

Executive regulations that apply as from 1 January 2015 set out the principles, rules, standards and procedures for implementing the 2013 foreign direct investment law that should provide increased opportunities for investors in Kuwait.

Law No.116 of 2013 for Encouraging Foreign Investment (LEFI) repealed the 2001 law regarding the regulation of the direct investment of foreign capital in Kuwait, eliminated the Kuwait Foreign Investment Bureau and granted an individual or a legal person of any nationality permission to directly invest in Kuwait. The new law is one of several new laws and regulations aimed at improving the overall investment climate in Kuwait, fostering competitiveness, encouraging more engagement in value-added investment opportunities by local and foreign investors and achieving Kuwait's economic and social objectives. Certain investment incentives are available under the law, including tax exemptions.

The Direct Investment Promotion Authority (DIPA) is responsible for carrying out all tasks necessary to achieve the objectives of the LEFI.

Form of investment

A direct investment in Kuwait is permitted where the investor – individually or with the participation of another investor – employs its capital directly through an investment entity in Kuwait that is licensed in accordance with the LEFI. An investment entity is an economic enterprise or activity that is granted an investment license that provides the enterprise or activity legal existence in Kuwait, in accordance with the LEFI and its executive regulations. The investment entity may be organized in any of the following forms:

- A Kuwaiti company incorporated for the purpose of direct investment. The foreign investor can wholly own the capital of the company (whether it is a shareholding company, a limited liability company or a sole proprietorship);
- A branch of a foreign company licensed to operate in Kuwait for the purpose of direct investment; or
- A representative office having the sole purpose of preparing market studies and production estimates, without engaging in a commercial activity or the activity of a commercial agent.

Under the LEFI, the capital of an investment entity may include the following:

- Funds, financial and commercial securities (domestic or foreign);
- Machinery, tools, equipment, means of transportation and other “technological devices”;
- Raw materials and intermediate goods required for the commencement of actual production or operations by the investment entity;
- Intangible rights, such as patents, trademarks, licenses, registered trade names and industrial and technological designs; and
- Profits and proceeds of the invested capital, if used to increase capital or employed or used for the purposes of direct investment through an investment entity licensed in accordance with the law.

Licensing of investment entities

The board of directors of the DIPA establishes the principles and rules for the licensing of each form of investment entity. The license application submitted by a potential investor to the DIPA must be accompanied by the information and data required by the competent authorities, and such information should be correct and legally valid. The information required varies depending on the form of the investment entity (as described below).

The DIPA will determine whether the investor qualifies for a license within 30 days of the date the investor submits the application and fulfils the applicable requirements. The investor must obtain the necessary approvals to commence its work within one year of the date the license is issued.

License application for a Kuwaiti company: A license application for a Kuwaiti company must include an attachment containing a preliminary study that includes at least the following information:

- Type of activity proposed to be undertaken;
- Estimated schedule for commencing both operations (including preliminary activities, such as mobilization of staff and equipment) and implementation (actual performance of the activities for which it is organized) of the project;
- Required legal form of the company to be licensed;
- Total amount of the investment;

- Structure and sources of funding;
- Economic and environmental impact;
- Investor's expertise and capabilities;
- Project's requirements (particularly from national and foreign labor), required areas of land, annual needs of raw materials and required goods and their sources; and
- Estimated quantity of water and energy required annually, according to the activity.

License application for branch of a foreign company: A license application for a branch of a foreign company must include an attachment containing a preliminary study that includes the information described above, plus certified copies of the parent company's memorandum of incorporation and articles of association and its most recent audited financial statements.

License application for a representative office: A license application to open a representative office must include the purpose for establishing the office and, similar to the requirements for a branch, a preliminary study and certified copies of the parent company's memorandum of incorporation and articles of association and its most recent audited financial statements.

Incentives and exemptions

Simultaneously with, or subsequent to, applying for the license, the investment entity must apply to the DIPA to obtain the benefits to which it is entitled, including the incentives and exemptions provided in the LEFI. If an investment entity carries out multiple activities, its entitlement to incentives and exemptions, including tax exemptions, is limited to those available for the activities approved by the DIPA.

Tax exemption: A qualifying investment entity may be granted an exemption from income tax or any other taxes for a maximum period of 10 years from the date its actual operations commence.

To qualify, the licensed investment entity must have accounting records that are monitored and certified by one or more chartered auditors.

If the investment entity carries out more than one activity, it should claim the tax exemption separately for each activity and provide a separate calculation of the period of tax exemption from the date it commenced the actual operations for each activity.

After the investment entity submits its application for a tax exemption to the DIPA, the DIPA will evaluate the application. The board of the DIPA can set the bases and rules for evaluating the application, and can amend the criteria as appropriate.

After verifying the submitted data and the actual commencement of operations, the DIPA director/manager should issue a tax exemption certificate to the investment entity within 15 days of announcing the exemption has been granted.

Customs exemption: A qualifying investment entity may be granted a full or partial exemption from customs fees and taxes on imports in the name of, or on the behalf of, the investment entity if the quantity and quality of the imported materials are consistent with the nature of the investment activity and commensurate with its needs.

The investment entity will be exempt, in full or in part, from taxes and customs fees and any other fees that may be payable on the imports necessary for the direct investment purpose, including the following:

- Machinery, tools, equipment, transportation and other technological devices;
- Spare parts and necessary maintenance accessories for items described in the previous bullet; and
- Required goods, raw materials, partial manufactured goods and packaging for materials and supplies.

The customs exemption application should be submitted along with the list of information requested by the DIPA. The director/manager will issue an exemption certificate that will be binding on all concerned parties, without the need for other approvals.

The DIPA will coordinate with the General Administration of Customs and other concerned parties to determine the mechanisms and procedures related to the customs exemption for direct investment entities.

— Ihab Abbas (Kuwait City)
Partner
Deloitte Kuwait
iabbas@deloitte.com

Bassem Abulkhair (Kuwait City)
Principal
Deloitte Kuwait
basabulkhair@deloitte.com

US presidential budget proposal for FY 2016 released

President Obama on 2 February 2015 released a budget blueprint for fiscal year 2016 that, among other things, calls for a cut in the top corporate tax rate to 28% (25% for "advanced manufacturing" companies). It also calls for changing the tax treatment of multinationals – and moving the US toward a territorial tax system – through a new minimum tax on foreign earnings of domestic multinationals and their controlled foreign subsidiaries, along with a one-time repatriation tax on previously untaxed foreign earnings. In addition, a number of the temporary tax provisions that expired at the end of 2014 would be renewed or made permanent.

Many of the revenue provisions are repeated from previous Obama administration budget proposals; however, there are several significant new provisions affecting both corporate and individual taxpayers. (A detailed look at the multinational provisions in the Obama administration's budget blueprint is available in United States Tax alert, 6 February 2015). In general, the proposals would take effect for tax years beginning after 31 December 2015.
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-unitedstates-060215.pdf?id=us:em:na:wta:eng:tax:021315

Notable corporate tax provisions

Provisions that would affect multinational corporations include the following:

- **Two related, large revenue raisers directed at multinationals:**
    - **Minimum tax:** The FY 2016 budget proposal generally would eliminate the US taxation of dividends received by corporate US shareholders from controlled foreign corporations (CFCs) and, in its place, generally would seek to ensure that at least a 19% worldwide tax is imposed on CFCs' earnings. This same treatment generally would apply to income of a foreign branch of a domestic corporation.
    - **Repatriation:** In connection with the transition to the 19% minimum tax, the budget proposal would impose a one-time 14% tax on previously untaxed foreign earnings, which would be payable ratably over five years. A foreign tax credit (calculated using a ratio of the 14% rate to the top US statutory corporate rate) would be allowed, and no further tax would be due on earnings that are repatriated.
- **Fee on financial institutions:** Similar to past budgets, the administration proposes to levy a fee on large financial institutions. This year's version would apply a fee of seven basis points (.07%) on certain liabilities of financial institutions (including banks, insurance companies, exchanges, asset managers and broker-dealers) with worldwide consolidated assets of more than USD 50 billion.
- **Energy:** The budget includes many provisions from past budgets that would eliminate fossil fuel preferences, and a new provision that would treat fossil-fuel publicly traded partnerships as "C corporations" for income tax purposes. This proposal, however, would not apply to these publicly traded partnerships until 2021.
- **"Recycled" provisions:** Some notable corporate offsets carried over from previous budget packages include proposals to:
    - Tighten the international tax rules, including provisions to restrict deductions for "excessive" interest by members of financial reporting groups, limit the ability of domestic entities to expatriate (modified from previous versions), curtail the use of leveraged distributions to avoid dividend treatment and limit shifting of income through intangible property transfers;
    - Repeal the nonqualified preferred stock designation, and eliminate the "boot-within-gain" limitation; and
    - Repeal the last in, first out (LIFO) and lower of cost or market (LCM) accounting methods.

Notable individual tax provisions

The president's budget proposal includes two major new revenue-raisers that would reform the taxation of capital gain income for certain individuals – both during a taxpayer's lifetime and at death:

- An increase of the top rate on long-term capital gains and qualified dividends from 20% to 24.2% (including the 3.8% surtax on net investment income, the total top rate would rise to 28%); and
- Elimination of the "stepped-up" basis for appreciated assets at death, subject to various exemptions, including a USD 100,000 per-person capital gain exclusion that would be portable between spouses.

Additionally, a number of individual tax revenue raisers have been carried over from previous budget packages, including provisions that would require households with income over USD 1 million to pay at least 30% of their income (after charitable giving) in taxes, cap the value of certain deductions and income exclusions for high-income taxpayers and tax income from "carried interests" at ordinary rates.

Limited "extenders" included

The budget package does not explicitly address many of the several dozen temporary tax deductions, credits and exclusions that expired at the end of 2014; however, it does include provisions that would renew or make permanent a number of these tax "extenders." Notably, the budget proposal would:

- Permanently extend the "subpart F" exception for active financing income and the lookthrough treatment of payments between related CFCs (past budgets called for a temporary extension);
- Expand and permanently extend the research and experimentation credit;
- Modify and permanently extend the renewable energy production tax credit and investment tax credit;
- Modify and permanently extend the New Markets Tax Credit and the Work Opportunity Tax Credit;
- Modify and permanently extend the deduction for energy-efficient commercial building property; and
- Permanently extend the increased "section 179" expensing and investment limitations.

Comments

The budget indicates where the president wants to take the country; however, Congress is now controlled by the Republican Party, which has very different ideas about taxes and spending and is unlikely to regard this document as the starting point for negotiations.

The Republican Party has called for comprehensive reform in the past, but appears willing to explore the idea of business-only tax changes that address both C corporations and passthroughs. To that extent, the president's embrace of a territorial tax regime, albeit with safeguards to prevent base erosion, may help clear the way for the two parties to better determine if there is sufficient common ground to make legislating possible during the very narrow window in 2015 before presidential politics becomes the dominant factor in policy debates.

This leads to a very important caveat for individuals and businesses. Proposals that, on their own, seem impossible in the current political environment – for example, the proposed high tax rate for deemed repatriation of offshore earnings – can become viable in the context of broader tax reform.

— Jon Traub (Washington, DC)
Principal
Deloitte Tax LLP
jtraub@deloitte.com

Jeff Kummer (Washington, DC)
Director
Deloitte Tax LLP
jkummer@deloitte.com

Alex Brosseau (Washington, DC)
Senior Manager
Deloitte Tax LLP
abrosseau@deloitte.com

Jon Almeras (Washington, DC)
Manager
Deloitte Tax LLP
jalmeras@deloitte.com

China: Guidance issued to facilitate corporate reorganizations

China's Ministry of Finance and the State Administration of Taxation (SAT) published two circulars (Circulars No. 109 and 116) on 8 January 2015 that relax the requirements for reorganizations to qualify for special tax treatment (i.e. no gain or loss will be recognized on the date of reorganization for enterprise income tax purposes, but will be deferred to the time of a subsequent taxable disposition) and grant a maximum five-year period to pay tax by installment on gains realized when a nonmonetary asset is contributed for equity. The circulars apply retroactively as from 1 January 2014, as well as to any transaction whose tax treatment has not been finalized.

The circulars are a response to a notice issued by the State Council in March 2014 asking the government to expand the scope of transactions eligible for special tax treatment and to make improvements to the relevant tax policies.

Background

Corporate reorganizations normally result in the taxable transfer of shares or assets, although, in certain cases, an enterprise may elect for special treatment to effectively achieve a deferral of enterprise income tax if all of the following conditions are satisfied in a domestic share or asset acquisition (additional requirements must be met in cross-border reorganizations):

- The transaction has a bona fide business purpose and the primary purpose of the transaction is not to reduce, avoid or defer the payment of tax;
- At least 75% of the total equity of the target company, or the total assets of the transferor, is transferred in the acquisition ("minimum acquisition threshold");
- There is no change in the original business operating activities of the target business for 12 months after the reorganization;
- At least 85% of the total consideration received by the transferor is in the form of equity; and
- The major transferor does not transfer the acquired equity for 12 months after the acquisition.

Circular 109

Circular 109 reduces the minimum acquisition threshold from 75% to 50% for a share or an asset acquisition to qualify for the special tax treatment, and introduces a new form of special tax treatment for an intragroup "assignment" of shares or assets between resident enterprises. The new form of special tax treatment will apply if all of the following conditions are satisfied:

- The assignment of shares or assets are between resident enterprises that have a 100% direct control relationship, or that both are under the 100% direct control of the same resident enterprise or the same group of resident enterprises;
- The assignment of shares or assets is based on the net book value (NBV);
- The transaction has a bona fide business purpose and the primary purpose of the transaction is not to reduce, avoid or defer the payment of tax;
- There is no change in the original business operating activities in relation to the shares or assets concerned for 12 months after the assignment; and
- Neither the transferor nor the transferee enterprise has recognized any profit or loss for financial accounting purposes.

If the qualifying parties elect for this special tax treatment:

- Neither the transferor nor the transferee enterprise will be required to recognize taxable income;
- The tax basis of the shares or assets received by the transferee will be determined based on the NBV in the hands of the transferor; and
- For tax depreciable assets assigned to the transferee enterprise, the tax depreciation will be calculated based on the NBV in the hands of the transferor.

Circular 116

Where a resident enterprise contributes nonmonetary assets for equity in another resident enterprise, it normally must recognize the fair market value of the assets over its tax basis as a taxable gain. However, Circular 116 now allows the taxpayer to spread the gain over a period of up to five years for enterprise income tax purposes and pay the relevant tax in installments. The tax basis of the acquired equity will step up according to the taxing schedule of the gain. The installment treatment has been piloted in the China (Shanghai) Pilot Free Trade Zone and now is rolled out nationwide.

Circular 116 also allows a taxpayer to elect to apply special tax treatment (provided the contribution of nonmonetary assets satisfies the relevant conditions) instead of the five-year installment treatment.

Comments

Businesses generally have welcomed the issuance of Circulars 109 and 116 because the circulars should allow share or asset acquisitions to be carried out in a more tax-efficient manner.

The new form of special tax treatment, which appears somewhat similar to income tax relief for intragroup share transfers under the pre-2008 Foreign-Invested Enterprise Income Tax regime (i.e. Circular 207), may help facilitate intragroup reorganizations under which tax deferral will be granted regardless of the percentage of shares/assets acquired or the form of the consideration. Unfortunately, the new form of special tax treatment does not apply to intragroup cross-border reorganizations or transfers of the shares of a resident company as a result of the intragroup restructuring (e.g. merger, division, liquidation, etc.) of its foreign parent company.

The SAT is expected to issue further guidance that contains details on the implementation of the two circulars and clarifies certain aspects (e.g. the definition of “assignment”). Affected taxpayers should evaluate and explore the possibilities of enjoying tax deferral in merger and acquisition transactions, closely monitor the regulatory and practice development and seek professional advice where necessary.

— Hong Ye (Shanghai)
Partner
Qin Li Law Firm*
hoyeqinli@qinlilawfirm.com

Kevin Zhu (Shanghai)
Director
Deloitte China
kzhu@deloitte.com.cn

Crystal Dong (Shanghai)
Senior Manager
Deloitte China
crdong@deloitte.com.cn

* *Qin Li Law Firm is a Chinese law firm and forms part of the international Deloitte network.*

France:
Option to apply VAT reverse charge on imports introduced

Effective 1 January 2015, an optional VAT reverse charge allows certain companies importing goods into France to account for the VAT on the goods on their VAT returns submitted to the French tax authorities, rather than paying the VAT at import. The new regime is available to businesses that are authorized to use a centralized customs clearance system (i.e. holders of a “PDU certificate”). Although the French tax authorities have not published guidance on the application of the new rule, the customs authorities issued a circular on 7 January 2015 that provides the form to elect into the regime.

Both EU and non-EU taxable persons can opt for the reverse charge, provided the importer of record (i.e. the taxable person) is VAT-registered in France (establishment in France is not necessary) and holds an authorization to apply the centralized customs clearance procedure in its own name. An importer of record that does not have a PDU certificate must request one from the customs authorities before opting for the reverse charge. Non-EU companies wishing to use the reverse charge first must obtain a French VAT number (generally via a French VAT representative) if they do not have one, and must appoint a customs broker who will request the PDU certificate in their name.

To obtain a PDU certificate, the importer of record must meet the AEO (Authorized Economic Operator) criteria for customs purposes and carry out import transactions on a regular basis in France. The importer of record also must import goods through at least two different customs offices.

The French customs authorities will examine the PDU application, check the validity of the VAT number and the status of the applicant and conduct an audit before issuing a PDU certificate that will allow the applicant to opt for self-assessing VAT on import. The PDU certificate will be granted within five months of submitting the application.

Once the reverse charge option is elected, it will apply for three years and will be automatically renewed, unless the taxpayer provides notice at least two months before the end of the three-year period.

Comments

In addition to the cash flow benefit available under the reverse charge regime, entities that are not established for VAT purposes in France and that do not file VAT returns should benefit from the regime because it will facilitate the VAT refund process and allow them to recover all VAT incurred in France through the domestic procedure. Obtaining a PDU certificate also may provide an administrative benefit because the certificate will allow taxable persons to pay customs duties to only one customs office.

This article has been prepared by professionals in Taj, French tax and legal firm, member of Deloitte Touche Tohmatsu Limited.

— Odile Courjon (Paris)
Partner
Taj
ocourjon@taj.fr

Marie Manuelli (Paris)
Director
Taj
mmanuelli@taj.fr

Ukraine:
Tax reform enacted

A law published on 31 December 2014 makes significant changes to the Tax Code of Ukraine (TCU) and other laws, particularly regarding corporate income tax, transfer pricing, personal income tax and value added tax (VAT). Overall, the law simplifies tax accounting, reduces the total number of taxes and duties from 22 to 11 (nine taxes and two duties), through partial abolition and consolidation, and makes other changes to the tax rules. The new law is effective from 1 January 2015, although some measures will take effect at a later date. A brief summary of key provisions relating to corporate and personal income tax is below.

Corporate income tax

- The law modifies the calculation of taxable income by reducing the number of differences between financial and tax accounting principles. Taxable income now should be calculated by beginning with the taxpayer’s accounting data, and adjusting profit (loss) before tax by the amount of certain specified differences. The concept of deductible expenses not related to a taxpayer’s business activities and certain restrictions in the previous version of the TCU have been eliminated. The following, along with adjustments related to the application of the transfer pricing rules and certain other differences, are the major differences that adjust financial profit before tax for purposes of calculating taxable income:
    - **Depreciation:** As under the prior version of the TCU, depreciation is calculated according to the financial accounting rules, subject to restrictions in the TCU with regard to minimum periods of use (similar to those previously in effect).

    - **Accruals/reserves:** Specific accounting provisions apply regarding accruals and adjustments of reserves (except for accrued vacation, for which there should be no difference from financial accounting, and provisions for doubtful debts, which are recognized according to separate rules).
    - **Interest:** A limitation is imposed on the amount of deductible interest on debt liabilities. Interest on loans from nonresident related parties exceeding 50% of pretax profits increased by the amount of financing expenses and depreciation may not be deducted in the current tax period if the amount of debt liabilities exceeds equity capital by 3.5 times or more. Interest not deducted in the current tax period may be carried forward to future periods and deducted ratably at 5% annually, until fully repaid.
- The law modifies certain definitions for purposes of the tax rules, including an extension of the definition of "permanent establishment" (PE) to include an agency PE for the negotiation of significant contract terms (consistent with commentary from the OECD), and a clarification of the definition of royalties.
- The deadline for submitting the annual corporate income tax return (starting with the 2015 return) is moved to 1 June following the tax year (previously, it was 40 or 60 days following the end of the reporting period). Accordingly, advance corporate income tax payments should be made from June to May.
- Some changes have been made to the tax procedures that apply to insurance companies; the rules for writing off debts at the expense of bank provisions have been materially altered.

Transfer pricing

- The transfer pricing rules have been amended to bring them more in line with the OECD guidelines.
- The rules now apply only to cross-border transactions (domestic transactions are no longer covered), and the list of covered transactions has been expanded. Transactions with nonresidents registered in low-tax jurisdictions now fall within the scope of Ukraine's transfer pricing rules; a list of such jurisdictions will be published by the Cabinet of Ministers.
- Transactions with the same counterparty will be treated as controlled transactions if the volume of the transactions exceeds the lesser of UAH 1 million or 3% of taxable income, and the revenue of the taxpayer and/or its related parties exceeds UAH 20 million for the tax year.
- The law provides for three types of transfer pricing reports: (1) transfer pricing documentation; (2) an annex to the corporate income tax return, with information on controlled transactions performed; and (3) a report on controlled transactions, if the volume of controlled transactions with the same counterparty exceeds UAH 5 million in a tax period.
- The penalties for failure to comply with the transfer pricing rules have increased.

Personal income tax

- The personal income tax rate is 20% (increased from 17%) for any income other than passive income (wages, payments under civil contracts, etc.) if the amount exceeds 10 minimum monthly salaries (for any income not exceeding this amount, the existing rate of 15% continues to apply).

- Passive income (dividends (except as noted below), interest, income from investments) is taxed at a rate of 20% (increased from 5% for dividends and 15%/17% for other income).
- A 5% rate continues to apply to dividends paid by resident corporate income taxpayers (except dividends paid by shared investment institutions).

Indirect taxes

- Several procedural changes are made to the VAT rules, including to the refund procedure and to the invoicing and registration rules. Special VAT accounts are required as from 1 January 2015.
- The excise tax on securities transactions is abolished.
- The base of the real estate tax is extended to include both residential and nonresidential premises (previously, only residential premises were subject to taxation). Some exemptions (e.g. for buildings used for agricultural production and industrial buildings) are available. The tax rate will be established by the local authorities but should not exceed 2% of minimum salary (approximately USD 1.50) per square meter.

— Victoria Chornovol (Kyiv)
Partner
Deloitte Ukraine
vchornovol@deloitte.ua

Yevgen Zanoza (Kyiv)
Partner
Deloitte Ukraine
yzanoza@deloitte.ua

Andriy Servetnyk (Kyiv)
Partner
Deloitte Ukraine
aservetnyk@deloitte.ua

In brief

Algeria: The standard corporate tax rate is 23% (previously, the rate was 25% for nontourism companies involved in the services sector and 19% for tourism and production sector companies). Special tax rules may apply to the hydrocarbon and mining sectors. The rate change, announced in a memo dated 19 January 2015, applies for the corporate income tax return to be filed by 20 April 2015.

Angola: A new industrial tax code, which applies as from 1 January 2015, reduces the standard tax rate from 35% to 30% (the 30% rate also is applicable to the 2014 tax year), with a reduced rate of 15% for income derived from agriculture, aquaculture, forestry and poultry and livestock production.

Czech Republic: The General Tax Directorate has published on its website updated guidance on the mandatory electronic submission of VAT returns and other documents as from 1 January 2014. The guidance contains detailed information on electronic submissions, including the scope of the rules and the electronic means for actually submitting VAT returns and other documents as from 2015. Only individual entrepreneurs still are allowed to file in paper format, although even this option has been further restricted as from 2015.

European Union: The European Council issued a press release on 27 January 2015 announcing that it adopted the proposal to include a general anti-abuse provision in the EU parent-subsidiary directive (for prior coverage, see *World Tax Advisor*, 9 May 2014). The anti-abuse clause aims to prevent misuses of the directive and ensure more consistency in its application; the clause requires governments to refrain from granting the benefits of the directive where there is an arrangement, or a series thereof, that are not genuine and have been put in place to obtain a tax advantage. EU member states are required to implement the anti-abuse rule by 31 December 2015.
URL: http://newsletters.usdbriefs.com/2014/Tax/WTA/140509_5.html

Jordan: As from 1 January 2015, the standard corporate tax rate increased from 14% to 20%, with a 35% rate (increased from 30%) applicable to banks. A 24% rate applies to certain specified industries including telecom and mining, and a 20% rate applies to the contracting, trading and services sectors. A 14% rate applies to the industrial sector. The withholding tax rate on interest, royalties and imported services also increased from 7% to 10% as from 1 January 2015.

Mexico: Mexico's Tax Administration Service (SAT) published rules on 26 December 2014 that introduce a requirement for importers of textiles and apparel to register in the Importers Registry to be able to import such items into Mexico. Although the registration requirement applies as from 1 January 2015, the online registration system was not operative then. As a result, the SAT issued a bulletin on 5 January extending the effective date to 1 February 2015.

Romania: Certain changes to the VAT registration procedures apply as from 1 February 2015, including new forms that may increase the volume and complexity of the information taxable persons must provide.

Russia: The Ministry of Finance has clarified that where a foreign company supplies services to provide a Russian company access to an electronic database, the place of supply for VAT purposes should be determined based on the place of business of the supplier, so the services should not be subject to VAT in Russia. Where the foreign company performs services to publish information about the Russian company in the database at the same time, the VAT treatment of the publishing services depends on whether they can be considered ancillary services: if they can be, the place of supply is considered the same as the place of supply of the principal services (i.e. providing access to the database); otherwise, they should be treated as advertising services, which generally are deemed to be supplied in Russia if the purchaser has a place of business in Russia.

United Kingdom: The UK tax authorities (HMRC) have issued guidance for businesses supplying digital services to private consumers that take into account the new EU VAT place of supply rules for broadcasting, telecommunications and e-services. As from 1 January 2015, the place of taxation for such digital services is the location of the consumer rather than the supplier. The guidance explains the scope and application of the new rules and includes a flowchart to help businesses decide if they are affected by the rule changes.

BEPS corner

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

G-20: The G-20 issued a communiqué from its 9-10 February 2015 Finance Ministers and Central Bank Governors Meeting in Istanbul indicating that the deliverables under the BEPS action plan will be finalized by the end of 2015 and that it endorses the development of a multilateral instrument to facilitate the implementation of tax treaty-related BEPS measures.

OECD: The OECD has arranged a number of regional meetings in February-March 2015 to discuss BEPS with countries not directly involved with the G20/OECD project. Coming up are meetings in Gabon, Korea, Peru, South Africa and Turkey. The public meetings on transfer pricing are likely to be brought forward to June.

OECD: The OECD has issued guidance on the implementation of transfer pricing documentation and country-by-country reporting. See OECD Transfer Pricing alert, 6 February 2015.
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-tpalert-oecd-004-060215.pdf?id=us:em:na:wta:eng:tax:021315

United States: The international tax reform provisions in the president’s FY 2016 budget contain certain proposals that are consistent with, or that appear to respond to, items on the OECD’s BEPS action plan. See United States Tax alert, 6 February 2015.
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-unitedstates-060215.pdf?id=us:em:na:wta:eng:tax:021315

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Brazil
New tax package introduced
The Brazilian government has introduced a series of measures that aim to increase tax revenue; the measures affect the PIS/COFINS rates, the tax on financial transactions and the tax on manufactured products.
Issue date: 4 February 2015
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-brazil-040215.pdf?id=us:em:na:wta:eng:tax:021315

China

SAT issues new rules on indirect transfers of assets by nonresident enterprises

On 6 February 2015, China's State Administration of Taxation issued new guidance (Bulletin 7) on the PRC tax treatment of an indirect transfer of assets by a nonresident enterprise. Bulletin 7 is the latest regulatory instrument on indirect transfers and follows two previous sets of guidance issued in 2009 and 2011: Circular 698 and Bulletin 24. Bulletin 7 abolishes certain provisions of Circular 698 and Bulletin 24 and provides more comprehensive guidelines on a number of issues.

Issue date: 6 February 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-china-060215.pdf?id=us:em:na:wta:eng:tax:021315

France

France increases penalties for lack of compliance with documentation rules

France's 2015 Finance Bill, enacted on 29 December 2014, increased the penalties applicable in cases of failure to comply with the transfer pricing documentation rules.

Issue date: 2 February 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-tpalert-france-002-030215.pdf?id=us:em:na:wta:eng:tax:021315

India

India, US reach agreement to solve backlog of competent authority cases

In separate statements to the media, the competent authorities of India and the US confirmed that the two tax authorities have reached broad agreement on a framework for resolving many pending US-India mutual agreement procedure cases to resolve double taxation arising from India-initiated transfer pricing adjustments.

Issue date: 21 January 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-tpalert-26-210115.pdf?id=us:em:na:wta:eng:tax:021315

OECD

OECD issues guidance on CbC reporting implementation

The OECD on 6 February 2015 released guidance on the implementation of transfer pricing documentation and country-by-country (CbC) reporting. The guidance provided answers to taxpayers' questions regarding the timing of preparation and filing of the CbC report, which companies will be subject to the reporting requirements, the use of the CbC report by jurisdictions and the mechanisms for government-to-government exchange of CbC reports.

Issue date: 6 February 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-tpalert-oecd-004-060215.pdf?id=us:em:na:wta:eng:tax:021315

Singapore

Singapore releases new transfer pricing guidelines

The Inland Revenue Authority of Singapore (IRAS) on 6 January 2015 released revised transfer pricing guidelines. The new, comprehensive guidelines replace the transfer pricing guidelines issued in 2006, and three supplementary guidelines/circulars issued in 2008 and 2009.

Issue date: 2 February 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-tpalert-singapore-003-030215.pdf?id=us:em:na:wta:eng:tax:021315

Spain

Requirements to benefit from WHT exemption for dividend distributions to EU parent companies relaxed

As from 1 January 2015, the requirements for EU resident investors to receive a withholding tax exemption for dividend distributions from a Spanish subsidiary have been relaxed to include situations in which the EU investor holds less than 5% of the capital of the distributing company, as long as the acquisition cost of the participation exceeds EUR 20 million and certain other requirements are met.

Issue date: 4 February 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-spain-040215.pdf?id=us:em:na:wta:eng:tax:021315

United States

Administration proposes fundamental international tax reform in FY2016 Budget

On 2 February 2015, the Obama Administration and Treasury Department released the FY2016 Budget and General Explanations of the Administration's Fiscal Year 2016 Revenue Proposals (the Greenbook). The Administration, along with proposing a reduction in the corporate tax rate from 35% to 28%, proposes the fundamental reform of the US international tax rules. The Administration's proposal generally calls for a 100% exemption on dividends from CFCs, a 19% worldwide minimum tax on foreign earnings and a 14% one-time transition tax into the new regime.

Issue date: 6 February 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-unitedstates-060215.pdf?id=us:em:na:wta:eng:tax:021315

Final foreign tax credit splitter regulations issued

On 9 February 2015, the US Treasury and the Internal Revenue Service filed final regulations under section 909 of the Internal Revenue Code addressing foreign tax credit splitter transactions and removed the temporary regulations released in February 2012. Section 909 suspends foreign taxes that accrue as a result of a "foreign tax credit splitting event." While the final regulations adopt the temporary regulations without significant change, certain clarifying changes were made to the final regulations.

Issue date: 11 February 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-unitedstates-110215.pdf?id=us:em:na:wta:eng:tax:021315