Global Tax Developments Quarterly

Accounting for Income Taxes

Summary of recent international tax developments that may have implications on accounting for income taxes under U.S. GAAP

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9 October 2014
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Introduction

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Unless otherwise indicated, the content in this document is based on information available as of 30 September 2014. Accordingly, certain aspects of this document may be updated as new information becomes available. Financial statement preparers and other users of this document should take actions to remain abreast of and carefully evaluate additional events that may be relevant to accounting for income taxes matters.

Applicable U.S. GAAP guidance

Under U.S. GAAP, the effects of new legislation are recognized upon enactment. More specifically, the effect of a change in tax laws or rates on a deferred tax liability or asset is recognized as a discrete item in the interim period that includes the enactment date. The tax effects of a change in tax laws or rates on taxes currently payable or refundable for the current year are reflected in the computation of the annual effective tax rate after the effective dates prescribed in the statutes, beginning no earlier than the first interim period that includes the enactment date of the new legislation. However, any effect of tax law or rate changes on taxes payable or refundable for a prior year, such as when the change has retroactive effects, is recognized upon enactment as a discrete item of tax expense or benefit for the current year. While there is no specific rule as to what constitutes “enactment” under U.S. GAAP, it is commonly accepted that enactment takes place on the date the last step in the legislative process required to promulgate the law is complete (e.g., a law is published in an official gazette, signed by a president, or receives Royal Assent).

Enacted tax law changes: 1 July to 30 September 2014

Chile

France

Guernsey/Jersey/Isle of Man

India

Kazakhstan

Mexico

The following section includes a brief summary of major international income tax law changes enacted during the period 1 July to 30 September 2014, unless specified otherwise.

Chile

Tax Reform Enacted

Date of enactment: 29 September 2014
Effective date: Various

A broad-based tax reform enacted on 29 September 2014 includes the following changes:

- The introduction of a dual tax system;
- A gradual increase of the First Category Income Tax rate;
- Several anti-avoidance rules, including new thin capitalization rules, the introduction of controlled foreign company rules, a general anti-avoidance rule and additional requirements for the deduction of payments to foreign related parties;
- The introduction of a program for voluntary disclosure of foreign assets and income;
- Certain measures relating to indirect taxes;
- Certain measures relating to small and medium-sized companies; and
- Various other measures, including elimination of the benefit that allows amortization of certain tax goodwill over 10 years.

Effective dates for the changes range from 1 October 2014 through 1 January 2017.

See also **World Tax Advisor – 26 September 2014** and **Chile Tax Alert — 23 August 2014**.

France

Corporate Tax Rate Temporary Surcharge Increased

Date of enactment: 9 August 2014
Effective date: 31 December 2013

The rate of the corporate tax surcharge applicable to companies with revenue exceeding EUR 250 million increased from 5% to 10.7% for fiscal years closed on or after 31 December 2013, which increased the maximum corporate income tax rate from 36.10% to 38%. A law issued on 9 August 2014 extended the application of the temporary surcharge by one year; the surcharge now is expected to apply until fiscal years ending on 30 December 2016.

See also **World Tax Advisor – 12 September 2014** and **France Tax Alert – 25 July 2014**.

Guernsey/Jersey/Isle of Man

Changes to UK Tax Residence Rules Offer Greater Flexibility for Offshore Fund Structures and Their Managers

Date of enactment: 17 July 2014
Effective date: 5 December 2013

The UK Finance Act 2014, enacted on 17 July 2014, includes legislation that exempts certain non-UK-incorporated alternative investment funds (AIFs) from being tax resident in the UK, even if the central management and control of the fund is carried out in the UK. The legislation has retroactive effect from 5 December 2013 and may affect the offshore finance industry in Guernsey, Jersey and the Isle of Man ("the Islands").

Previously, certain UCITS (collective investment) funds were treated as not being a tax resident in the UK if they were resident in another EU member state for the purposes of any tax imposed under the law of that member state on income. This provision was of no relevance to the Islands because their funds fall outside the scope of the UCITS regime.

The scope of the exemption from UK tax residence now has been extended to include certain entities that fall within the definition of an AIF under the Alternative Investment Fund Managers Directive (AIFMD). Additionally, the requirement for the fund to be an "offshore fund" (broadly speaking, a fund that is open ended or has such characteristics) has been removed. This is a significant broadening of the exemption.

See also **World Tax Advisor – 22 August 2014**.

India

2014-2015 Budget Approved

Date of enactment: 6 August 2014
Effective date: Various

The Indian budget for 2014-15, which received the president's assent on 6 August 2014, includes the following changes:

- There is no change to the corporate tax rate, surcharge or cess;
- Expenditure incurred on corporate social responsibility activities (which are mandatory for certain companies as from 1 April 2014) generally is not deductible for tax purposes;
- Capital gains from the sale of shares of an unlisted company (private or public) qualify as long-term capital gains eligible for concessional tax treatment only if the shares have been held for more than 36 months (increased from 12 months);

- For dividends distributed on or after 1 October 2014, the dividend distribution tax (15% plus a 10% surcharge and 3% cess) payable on the amount of the actual (net) dividends distributed by an Indian company are payable on a "grossed up" basis. This increases the effective dividend distribution tax rate by almost 3%;
- As from 1 October 2014, a specific tax regime applies to real estate investment trusts and infrastructure investment trusts set up in accordance with Securities and Exchange Board of India regulations;
- An advance pricing agreement may apply retroactively for a period of up to four prior tax years (subject to conditions and procedures to be prescribed by the government);
- The transfer pricing regulations have been amended to introduce a "range" concept for determining an arm's length price;
- The concessional withholding tax rate of 5% is applicable to interest on monies borrowed in foreign currency up to 30 June 2017 under a loan agreement, or on all long-term bonds;
- The deeming provision in the transfer pricing rules, which brings certain transactions with unrelated parties within the scope of the transfer pricing law in certain circumstances, has been amended to clarify that the provision also applies where the third party is an Indian resident if certain conditions are fulfilled;
- The beneficial 15% tax rate on dividends declared, distributed or paid by specified foreign companies to an Indian company is extended indefinitely (previously, it applied only to dividends received up to 31 March 2014); and
- Where withholding tax is not deducted on payments to residents, the nondeductible portion of the payments is limited to 30% (previously, 100% nondeductible).

See also **World Tax Advisor — 25 July 2014.**

Kazakhstan

New Investment Incentives to Become Available

Date of enactment: 24 June 2014
Effective date: 1 January 2015

A new law designed to improve Kazakhstan's overall investment climate became effective on 24 June 2014 and will apply as from 1 January 2015. The law introduces preferential treatment for investors involved in "priority investment projects," and other beneficial options for projects that do not qualify as priority investment projects. Although the detailed list of types of "priority activities" has not been published, it likely will include a wide range of activities. Since this list will be important for potential investors, clarifying acts and supporting legislation are expected to be finalized in the coming months.

See also **World Tax Advisor – 25 July 2014.**

Mexico

Requirements for Electronic Accounting Records Published

Date of enactment: 4 July 2014
Effective date: 31 January 2015

Mexico's 2014 tax reform introduced a requirement for taxpayers to submit certain accounting records to the tax authorities. The rules for this new reporting requirement were published in the official gazette on 4 July 2014 and apply to accounting records for periods starting from 1 July 2014.

On 19 August 2014, the Mexico Tax Authorities (SAT) extended the period for companies to electronically submit detailed accounting records and journal entries to the SAT internet portal. The new rules amend rules published on 4 July, as follows:

- Monthly company trial balances for the period from July to December 2014 that were to be submitted between October 2014 and January 2015 (depending on the month covered) now must be submitted no later than 31 January 2015;
- Electronic "journal" entries requested during the course of an audit, or to validate a tax refund or offset, will be required for information generated in periods starting from 1 January 2015; and
- The chart of accounts grouped with the tax authority's group codes must be submitted no later than 31 January 2015 (rather than 31 October 2014).

See also **World Tax Advisor – 25 July 2014** and **World Tax Advisor – 22 August 2014**.

Enacted tax law changes that are now effective: 1 July to 30 September 2014

The following section includes a brief summary of major international income tax law changes enacted before 1 July 2014, but are first effective in the period 1 July to 30 September 2014.

Italy

Latvia

Italy – Changes to Withholding Tax Rates

The Italian government passed a law decree on 24 April 2014 that includes changes in the tax rates. The decree was published in the official gazette on the same date, and converted into law on 18 June 2014 (the law was published in the official gazette on 23 June 2014).

As from 1 July 2014, the domestic withholding tax applicable to certain dividends, interest and capital gains increased from 20% to 26%. Interest and capital gains on bonds issued by the Italian government, however, remain taxable at a reduced 12.5% rate.

See also **World Tax Advisor – 27 June 2014.**

Latvia – Super Deduction for Research and Experimental Development Costs

As from 1 January 2014, Latvia extended the corporate income tax relief available for investments exceeding EUR 10 million and introduced a new “super deduction” for certain research and development (R&D) costs.

Manufacturing companies investing more than EUR 10 million (previously approximately EUR 4 million) in Latvia within five years of the date a project is approved can apply for “supported investment project” status, which provides corporate income tax relief of up to 25% for investments of up to EUR 50 million, and relief of up to 15% for investments exceeding EUR 50 million.

A super deduction of 300% of applied research and experimental development costs applies as from 1 July 2014 (limited to labor costs and services of certain certified institutions); the deduction will be granted if the taxpayer maintains internal project documentation, which will need to be presented to the tax authorities upon request.

See also **World Tax Advisor – 14 February 2014.**

Enacted tax law changes that are effective as from 1 October 2014

The following section includes a brief summary of major international income tax law changes enacted before 1 July 2014, but are effective as from 1 October 2014.

Per a review of the jurisdictions that are generally monitored and tracked in this publication, no tax law changes that are effective as from 1 October 2014 have been identified.

The measurement of current and deferred tax liabilities and assets is based on provisions of the enacted tax law; the effects of future changes in tax laws or rates are not anticipated (ASC 740-10-30-2(a)). When a change in tax law is enacted in an interim period, a corporation should account for the enactment in accordance with the guidance set forth under ASC 740-270, Income Taxes: Interim Reporting. For current taxes payable or refundable, the annual effective tax rate (AETR) is adjusted to reflect the new tax law in the period in which the new tax law is effective, but not before it is enacted. Deferred taxes are adjusted for changes in tax law discretely in the interim period that includes the enactment date. These rules sometimes result in accounting for a change in tax law in more than one quarter.

On the horizon…

The following developments in tax law had not yet been enacted as of 30 September 2014, but may, in certain cases, be enacted and become effective in the near future. Please follow up with your U.S. or local country tax advisor for more information.

Australia

Brazil

Canada

Gibraltar

Netherlands

Spain

Switzerland

Ukraine

United States

Vietnam

Australia – Update on Amendments to Thin Capitalization Rules and Exemption for Distributions from Foreign Companies

On 17 July 2014, the Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill was introduced into Parliament, which contains amendments to the thin capitalization rules and the exemption for distributions received from foreign companies, and introduces new integrity measures in respect of the capital gains tax provisions applying to nonresidents. The Bill passed both Houses of Parliament on 25 September 2014 and is now awaiting Royal Assent.

The thin capitalization changes include a tightening of the safe harbor debt limit (e.g. reducing the maximum debt-to-equity ratio from 3:1 to 1.5:1 for general entities) and increasing the de minimis threshold from AUD 250,000 to AUD 2 million per annum of debt deductions (e.g. interest expense). If the Bill receives Royal Assent, the changes to the thin capitalization rules will apply to income years commencing on or after 1 July 2014.

The exemption for distributions received by Australian companies from foreign companies will be both narrowed and broadened. It will be narrowed by excluding distributions on shares that are not characterized as equity for Australian tax purposes, but will be broadened by including nonshare dividends on legal form debt that is characterized as equity for Australian tax purposes. These amendments will apply to distributions and nonshare dividends made after the Bill receives Royal Assent.

The changes contained in the Bill were previously announced in the 2013-14 Federal Budget.

See also **World Tax Advisor — 23 May 2014**.

Brazil – Tax Amnesty Program Revised and Incentive for Exporters Reintroduced

The Brazilian government published rules on 10 July 2014 that revise the tax amnesty program and reintroduce the "Reintegra" program, under which exporters of manufactured goods are entitled to a tax refund of a percentage of the value of their exports. The rules will become effective once the Minister of Finance issues an ordinance, and it is possible that the PM will apply retroactively as from 1 January 2014.

The rules reduce the upfront payment and allow the use of loss carryfowards (and losses of other group companies) to pay off the remaining installment debt. The Reintegra program provides a benefit that may allow Brazilian exporters to become more competitive globally.

See also **Brazil Tax Alert – 21 July 2014**.

Canada – 2014 Budget Includes Inbound Financing and Anti-treaty Shopping Measures

In late August 2014, Canada's Department of Finance released draft legislation that would put into effect some measures introduced in the 2014 federal budget tabled in the House of Commons on 11 February 2014. These measures include rules that expand the scope of the Canadian thin capital limitation to include certain arm's length debts that are subject to a back-to-back arrangement through a third party or are effectively secured by property of the nonresident. They also deny the arm's length exemption from withholding tax on the corresponding interest on such loans. Additionally, the Department of Finance has noted that it intends to defer the treaty shopping proposals until further work is done at the OECD. The draft legislation package also includes some technical amendments to the Canadian foreign affiliate dumping rules.

See also **Canada Tax Alert – 20 February 2014**.

Gibraltar – Budget Address Delivered

Gibraltar's chief minister delivered a budget address on 30 June 2014 that introduces a number of tax-related measures. Although implementing legislation is still to be enacted, the measures generally will be effective from 1 July 2014. The measures include a corporate tax incentive to promote construction of luxury residential developments, a reduction in the tax rate for trusts (from 30% to 10%) and reductions in the import duty including 0% on yachts and artwork. The corporate tax rate remains unchanged at 10%.

See also **World Tax Advisor — 25 July 2014.**

Netherlands – Draft Decree Published to Implement the US FATCA Rules in Dutch Legislation

A draft decree was published on 1 July 2014 that, if implemented, would provide the statutory basis for implementing the US Foreign Account Tax Compliance Act (FATCA) rules in Dutch legislation. The intergovernmental agreement (IGA) concluded with the US on 18 December 2013 to implement FATCA provides, among other things, that Dutch financial institutions will be required to provide certain information related to assets of US taxpayers to the Dutch tax authorities, which will then report the information to the US tax authorities. The first information exchanges under the IGA will occur in September 2015. Financial institutions and other interested parties may provide comments on the draft decree online through 26 August 2014.

See also **World Tax Advisor — 25 July 2014.**

Netherlands – 2015 Tax Plan Presented to Parliament

The Netherlands Minister of Finance presented the Tax Plan 2015 to the lower house of parliament on 16 September 2014. Certain provisions relevant to corporations, and other proposed legislation that could affect corporations, including the following areas:

- Tax measures relating to innovation;
- Nondeductibility of foreign penalties;
- Tier 1 capital of insurance companies;
- Interest on tax payments; and
- Corporate income tax liability for public sector companies.

The new rules are intended to be enacted on 1 January 2015. However, the effect of these rules will only apply to fiscal years that start on or after January 1 2016.

Other legislative developments are expected in spring 2015, including an important amendment to the Dutch fiscal unity rules that would allow cross-border fiscal unities. The amendment to the EU parent-subsidiary directive combatting hybrid loan mismatches also is expected to be implemented into Dutch tax law.

See also **World Tax Advisor — 26 September 2014.**

Spain – Government Intends to Amend Corporate Tax Reform Proposal

The Spanish government presented a broad-based draft tax reform package on 20 June 2014 that proposes the introduction of a new corporate income tax law, as well as extensive changes to the personal income tax, nonresident income tax, value added tax (VAT) and general tax law. The reform is designed to address the country's budget deficit, stimulate investment and help to make Spanish companies more competitive abroad. Certain measures, such as a new anti-hybrid rule and changes to the controlled foreign company rules, are Spain's response to the OECD base erosion and profit shifting (BEPS) initiative.

The tax reform currently is undergoing the parliamentary procedure. The legislative process would need to be finalized by December 2014 for the proposed rules to become effective on 1 January 2015.

See also **Spain Tax Alert – 2 July 2014** and **World Tax Advisor — 12 September 2014.**

Switzerland – Draft Legislation on Corporate Tax Reform III Published

On 22 September 2014, the Swiss federal government published draft legislation on the Corporate Tax Reform III. The main objective of the reform, which likely will become effective on 1 January 2019, is to enhance Switzerland's attractiveness as a location for multinational companies.

The draft legislation will be subject to an extensive consultation process where interested parties, such as political parties and the business community, can comment on the legislation and suggest changes. The consultation period will last through 31 January 2015; the government is expected to submit formal legislation to the parliament in June 2015, so that the parliament still would be able to pass the legislation during 2015. There also may be a referendum and a national vote on the legislation.

Cantonal tax laws subsequently would have to be amended to reflect the changes, so the most likely date for the law to become effective would be 1 January 2019.

See also **Switzerland Tax Alert — 23 September 2014.**

Ukraine – Overhaul of Tax Code/Introduction of Tax Amnesty under Consideration

The Ukrainian government is considering two tax initiatives that could affect a significant number of Ukrainian taxpayers.

The first initiative proposes a comprehensive overhaul of the Ukrainian tax code. Among the changes—that aim to simplify compliance, reduce the gap between financial and tax accounting principles and reduce the overall number of taxes—are abolition of certain duties and fees applicable to specific industries, the introduction of progressive tax rates for individuals earning passive income and the introduction of controls to ensure personal expenditures match with personal income reported for personal income tax purposes. The government intends to present the changes to the Parliament in October 2014, and if passed, they are likely to become effective on 1 January 2015.

The second initiative is a tax amnesty, known as a "tax compromise," which would apply for corporate income tax and VAT purposes. The government would encourage taxpayers to openly declare tax liabilities that were underpaid during tax years 2011-2013 as a result of tax avoidance schemes. To benefit from the amnesty, taxpayers would have to pay 15% of the "avoided" tax liabilities to the state budget, and in return, the government would prohibit the tax authorities from initiating tax audits of such taxpayers for the three most recent tax years and from charging fines or initiating a criminal prosecution against taxpayers that agree to the tax compromise. This bill to create the tax amnesty passed its first hearing in the parliament, but subsequently was rejected on 2 September 2014. Alternative bills may be voted on in the foreseeable future.

See also **World Tax Advisor — 25 July 2014.**

United States – Schumer Anti-Inversion Bill

In response to the multiple announcements of international acquisitions facilitating the global growth of US businesses (referred to as “inversions” during public debate), Senate Finance Committee member Charles Schumer (D. NY) introduced a bill 10 September 2014 (the “Corporate Inverters Earnings Stripping Reform Act of 2014”) to prevent earnings stripping of domestic corporations that are members of a worldwide group of corporations that includes an inverted corporation and to require agreements with respect to certain related party transactions with those members. The bill appears intended to supplement the “Stop Corporate Inversions Act of 2014” that Senator Carl Levin introduced on 20 May 2014.

The inversion issue continues to be a topic of interest, with substantial policy and political implications. Sen. Schumer’s bill is among many proposals suggested by politicians supporting a legislative response to inversions.

See also **United States Tax Alert — 1 August 2014** and **United States Tax Alert – 11 September 2014.**

Vietnam – Stimulus Tax Provisions Issued

The government issued guidance on 25 August 2014 that includes a number of stimulus tax provisions to assist businesses that are having financial and operational difficulties and to encourage business development. The measures affect corporate income tax, incentives, VAT and tax compliance procedures. Detailed guidance is expected to be issued on these provisions. Some provisions have been approved by the government, while others will be considered by the National Assembly.

See also **World Tax Advisor — 12 September 2014.**

Did you know?

The following section contains information that may be relevant at the date of publication.

Belgium

Brazil

China

European Union

France

Germany

Guernsey/Jersey/Isle of Man

India

Indonesia

Ireland

Mexico

OECD

Puerto Rico

United States

Vietnam

Belgium – Court of Appeal Has Rejected an Appeal Relating to the Disallowance of a Deduction for Stock Option Costs

The Brussels Court of Appeal has rejected an appeal relating to the disallowance of a deduction for stock option costs to the extent they related to capital losses on shares recharged by a foreign affiliate to the Belgian employer of the beneficiary. The court based its decision on the fact that the Belgian income tax code specifically disallows such a deduction, regardless of whether the losses were incurred by the Belgian shareholder or incurred abroad by a foreign shareholder and recharged to a Belgian entity. The court also disallowed the deduction of the recharged capital losses as salary costs.

See also **World Tax Advisor — 12 September 2014.**

Belgium – Notional Interest Deduction Rate for 2016 Determined

The notional interest deduction (NID) rate for tax year 2016 has been determined. The rate is based on certain average reference indices of the third quarter in the penultimate year preceding the tax year, and a maximum variation of 1% is allowed from one tax year to another. The three-month average is 1.562% for July-September 2014, and the NID rate for tax year 2016 will, in principle, amount to 1.63% (2.13% for small and medium-sized entities), i.e. the rate calculated based on the maximum (negative) variation of 1% compared to tax year 2015.

See also **World Tax Advisor — 26 September 2014.**

Brazil – New Regulations Released on Transition Tax Regime

The Brazilian tax authorities issued two instructions on 18-19 September 2014 that provide new guidance on the transition tax regime (RTT) and on Law 12,973/14, the law that repeals the RTT regime as from 1 January 2015.

The RTT was enacted in 2009 to ensure the tax neutrality of accounting changes relating to income recognition and the computation of costs and expenses in light of Brazil's conversion of its accounting rules to IFRS. Under the RTT, taxpayers are required to follow the accounting criteria and methods in effect on 31 December 2007 (i.e. the rules in effect before the law introducing IFRS was enacted). Law 12,973/14 repeals the RTT regime as from 1 January 2015 and provides for an early adoption option, under which a taxpayer can adopt the changes made by the law as from 1 January 2014.

Although the two recent instructions are considered important guidance for Brazilian taxpayers on the application of Law 12,973/14, further guidance still is expected to be issued by the tax authorities. Early adoption of the changes made under Law 12,973/14 must be made on the federal fiscal debts and credits return (DCTF) for August 2014, which will be due on the 15th business day of October 2014.

See also **Brazil Tax Alert – 24 September 2013, Brazil Tax Alert – 15 May 2014, Brazil Tax Alert – 3 June 2014,** and **World Tax Advisor – 26 September 2014.**

China – New Reporting Requirements for Foreign Investments/Income Introduced

The Chinese State Administration of Taxation (SAT) issued a notice on 30 June 2014 that requires Chinese resident enterprises to report holdings in foreign enterprises, as well as other information relating to foreign-source income. The new rules apply as from 1 September 2014.

See also **China Tax Alert – 21 July 2014**.

European Union – Revised EU Directive Published

The revised EU parent-subsidiary directive was published on 25 July 2014. The amendments contain measures to avoid double nontaxation resulting from mismatches in the tax treatment of profit distributions between EU member states, in particular, in relation to hybrid financing arrangements.

See also **World Tax Advisor – 9 May 2014** and **World Tax Advisor — 22 August 2014.**

France – French Tax Authorities Issue Final Guidelines on Anti-Hybrid Rule

On 5 August 2014, the French tax authorities issued final guidelines on the new anti-hybrid rule that limits the deductibility of interest paid to related entities and that is applicable to interest incurred during the fiscal years ended since 25 September 2013, irrespective of the date the loan was granted. The tax authorities issued draft guidelines for public consultation in April; the final guidelines further clarify the “minimum taxation test” and confirm that disallowed interest should not be considered deemed dividend income.

See also **World Tax Advisor — 12 September 2014.**

Germany – Lower Tax Court of Muenster Rules on Intragroup Use of Trademarks

Germany’s Lower Tax Court of Muenster ruled on 14 February 2014 that the gratuitous use of a trademark by a foreign subsidiary triggers an adjustment of the tax base of the related German person under Germany’s controlled foreign company (CFC) rules. The Lower Tax Court’s decision supports the German tax authorities’ recent approach of scrutinizing the intragroup use of trademarks within German-headquartered groups. The taxpayer is expected to appeal the decision to the Federal Tax Court.

See also **World Tax Advisor — 22 August 2014.**

Guernsey/Jersey/Isle of Man – Updated Draft Guidance Notes on US Foreign Account Tax Compliance Act

The governments of each of the UK Crown Dependencies have issued updated draft guidance notes intended to provide practical assistance to businesses regarding the impact of the US Foreign Account Tax Compliance Act (FATCA), which supersede the previous draft guidance notes issued in April 2014. Changes from the previous guidance were made in response to discussions between each government and local industry, as well as discussions between the governments to ensure that there is as much consistency as possible across the Crown Dependencies. Among other changes, the guidance notes generally are brought in line with changes to the relevant US regulations.

See also **World Tax Advisor — 22 August 2014.**

India – Tribunal Rules Social Networking Profiles Can be Used to Determine PE Status

The Delhi Tribunal ruled on 4 July 2014 that the social media profiles of employees can be used as additional evidence to verify the activities of individuals in India for purposes of determining whether a nonresident company has a permanent establishment in India.

See also **World Tax Advisor — 25 July 2014.**

India – India's Delhi High Court Calrifies Tax Consequences of Indirect Share Transfers

In a decision issued on 14 August 2014, the Delhi High Court examined the meaning of the term "substantially" in the amended version of the provisions of the Income Tax Act dealing with indirect transfers, and opined that the purpose of the amended rules is not to expand the scope of taxation to include income derived from transfers that do not have a territorial nexus with India. The court ruled for the taxpayer and stated that capital gains arising from a transfer of shares of a foreign company should not be liable to tax in India if such shares derive less than 50% of their value from underlying assets located in India. The court also upheld the applicability of the capital gains tax exemption under the India-Mauritius tax treaty.

See also **World Tax Advisor —12 September 2014.**

Indonesia – Guidance Issued on Exchange of Information beteween Governments

As part of its efforts to prevent tax avoidance, tax evasion and tax treaty abuse, Indonesia's Ministry of Finance issued new guidance on exchange of information (EOI) procedures under relevant tax treaties, tax information exchange agreements (TIEAs) or multilateral agreements. The guidance is effective from 1 April 2014 and supplements guidance issued in 2011 by the Directorate General of Taxation, which provides that two competent authorities can conduct a joint tax audit for the purpose of EOI.

EOI will be carried out by the Director of Tax Regulations II, as the competent authority in Indonesia. EOI can include an EOI upon request, a spontaneous EOI and an automatic EOI from/to the government of a tax treaty partner country (or a country that is a party to a TIEA or multilateral agreement with Indonesia).

See also **World Tax Advisor — 25 July 2014.**

Indonesia – Tax Audit Targets Announced

The focus of Indonesia's Tax Audit Plan and Strategy for 2014 will be:

- Corporate taxpayers in the property and financial services industry;
- Individuals who earn income as an entrepreneur, a shareholder or a notary; and
- Taxpayers with the following characteristics:
    - Those that carry out transactions with related parties in Indonesia (corporate group taxpayers);
    - Those in the oil and gas sector; and
    - Those whose tax returns' statutory limitation for audit will expire in 2014.

Taxpayers in any industry sector that potentially will earn high income or have increased income in 2014 and taxpayers with a track record of a low level of compliance will continue to be the primary targets for audit.

It appears that, going forward, the Directorate General of Taxation may expand its audit targets.

See also **World Tax Advisor — 12 September 2014.**

Ireland – Irish Revenue Issues Statement of Practice on Foreign Branch Double Taxation Relief

On 23 June 2014, Ireland's tax authorities issued a statement of practice on the calculation of foreign branch double taxation relief in certain situations where timing differences arise regarding the recognition of income at the level of an Irish company, compared with the recognition of the same income at the level of a foreign branch. In the absence of this statement of practice, where income is recognized for tax purposes in Ireland in an earlier accounting period than that of the foreign branch territory, no double taxation relief would be available because no double-taxed income would arise in Ireland in the relevant accounting period.

See also **World Tax Advisor – 25 July 2014.**

Mexico – Hydrocarbons Revenue Law in Force

On 11 August 2014, Mexico's president promulgated additional laws related to energy reform that were approved by congress earlier in the month. The new Hydrocarbons Revenue Law generally applies as from 12 August, although certain provisions will not become effective until 1 January 2015.

The Hydrocarbons Revenue Law sets out the rights and responsibilities, including applicable contributions and taxes, of the Mexican government and private companies with respect to contracts for the exploration and extraction of hydrocarbons. The law also establishes a framework for government/private company participation in such activities, and a tax regime for income arising from such activities (as well as any assignments for the exploration and extraction of hydrocarbons).

See also **World Tax Advisor — 26 September 2014.**

Mexico – SAT Extends Restructuring Period for Maquiladoras

On 4 July 2014, Mexico's Tax Administration Service (SAT) published revised administrative rules that extend the period for maquiladoras to restructure their operations to meet the requirement that all of their income from productive activities be derived exclusively from maquiladora operations. The rules also clarify certain provisions applicable to maquiladoras to mitigate some of the adverse effects of the changes made to the regime in the new income tax law and administrative rules that became effective in January 2014.

See also **Mexico Tax Alert – 8 July 2014**.

OECD – First Set of 2014 BEPS Deliverables Released

On 16 September 2014, the Committee on Fiscal Affairs of the Organization for Economic Cooperation and Development (OECD) released the documents (the 2014 deliverables) that it had promised, in the 2013 Action Plan on Base Erosion and Profit Shifting, to produce this year. The 2014 deliverables represent seven of the 15 actions of the BEPS Project, a project undertaken by the 44 countries that are, or will soon be, members of the OECD or of the G20 group of countries. The deliverables address the following actions:

- Action 1: Addressing the Tax Challenges of the Digital Economy
- Action 2: Neutralizing the Effects of Hybrid Mismatch Arrangements

- Action 5: Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance
- Action 6: Preventing the Granting of Treaty Benefits in Inappropriate Circumstances
- Action 7: Guidance on Transfer Pricing Aspects of Intangibles
- Action 13: Guidance on Transfer Pricing Documentation and Country-by-Country Reporting
- Action 15: Developing a Multilateral Instrument to Modify Bilateral Tax Treaties

See also **World Tax Advisor – 26 September 2014**, **United States Tax Alert — 16 September 2014,** and **United States Tax Alert – 19 September 2014.**

Puerto Rico – Changes to Tax Rules

Changes to the Puerto Rico Internal Revenue Code that apply as from 30 June 2014 will affect the following:

- Additional tax on gross income;
- Alternative minimum tax;
- Capital gains and losses; and
- Tax on deemed dividends; and
- Branch profits tax.

See also **World Tax Advisor – 22 August 2014**.

United States – Internal Revenue Service Issues Guidance under Section 901(m) on Dispositions Following Covered Asset Acquisitions

On 21 July 2014, the US Internal Revenue Service (IRS) released Notice 2014-44, which announced that the IRS and Department of the Treasury will issue regulations addressing the application of section 901(m) of the Internal Revenue Code to the disposition of assets following a covered asset acquisition (CAA). The regulations described in the Notice will apply to transactions occurring on or after 21 July 2014. The Notice addresses the IRS' concern that the statutory disposition rule is being applied by some taxpayers to dispositions in which foreign income tax is not imposed in the relevant foreign jurisdiction and announces that regulations are intended to be issued preventing the use of the statutory disposition rule to prevent such transactions from limiting or eliminating the potential for disallowance of foreign tax credits under section 901(m).

See also **United States Alert — 23 July 2014.**

United States – PFIC Reporting Relief for Mark-to-Market Investments

On 10 September 2014, the US Treasury released Notice 2014-51 announcing intent to amend its regulations under section 1298(f) of the Internal Revenue Code to provide relief for reporting on Form 8621 with respect to investments in a passive foreign investment company (PFIC) that is marked to market under any provision of the code.

Notice 2014-51 announces that Treasury has determined to extend the relief afforded for PFIC investments marked to market under section 1296 to PFIC investments marked to market under section 475(f) or other provisions of the code, except if in the first year of the mark-to-market election the taxpayer's holding period includes a period during which the PFIC was not a QEF with respect to the taxpayer, or if the investment is not in fact marked to market (e.g. identified as held for investment or a hedge under section 475). The Notice provides that taxpayers may rely on it for taxable years ending on or after 31 December 2013.

See also **United States Alert — 10 September 2014.**

United States – Treasury Anti-Inversion Notice

On 22 September 2014, the US Treasury issued Notice 2014-52, which announces its intent to issue regulations that would (i) increase the effective tax rate to foreign acquirers of US targets by limiting the opportunities to achieve tax efficiencies in the course of integrating the operations, management and financing of the businesses; and (ii) tighten the anti-inversion rules of section 7874. The Notice announced the intent that future regulations issued thereunder apply to inversion transactions completed on or after the date the notice was issued; however, the regulations under section 956 and 7701(l) would apply only if the inversion transaction occurs on or after 22 September, and the positions subject to those rules also are entered into or completed after that date.

See also **United States Tax Alert – 23 September 2014.**

Vietnam – Guidance on Decree Provides Details and New Guidance

The ministry of finance has issued a circular on corporate income tax (Circular 78) that provides guidance on the implementation of a 2013 decree. Circular 78 provides more detailed instructions and new guidance related to the determination of taxable income, deductible expenses, other income and tax incentives. Topics covered include the effect of a change in the corporate income tax rate on the tax calculation for enterprises with financial years other than the calendar year and the incentives for new investment projects and business expansion projects. Circular 78 applies as from 2 August 2014.

See also **World Tax Advisor – 25 July 2014** and **World Tax Advisor – 14 February 2014**.

Example disclosures

The following section contains example financial statement disclosures that may be considered relevant, in part or in whole, at the date of publication.

There are no example disclosures for this edition.

FASB Accounting Standards Codification (ASC or the “Codification”) Topic 740, Income Taxes states that deferred tax liabilities and assets should be adjusted for the effect of changes in tax laws or rates in the period that includes the enactment date. Before enactment, financial statement preparers should consider whether potential changes represent an uncertainty that management reasonably expects will have a material effect on the results of operations, liquidity or capital resources. If so, financial statement preparers should consider disclosing information about the scope and nature of any potential material effects of the changes. After enactment, when material, financial statement preparers should consider disclosing in Management’s Discussion & Analysis (MD&A) the anticipated current and future impact on their results of operations, liquidity, and capital resources. In addition, financial statement preparers should consider disclosures in the critical accounting estimates section of MD&A, the footnotes to the financial statements, or both, to the extent that the changes could materially impact existing assumptions used in making estimates of tax-related balances.

Certain legislation that has been discussed in other sections of this document may lead to an adjustment to the deferred tax balances and current taxes payable recorded on an entity’s books and, if material, may need to be disclosed in the company’s financial statements. In addition, proposals to change tax laws, rules, regulations, and interpretations could impact an entity’s accounting for income taxes in the future. In preparation for possible impacts of the changes in tax laws, companies should consider including disclosure of the impacts of these proposed changes in their financial statements or in MD&A.

Quick reference guide — Applicable income tax rates

The following section includes a summary of combined tax rates applicable in several key jurisdictions, the related dates of enactment, for US GAAP purposes, of certain income tax rate changes, and supplemental information with respect to certain taxing jurisdictions.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2014	2015	Date the combined national/ local rate enacted	Notes
Australia	30%	30%	N/A	The government has proposed a reduction in the corporate tax rate from 30% to 28.5% as from 1 July 2015.
Belgium	33.99%	33.99%	N/A	Reduced rates may be available for companies with taxable income that does not exceed EUR 322,500.
Brazil	34%	34%	N/A	The corporate income tax base rate is 15%. The additional surtax (10%) and social contribution (9%, 15% for financial institutions) yields an effective tax rate of 34%.
Canada	25%–31%	25%–31%	14 Dec 2007	Phased-in decreases of the federal income tax rate were enacted in 2007. The last of the phased-in tax rate decreases came into force in 2012. Provincial rates vary, ranging generally from 10% to 16%.
Chile	21%	22.5%	29 Sep 2014	A major tax reform enacted on 29 September 2014 includes a gradual increase in the First Category Tax rate from 20% to 25% over four years, or to 27% over five years, depending on the tax system. Income earned in 2014 will be subject to a 21% rate and income earned in 2015 will be subject to a 22.5% rate.
China	25%	25%	16 Mar 2007 26 Dec 2007	The corporate income tax rate is 25%. Entities qualifying as small-scale taxpayers are subject to a 20% tax rate and a 15% rate applies to enterprises that qualify as new and high-tech enterprises or companies set up in certain geographical locations.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2014	2015	Date the combined national/ local rate enacted	Notes
France	33.33% – 38%	33.33% – 34.43%	30 Dec 2013 (See **Note 1**)	For taxable income derived in a fiscal year closed on or after 31 December 2013 and before or on 30 December 2016, an additional surcharge of 10.7% (based on the income tax due at the standard 33.33% tax rate) is applicable for companies with revenue exceeding EUR 250 million (see **Note 1** for details). As a result of the surcharge, the effective tax rate applicable to large profitable companies is 36.9% or 38%. The 36.9% rate applies to large profitable companies with a basic corporate tax liability less than EUR 763,000 and a rate of 38% applies to large profitable companies with a basic corporate tax liability exceeding EUR 763,000. These rates do not include the impact of the CVAE, an annual local business tax that is considered an income tax under US GAAP, nor do they include the impact of the 3% surtax on distributions that was enacted on 17 August 2012 and that is considered an income tax and effectively creates a dual tax rate regime in France under US GAAP (see **Note 2** for details). Small and medium-sized companies may be subject to a lower tax rate in certain cases.
Germany	30%–33%	30%–33%	17 Aug 2007	The corporate rate is 15%. The municipal trade tax rate typically ranges between 14% and 17%. In addition, a 5.5% solidarity surcharge is levied on corporate income tax. The effective corporate tax rate (including the solidarity surcharge and trade tax) typically ranges between 30% and 33%.
Hong Kong	16.5%	16.5%	N/A	Profits tax is levied at a rate of 16.5% (15% for unincorporated businesses) where the person is carrying on a trade, profession or business in Hong Kong and the relevant income is a profit arising in or derived from Hong Kong.
India	30.9% or 32.45% or 33.99%	30.9% or 32.45% or 33.99%	10 May 2013	The effective rate for domestic companies is 30.9% (where taxable income is less than or equal to INR 10 million), 32.45% (where taxable income exceeds INR 10 million, but is less than or equal to INR 100 million), and 33.99% (where taxable income exceeds INR 100 million). If an entity's annual income tax liability, as a percentage of book profits, is less than 18.5%, the Minimum Alternative Tax (MAT) applies at 18.5% of book profits. The effective MAT rate is 19.06% (where income is less than or equal to INR 10 million) and 20.01% (where income exceeds INR 10 million, but is less than or equal to INR 100 million) and 20.96% (where taxable income exceeds INR 100 million). The excess of MAT paid over the annual tax liability may be credited against the regular tax liability for the subsequent 10 years. These effective rates may increase if the earnings are distributed (see **Note 3** for details).
Ireland	12.5% or 25%	12.5% or 25%	N/A	The standard corporate tax rate on trading income is 12.5% and on nontrading income, 25%. The capital gains tax rate is 33% for disposals occurring on or after 6 December 2012.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2014	2015	Date the combined national/ local rate enacted	Notes
Italy	27.5%	27.5%	28 Dec 2007	IRAP, the regional tax on productive activities, is levied within a range of up to 0.92% around the basic IRAP rate (3.5% from 2014). From 2014, the basic IRAP rate is 4.2% for banks and 5.3% for insurance companies. Taxpayers will need to determine whether to treat IRAP as an income tax under ASC 740. An additional (6.5% “Robin Hood” tax is levied on certain companies (see **Note 4** for details). An additional 8.5% tax is levied on banks, other financial institutions, and insurance companies for FY 2013.
Japan	37.0%–38.0% or 38.4%-39.4%	34.6%–35.6% or 36.0%-37.1%	20 Mar 2014	The national corporate tax rate for fiscal years beginning on or after 1 April 2012 is 25.5%. In addition, a temporary 10% surtax on the national corporation tax rate was expected to be effective for two consecutive years starting with the first fiscal year beginning on or after 1 April 2012. However, for a calendar year taxpayer with a fiscal year beginning on or after 1 January 2015, the 10% surtax generally is no longer applicable. Japanese corporations and foreign corporations that are carrying on a business through a permanent establishment in Japan also are subject to a local inhabitants tax and a local enterprise tax. Inhabitants and enterprise tax rates vary depending on certain factors. The local enterprise tax generally is levied on taxable income at a rate between 7.19% and 10.073%, depending on the amount of capital and location of the corporation. The inhabitants tax generally is levied on taxable income at a rate of either 17.3% or 20.7% of the national corporate tax rate depending on the location of the corporation. The local enterprise tax is deductible for national corporation tax purposes generally when it is paid. The top ETR ranges are for corporations with stated capital of more than JPY 100m while the bottom ETR ranges are for corporations with stated capital of JPY100m or less. The inhabitant tax rate is reduced for fiscal years beginning on or after 1 October 2014, but the effective combined rate will not change because the reduction will coincide with the introduction of a new local corporate tax.
Luxembourg	~29.22%	~29.22%	28 Dec 2012	This rate applies to the municipality of Luxembourg City. Rates for residents of other municipalities may vary.
Mexico	30%	30%	11 Dec 2013	The 30% tax rate remains in effect. A special regime applies for maquiladoras. The Business Flat Tax (IETU) that was introduced in 2007 was abolished as from 1 January 2014.
Netherlands	25%	25%	N/A	Tax changes enacted on 1 July 2009 introduced a 20% tax rate applicable to income below EUR 200,000, effective retroactively to 1 January 2009.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2014	2015	Date the combined national/ local rate enacted	Notes
Russia	20%	20%	26 Nov 2008	The 20% (18% regional and 2% federal) tax rate can be reduced to 15.5% (13.5% regional and 2% federal) by the regional governments. The regional authorities in Special Economic Zones may grant a further reduction of the regional tax rate to as low as 0%, leaving only the 2% federal portion. As from 1 January 2014, qualifying investors in certain regions in the far eastern part of the country and Siberia are entitled to a profits tax rate of 0% to 10% for the first five years of income generation and from 10% to 18% for the following five years. Certain companies in technology and tourist zones may be exempt from the 2% federal tax as well. Companies providing educational or medical services and agricultural goods producers are subject to 0% profits tax rate if certain criteria are met. In addition, residents of Skolkovo Innovation Centre are subject to a 10-year profits tax exemption.
Singapore	17%	17%	29 Dec 2009	75% of the first SGD 10,000 of chargeable income and 50% of the next SGD 290,000 of chargeable income are exempt from tax. Singapore tax is imposed on a preceding year basis (i.e., year of assessment 2014 refers to a financial year ended in 2013).
Switzerland	11.5%–24.5%	11.5%–24.5%	N/A	The rate includes federal and cantonal/communal taxes for an ordinarily taxed legal entity. The tax rate at the cantonal/communal level depends on the canton/municipality in which the company is located.
United Kingdom	23% and 21%	21% and 20%	17 Jul 2012 and 17 Jul 2013	A 23% rate was effective from 1 April 2013 and a 21% rate is effective from 1 April 2014. As a result of the mid-year change, a blended tax rate of 21.5% applies for taxpayers with a 31 December 2014 year-end. The corporate income tax rate will be further reduced to 20% from 1 April 2015.

Note 1: The 2014 Finance law was enacted on 30 December 2013, increasing the rate of the additional surcharge of 5% applicable for companies with revenue exceeding EUR 250 million from 5% to 10.7%. The additional surcharge applies to all fiscal years closed on or after 31 December 2013 and before or on 30 December 2016.

Note 2: On 17 August 2012, the French government enacted a 3% surtax that is levied on dividends and certain other distributions paid on or after 17 August 2012 by French and foreign entities subject to corporate income tax in France (including permanent establishments of foreign entities). The new surtax effectively creates a dual tax rate regime in France. (See also **Accounting for Income Taxes Quarterly Hot Topics: September 2012** for a discussion of certain related accounting for income taxes implications).

Note 3: A domestic entity is subject to an additional tax of approximately 16.995% when earnings are either distributed as a dividend or in liquidation of the company. This incremental tax is commonly known as a Dividend Distribution Tax (DDT) and becomes payable when previously taxed earnings are distributed to shareholders as either dividends or in liquidation of the company, increasing the total effective tax rate on earnings from 30.9%/ 32.45%/33.99% to 40.94%/42.26%/43.58%, respectively.

Note 4: Law No. 148, enacted on 16 September 2011, has introduced a temporary increase of the “Robin Hood” tax from 6.5% to 10.5% effective for fiscal years 2011-2013.The tax is levied on the oil, gas and energy producers and trading companies in addition to the regular corporate income tax. The law also broadens the scope of the tax to include the renewable energy sector and other businesses in the energy sector that were previously exempt.

Additional resources

A Roadmap to Accounting for Income Taxes — This Roadmap includes all of Deloitte's interpretive guidance on the accounting for income taxes, combining the income tax accounting rules and implementation guidance from ASC 740 with Deloitte's interpretations.

Accounting for Income Taxes — Global Tax Developments archive

Accounting for Income Taxes Hot Topics archive — A quarterly publication that highlights certain recent tax and accounting developments that may have accounting for income taxes (ASC 740) implications.

Click to **subscribe** to receive *Accounting for Income Taxes Hot Topics* directly via email.

Global Tax Alerts — Tax alerts prepared by Deloitte professionals around the world to provide timely commentary and analysis on tax developments affecting cross-border transactions.

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***World Tax Advisor* archive** — Biweekly bulletin of international tax developments written by professionals of the member firms of Deloitte. The newsletter focuses on analyses of cross-border tax developments that reflect the dynamic business environment faced by multinationals.

Click to **subscribe** to receive *World Tax Advisor* directly via email.

***Transfer Pricing Alert* archive** — The latest updates in Transfer Pricing from around the world.

Click to **subscribe** to receive an email when a new *Transfer Pricing Alert* is issued.

2014 Global Transfer Pricing Country Guide — A comprehensive and authoritative guide, compiling essential information regarding the transfer pricing regimes in 58 jurisdictions around the world and the OECD.

Deloitte International Tax Source (DITS) — An online database featuring corporate, withholding and tax treaty rates and information for 65 jurisdictions worldwide.

Financial Reporting for Taxes Dbriefs Webcasts — A collection of live and archived Dbrief webcasts that give you valuable insights on important developments impacting financial reporting for taxes.

Financial Accounting & Reporting — Income Taxes — Financial accounting and reporting for income taxes have become increasingly complex. Tax departments are working to keep up with the latest regulatory developments and guidance related to income tax accounting, disclosures and documentation, as well as seeking ways to address their tax provision process and technology needs. Deloitte can help.

Tax Publications — A collection of tax publications issued by Deloitte to help clients stay informed on tax legislation and regulations and the potential impact on their businesses.

Click to **subscribe** to receive these publications directly via e-mail.

Financial Reporting for Taxes 2014 Training — Corporate tax and accounting professionals are invited to participate in Deloitte's 2014 Financial Reporting for Taxes training seminar in Las Vegas from December 8-12. The seminar features half-day, one-day, and two-day courses that are available on a first-come, first-served basis. Early registration discounts are available through October 27 and multiple course discounts are available after early registration discounts expire. Sign up today!

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