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Global Tax Update

United Kingdom

Deloitte Tohmatsu Tax Co.

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1. Northern Ireland corporation tax

The Corporation Tax (Northern Ireland) Act provides for Northern Ireland to set its own rate of corporation tax on most trading profits. This is contingent on the Northern Ireland Executive demonstrating that its finances are on a sustainable footing, including successfully implementing measures in the Stormont House Agreement and subsequent reforms. The Executive has committed to a commencement date of April 2018, and a Northern Ireland rate of 12.5%. A Memorandum of Understanding ("MoU") has now been signed between NM Revenue & Customes ("HMRC") and the Department of Finance and Personnel, Northern Ireland ("DFPNI") setting out arrangements for setting up and operating Northern Ireland Corporation Tax ("NICT"). NICT rules and policy form part of the UK corporation tax system and will be administered by HMRC. Interaction with companies liable to pay NICT, including the provision of information, collection and compliance, will be matters for HMRC, as will disputes about assessment or collection of tax or a company's tax affairs. The MoU includes provisions on developing IT and administrative systems and on recharging to DFPNI costs incurred by HMRC on implementation.

2. Hybrid mismatch rules: draft examples

A series of examples illustrating the application of the draft hybrids mismatch legislation was published on 22 December 2015. These are based on a selection of those contained in the OECD 'Final Report on Neutralising the Effects of Hybrid Mismatch Arrangements', with some additions dealing with hybrid transfers. They are designed to assist understanding of the draft hybrids mismatch legislation published on 9 December 2015. Further guidance will be provided later in 2016.

3. Domestic reverse charge VAT on wholesale telecoms from 1 February

A new statutory instrument has been laid which will introduce 'reverse charge' value added tax ("VAT") accounting for wholesale supplies of certain electronic communications services. According to the Tax Information and Impact Note issued in connection with the new SI, the reverse charge will apply to wholesale telecommunications services and associated data (text, images) over landlines, mobile networks or the internet. It does not apply to non-wholesale supplies or to businesses not registered or not liable to be registered for UK VAT. The introduction of the reverse charge on wholesale telecoms has been under discussion for some time, and we understand that HMRC have expedited the introduction of it in response to a perceived heightened risk of revenue losses through "Missing Trader Intra-Community" (MTIC) fraud based on supplies of this kind. The reverse charge regime removes the opportunity for fraudsters to collect VAT and fail to pay it over to HMRC.

4. Consultation in the spring on amending the UK's VAT Grouping rules

HMRC have announced that they will be meeting business representative bodies to explore and develop new ideas on VAT grouping in the light of the Court of Justice of the European Union (CJEU) judgments in the case of Skandia America Corporation and in the joined cases of Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG and Marenave Schiffahrt AG. The intention is to develop policy options during February and March, which will form the basis for a 12-week consultation to be launched in the Spring. HMRC expect that changes to UK VAT grouping provisions are likely to include extending VAT grouping to non-corporate bodies and identifying new rules to determine 'close economic, financial and organisational' links for corporate and non-corporate bodies, replacing the current 'control' test based on the company law definition of a subsidiary. The proposed timetable suggests that any law changes will not be made before 2017.

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