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Global Tax Update

United Kingdom

Deloitte Tohmatsu Tax Co.

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1. Criminal Finances Bill

The Criminal Finances Bill inter alia creates offences for cases where a person associated with a company or partnership facilitates the commission by another person of a tax evasion offence, and contains measures to create new offences of failure to prevent facilitation of tax evasion. Amendments tabled to date include New Clause 6 on public registers of beneficial ownership of companies registered in the Overseas Territories, which has cross-party support. See http://deloi.tt/2ly2Wnk A new fact sheet on the Bill deals with Company Ownership Transparency in the Overseas Territories (OTs) and Crown Dependencies (CDs). In the run-up to the London Anti-Corruption Summit in 2016, the OTs and CDs signed agreements with the UK to establish central registers of beneficial ownership information and to provide UK law enforcement with a near real-time access to this information. All the OTs and CDs with a financial centre have also signed up to the new OECD initiative for development of a standard for systematic exchange of beneficial ownership information. These commitments should come into effect by June 2017. The fact sheet states that the UK's practice has been only to exercise its powers to legislate for the OTs as a matter of last resort and on matters that relate to areas for which UK retains responsibility, such as human rights compliance. See http://bit.ly/2k2WLWG

2. Draft legislation including on corporate interest restriction, relief for carried-forward losses

As promised when the bulk of the draft legislation for Finance Bill 2017 was published on 5 December 2016, HMRC have now published further draft legislation. This includes expanded versions of the draft legislation on carried-forward corporation tax losses (see http://deloi.tt/2kwXvYG) and on interest limitation (see http://deloi.tt/2k4ZvXk).

3. VAT grouping: consultation document published

As announced at Autumn Statement 2016, a consultation on VAT grouping ran until 27 February 2017. The purpose of the consultation is to inform UK policy following last year's decisions of the Court of Justice of the European Union (CJEU) in Larentia & Minerva and Marenave (C-108/14) and C-109/14) and Skandia America Corporation (C-7/13). Following Larentia, HMRC will consider how to expand the types of entity which can join VAT groups, beyond the current requirements that they be 'bodies corporate' under 'common control', and are seeking views on how control criteria should be amended if VAT groups can include, for example, partnerships. Skandia endorsed Swedish rules which treated supplies from a US head office to its Swedish branch (which was part of a Swedish VAT group) as subject to VAT. HMRC are seeking information about how this judgment has impacted businesses given the UK's different approach to branches and VAT groups. See http://deloi.tt/2hphPpi They are also seeking views on how changes to VAT grouping might affect use of the cost-sharing exemption.

4. Italy: Application of Skandia principles

The Italian tax authorities have recently issued a ruling that the CJEU's decision in the case of Skandia America Corporation should be applied to supplies from a company in a non-Italian VAT group to its Italian branch. The ruling itself concerned a UK VAT group with a branch of one of the grouped companies in Italy and is binding only on the parties subject to the ruling. This implementation of Skandia may, if applied as policy, create additional reverse charge exposures in Italy for companies with Italian branches. A more general policy statement from the Italian tax authorities is expected to be made following discussions with businesses and advisors there. See http://deloi.tt/2gnV9bl

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Contacts

Deloitte LLP (London)
Yuki Konii, Partner ykonii@deloitte.co.uk
Hiro Hidaka, Director hhidaka@deloitte.co.uk

Issued by

Deloitte Tohmatsu Tax Co.
Tokyo Office
Shin-Tokyo Building 5F, 3-3-1 Marunouchi, Chiyoda-ku, Tokyo 100-8305, Japan
Tel: +81 3 6213 3800
email: tax.cs@tohmatsu.co.jp
Corporate Info.: www.deloitte.com/jp/en/tax
Tax Services: www.deloitte.com/jp/tax/s/en