



Global Tax Update

United Kingdom

Deloitte Tohmatsu Tax Co.

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1. BEPS Action 13: Country-by-Country Reporting: final regulations

The Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 were laid before Parliament on 26 February 2016 and come into force on 18 March 2016. They give effect to the OECD Country-by-Country (“CbC”) Reporting guidance set out in ‘Transfer Pricing Documentation and Country-by-Country Reporting, Action 13: 2015 Final Report’ published on 5 October 2015. The final regulations implement (“CbC”) Reporting in the UK for accounting periods that begin on or after 1 January 2016. As well as applying where a UK company is a group parent, the rules also require UK entities of foreign headed groups to provide HMRC with information where those results would not otherwise be reported. Therefore, this will be of relevance to sub-groups where a non-UK parent does not file a (“CbC”) report. It is also likely to be of particular concern for first year (2016) filings for groups where the parent jurisdiction’s introduction of legislation for (“CbC”) Reporting is deferred.

2. Holding companies and intra-group services: no supplies for VAT purposes?

The Upper Tribunal has delivered its decision in the case of Norseman Gold plc, about the recovery of VAT on costs incurred by a holding company, which was claimed to relate to “management charges” to be paid by its subsidiaries. Warren J upheld the First-tier

Tribunal’s decision in the case and confirmed that what was described as a “...vague and general intention that payment would be made ...” for services supplied by Norseman was insufficient to show a connection between the VAT incurred and taxable supplies. Whilst the “management services” concerned were seen to have been capable of amounting to “economic activities” for VAT purposes, on the facts of the case, Norseman was found not to have been making – or intending to make - taxable supplies when the VAT was reclaimed and hence HMRC’s assessments to recover it were upheld. The decision underlines the need for holding companies to have robust processes, and appropriate documentation, in place to underpin management charges to subsidiaries and to ensure that relevant charges are made.

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