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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Introduction

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Unless otherwise indicated, the content in this document is based on information available as of 31 March 2013. 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. 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 January to 31 March 2013

The following section includes a brief summary of major international income tax law changes enacted during the period 1 January to 31 March 2013, unless specified otherwise.

Germany

Greece

Ireland

Ukraine

Germany

Scope of Dual Consolidated Loss Rules Broadened

Date of enactment: 20 February 2013
Effective date: 26 February 2013 (with potential retroactive effect)

The scope of Germany's dual consolidated loss (DCL) rule has been expanded to apply to any situation in which the losses of either a group parent or subsidiary are taken into account in a foreign jurisdiction. The new rule may affect both inbound and outbound structures and applies to both controlling entities and controlled entities in a German tax consolidated group (the old rule applied only to controlling entities in such a group). The amended wording of the rule includes a different technical description of the term "losses", which may lead to the result that the rule applies where the controlling entity or a controlled entity is in a loss position on a stand-alone basis. Losses of the controlling entity or a controlled entity are disallowed for German tax purposes only to the extent they are taken into account for foreign tax purposes. The treatment of the controlling entity (and in certain cases the treatment of the controlled entity) in a German tax group as a flow-through/disregarded entity for U.S. tax purposes may trigger the amended DCL rule if losses of one of the German entities are recognized for U.S. tax purposes. The new DCL rule will apply to all open tax years and, therefore, may affect prior years, although it is questionable whether retroactive application of the rules for years before 2012 is in line with the German constitution.

See also **Germany Tax Alert — 11 March 2013**.

Germany

Taxation of Portfolio Dividends Amended and New Refund Procedure for Tax Withheld Introduced

Date of enactment: 28 March 2013
Effective date: 29 March 2013

Germany's upper house of parliament passed a bill on 1 March 2013 that introduces a 10% minimum ownership requirement for a corporate taxpayer to benefit from the 95% tax exemption on dividends paid to portfolio investors, and a procedure that allows corporate shareholders resident in other EU/EEA member states to claim a refund of tax withheld on dividend distributions in certain cases. The bill was signed by the President on 21 March 2013 and published in the Federal Gazette on 28 March 2013. Therefore, it became effective on 29 March 2013. The new rule applies to dividends received on or after 1 March 2013.

See also **World Tax Advisor — 22 March 2013**.

Greece

New Tax Rules Affect Companies

Date of enactment: 23 January 2013
Effective date: 1 January 2013

The tax bill approved by the Greek parliament and published in the Government Gazette on 23 January 2013 includes, among other items, tax rate changes and new limits on tax credits for dividends received from foreign subsidiaries, as briefly described below. Various other provisions were included in the tax bill, such as a simplification of the transfer pricing rules, an increased tax deduction for research and development expenses and new depreciation rules for assets acquired as from 1 January 2013. Unless otherwise noted, the new rules apply to income derived as from fiscal year 2014.

Tax rates

- The corporate income tax rate is increased from 20% to 26%;
- The withholding tax on profit distributions is decreased from 25% to 10%;
- The rate on interest paid to a foreign entity without a Greek permanent establishment is reduced from 40% to 33%;
- The withholding tax on bank deposits and other financial instruments is increased from 10% to 15%;
- The withholding tax rate on income from derivatives that are not listed on a stock exchange is increased from 15% to 20%;
- Capital gains derived from the sale of listed and non-listed shares acquired after 1 July 2013 and subsequently sold are taxed at 20%, and a 0.2% transaction tax on the sale of listed shares is imposed as well; and
- Capital gains derived from the sale and leaseback of real property are exempt from income tax if the gain is recorded in a special tax-free reserve.

Foreign tax credit

The taxation of foreign-source dividend income is modified and now depends on the country in which the subsidiary is located (i.e. within the EU or a tax treaty country) and whether the conditions for application of the EU parent-subsidiary directive are satisfied. In cases where a dividend is received from a non-EU subsidiary in a treaty partner country a new limit restricts the foreign tax credit to the amount of withholding tax paid at the source. Where a dividend is received from a non-EU subsidiary in a non-treaty partner country, no foreign tax credit is granted. The new rules apply as from 23 January 2013.

See also **World Tax Advisor — 8 March 2013**.

Ireland

Finance Act 2013 Enacted

Date of enactment: 27 March 2013
Effective date: Various

Ireland's Finance Act (FA13) was enacted on 27 March 2013, giving effect to the measures announced in the budget on 5 December 2012. FA13 introduces a number of measures to further incentivize foreign direct investment: enhancements to the Irish holding company and intellectual property (IP) regimes and positive changes to the funds regime, including the introduction of Real Estate Investment Trusts (REITs). FA13 also includes measures designed to support start-up, small and medium-sized enterprises.

Corporate and international tax

FA13 sends out a clear signal that Ireland remains steadfast in its commitment to the 12.5% corporation tax rate. The Act also enhances the Irish tax regime to support both indigenous business and inbound investment, highlighting the importance of multinationals to the economy. Key measures include:

- Positive changes to the taxation of foreign dividends received from an EU/EEA treaty country, allowing credit at the headline tax rate of the payor country, achieving a de facto foreign dividend tax exemption in Ireland for such dividends;
- An increase in the capital gains tax rate from 30% to 33% that is effective for disposals occuring on or after 6 December 2012.
- Enhancements to the R&D tax credit regime;
- A reduction in the period giving rise to a potential claw back of IP tax allowances (reduced to a five-year holding period);
- Positive changes in respect of Irish limited partnerships, which should facilitate even greater use of Ireland as a funds location, particularly for alternative investment funds; and
- Twelve measures to assist the small and medium-sized enterprise sector of the economy.

Also included are a number of additional technical amendments in the corporate tax area and a tightening up of the Irish group relief rules.

See also **Ireland Tax Alert – 4 April 2013** and **Finance Act 2013**

Ukraine

Overview of Recent Tax Changes Affecting Companies

Date of enactment: Various
Effective date: 1 January 2013

Changes to Ukraine's tax rules that became effective on 1 January 2013 include reductions in the tax rates affecting companies and changes to the tax treatment of securities and derivatives transactions.

Tax rates

- The corporate tax rate is reduced from 21% to 19% for calendar year 2013;
- A reduced rate of 5% applies to entities in the software industry for calendar years 2013-2023;
- A 0% rate applies to entities operating in priority economic sectors, as determined by the Cabinet of Ministers, for calendar years 2013-2017. The rate will increase to 8% for 2018-2022, and to 16% as from 2023; and
- Insurance companies are taxed as follows: 0% for long-term life insurance and non-state pension coverage and 3% for other types of insurance activities.

Securities and derivatives transactions

Significant changes are made to the tax treatment of securities and derivatives transactions. Before 2013, such transactions were only subject to corporate income tax and the tax treatment did not change depending on the listing status of the securities. As from 2013, an additional excise tax applies and separate accounting must be maintained for income and losses from listed and unlisted securities and derivatives transactions.

See also **World Tax Advisor — 22 March 2013**.

Enacted tax law changes that are now effective — 1 January to 31 March 2013

The following section includes a brief summary of major international income tax law changes enacted before 1 January 2013, but are first effective in the period 1 January to 31 March 2013.

Belgium
Canada
Chile
Colombia
Denmark
Jamaica
Latvia
Luxembourg
Mexico
Netherlands
Peru
Serbia
Slovak Republic
Slovenia
Sweden
Taiwan
Ukraine

Belgium

Program Law Enacted

The Program Law of 27 December 2012 was published in the Official Gazette, consequently certain changes agreed upon by the government in the framework of the budget plan 2013 entered into effect. As from 1 January 2013, the standard withholding tax rate on dividends, interest and royalties is 25%. In addition, a separate tax of 0.412% applies to capital gains on shares that qualify for the full exemption under the participation exemption and that are realized by large companies. The separate tax applies as from tax year 2014 (applicable to years closing as of 31 December 2013, but may apply earlier in specific cases).

See also **World Tax Advisor — 14 December 2012**.

Canada

Federal Budget Enacted

On 14 December 2012, Canada’s federal budget legislation received Royal Assent, passing into law a number of significant tax law changes. Included in those changes are revisions to the Canadian thin capitalization rules, such as a reduction of the debt-to-equity ratio from 2:1 to 1.5:1 and the recharacterization of disallowed interest expense as a dividend for withholding tax purposes.

Also included are the foreign affiliate (FA) “dumping” provisions, which deem a dividend as having been paid by a corporation resident in Canada (CRIC) that is controlled by a nonresident company (Parent) to the extent the CRIC makes an “investment” in the shares or debt of an entity that is currently or becomes an FA as part of the transactions. Where an FA is acquired by way of a capital contribution to the CRIC, the contribution itself is deemed not to be included in paid-up capital for Canadian tax purposes, and as such may impact the taxpayer’s thin capitalization position and/or the ability to repatriate funds from Canada in the future. As an alleviation measure, the FA dumping rules include elective provisions that permit taxpayers to reduce the balance of paid-up capital attributable to shares controlled by a nonresident parent by an amount of investment made in an FA to avoid the dividend withholding. The paid-up capital may be reinstated at a later time once the investment is sold or terminated. The FA dumping provisions apply to transactions on or after 29 March 2012 (the budget date). The deemed dividend is subject to withholding tax that is not refundable upon the unwinding of the investment.

Other provisions include changes to the R&D regime and codification of a long-standing administrative practice in respect of transfer pricing adjustments. The above changes are effective as from 29 March 2012, except for the reduction of the thin capitalization ratio, which is effective for tax years that begin after 2012.

For previous discussions on these changes see **Canada Tax Alert — 18 October 2012**, **Canada Tax Alert — 16 August 2012**, and **Canada Tax Alert — 30 March 2012**.

Chile

Certain Corporate Tax Law Changes

Chile's government enacted a tax reform bill on 27 September 2012 that includes an increase in the corporate income tax rate (First Category Income Tax) from 18.5% to 20% on earnings accrued as from 1 January 2012 or, to the extent of income subject to the First Category Tax as a single tax, the 20% tax rate is applicable from 1 September 2012. (The rate was scheduled to revert to 17% in 2013 after being temporarily increased following the 2010 earthquake.)

Other measures include an expansion of the scope of the corporate tax as a single tax to apply to certain capital gains, a broadening of the concept of Chile-source income to include certain disposals and changes to the taxation of a Chile permanent establishment. The changes apply as from 1 January 2013, unless otherwise indicated.

See also **World Tax Advisor — 28 September 2012**.

Colombia

Tax Reform Bill Enacted

The Colombian government passed a tax reform bill into law on 26 December 2012. The key changes are a reduction of the corporate income tax rate from 33% to 25% and the introduction of a new 9% "income tax for equality" imposed on net income in addition to the corporate income tax. The tax on capital gains derived from the sale of assets and shares is reduced from 33% to 10%. The transfer of profits by a branch of a foreign company to its head office abroad will be taxed at the 9% rate until 2015 (reducing to 8%) to the extent the profits were not subject to tax in Colombia. The reform also introduces a definition of permanent establishment, new thin capitalization rules and an anti-avoidance rule in accordance with international standards. The changes apply as from 1 January 2013.

See also **World Tax Advisor — 8 February 2013**.

Denmark

Dividend Anti-Avoidance Rules and Exemption for Capital Gains on Portfolio Shares Enacted

The Danish government passed two significant tax bills on 19 December 2012.

The first law contains measures to prevent the circumvention of Danish and foreign taxation. Under the law, group-related transfers of shares are treated as dividends subject to dividend taxation where the remuneration for the transfer is either entirely or partly not in the form of shares. The transfer will trigger a 27% withholding tax — regardless of whether the transferring company is resident or nonresident — if the taxation cannot be eliminated or reduced under the EU parent-subsidiary directive or an applicable tax treaty or if the transferor is unable to receive tax-exempt dividends. This measure applies retroactively as from 3 October 2012. Furthermore, the 27% dividend withholding tax applies to dividends declared on or after 1 January 2013 if the Danish company is not the beneficial owner of dividends received directly or indirectly on subsidiary or group shares and taxation of the declared dividend cannot be eliminated under the EU parent-subsidiary directive. The withholding tax can be reduced under an applicable tax treaty if the recipient is the beneficial owner of the dividends.

The second piece of legislation, which applies as from 1 January 2013, provides a tax exemption for capital gains derived by companies from the disposition of unlisted portfolio shares (i.e., a shareholding below 10%). Dividends from unlisted portfolio shares remain taxable.

See also **Denmark Tax Alert — 14 December 2012**.

Jamaica

Changes to Income Tax Rate

The 2012/2013 Jamaica budget contained a number of tax measures with various enactment dates, including a reduction in the corporate income tax rate from 33.33% to 30% for unregulated companies with more than JMD 500 million in revenue and 25% for all other unregulated companies. The rate reductions are effective as from 1 January 2013.

See also **World Tax Advisor — 13 July 2012**.

Latvia

Holding Company Regime Enacted

A new holding company regime enacted on 1 January 2012 will be beneficial for Latvian holding companies with subsidiaries within or outside the EU/EEA. As from 1 January 2013, dividends and capital gains received by Latvian resident entities are exempt from tax and the withholding tax on dividends paid to foreign parent companies is abolished.

See also **World Tax Advisor — 22 March 2013**.

Luxembourg

Budget for 2013 Enacted

On 28 December 2012, the Luxembourg government passed the 2013 budget legislation into law. One of the key changes includes an increase of the employment fund surcharge from 5% to 7%, which increases the combined income tax rate from 28.8% to 29.22% for companies located in Luxembourg City. A new progressive minimum tax is introduced for most entities subject to corporate income tax (including Luxembourg permanent establishments, foreign undertakings owning Luxembourg real estate). The amount of minimum tax due is calculated with reference to the total assets on the balance sheet. The flat tax, excluding the 7% surcharge, ranges from EUR 500 (for a total balance sheet up to EUR 350,000) to EUR 20,000 (for a total balance sheet exceeding

EUR 20 million). In addition, the minimum flat income tax on finance and holding companies is increased from EUR 1,500 to EUR 3,000. The changes are effective as from 1 January 2013.

See also **World Tax Advisor — 11 January 2013**.

Mexico

Budget for 2013 Enacted

Mexico's Budget for 2013 was published in the official gazette on 17 December 2012, passing into law several key corporate income tax changes. Under a previously enacted law, there was a temporary increase in the corporate income tax rate from 28% to 30% for 2010-2012. The rate was scheduled to decrease to 29% in 2013 and revert to the 28% rate in 2014. One of the key measures introduced by the 2013 budget is the deferral of the previously enacted tax rate reduction scheduled to take effect on 1 January 2013. The 30% income tax rate will continue to apply in 2013 and will be reduced to 29% as from 1 January 2014 and further reduced to 28% as from 1 January 2015. The surcharge, tax incentive and exemption rates will remain unchanged. In addition, a nonresident will not be deemed to have a permanent establishment in Mexico with respect to its maquila activities carried out through companies under the "authorized shelter modality." The changes are effective as from 1 January 2013.

See also **World Tax Advisor — 14 December 2012**.

Netherlands

New Restrictions on Participation Financing and Thin Cap Rules Repealed

The Netherlands government enacted new legislation on 17 July 2012 that partially disallows the deduction of interest expense for companies that have "excessive" debt in relation to their participations (i.e., investments). Under previous law, interest expense with respect to debt connected to a participation was, in principle, deductible for Dutch corporate income tax purposes; whereas, dividend income from that same participation would not have been treated as taxable (to the extent of a qualifying participation). To address this situation and create symmetry, the deductibility of interest expense (and related costs) for companies that have excessive debt compared to the value of their participations is now limited. The new rules apply to intragroup and external (third party) debt, as well as Dutch and non-Dutch participations. The rules, which include a specific calculation method to determine whether a company is excessively leveraged, do not require a direct link between the debt financing and a specific participation to be established. The first EUR 750,000 of interest expense is not affected and, in certain cases, an exemption from the limitation may apply. Additionally, thin capitalization rules, providing for a 3:1 debt-to-equity ratio, were repealed. Thus, there is no longer a debt-to-equity ratio applicable to related party debt financing. The rules are effective for financial years beginning on or after 1 January 2013.

See also **Netherlands Tax Alert — 5 June 2012**.

Peru

Corporate Tax Law Changes

Relying on a temporary delegation of authority granted by the Peruvian parliament, the executive branch enacted a number of tax measures by publishing Decrees No. 1120 and 1121 in the official gazette on 18 July 2012. The decrees cover a wide range of tax rules, including the introduction of a new chapter into the Income Tax Law containing controlled foreign company rules that apply to the passive income of nonresident entities owned by resident taxpayers that are subject to tax in Peru on their foreign-source income. The decrees also expand the scope of taxation of certain capital gains and provide for changes in the treatment of gains and losses in corporate reorganizations. The measures are effective 1 January 2013.

See also **World Tax Advisor — 24 August 2012**.

Serbia

Corporate Income Tax Rate Changes Enacted

On 17 December 2012, the Serbian government enacted amendments to the Law on Corporate Income Tax. A key amendment enacted is the increase in the corporate income tax rate from 10% to 15% effective 1 January 2013.

Slovak Republic

Corporate Income Tax Rate Changes Enacted

On 19 December 2012, the government of the Slovak Republic approved amendments to the Income Tax Act that include an increase in the corporate income tax rate from 19% to 23% as from 1 January 2013, and the imposition of a 15% withholding tax on dividends paid out of profits generated before 1 January 2004 and distributed no later than 31 December 2013. Dividends paid to EU tax residents are not subject to the 15% withholding tax if the recipient holds more than 25% of the dividend payer at the time of the distribution. Dividends generated after 1 January 2004 are not subject to tax in Slovakia.

See also **Deloitte Slovakia Tax & Legal News — December 2012**.

Slovenia

Further Corporate Tax Rate Reduction

Slovenia's Act Amending the Corporate Income Tax, enacted on 26 April 2012, includes a gradual reduction of the corporate income tax rate from 20% to 15%. The income tax rate was reduced to 18% as from 1 January 2012, to 17% as from 2013, 16% as from 2014 and 15% as from 2015.

See also **World Tax Advisor — 18 May 2012**.

Sweden

Corporate Income Tax Law Changes Enacted

On 22 November 2012, the Swedish government passed into law several significant corporate income tax changes. A key measure included in the legislation is the reduction of the 26.3% corporate income tax rate to 22% as from 1 January 2013 (i.e., applicable to fiscal years beginning after 31 December 2012). The bill includes an interest deduction limitation provision, a balancing measure designed to offset the effect of the reduction in the corporate income tax rate. Under the interest deduction limitation, all interest on intragroup debt will be deemed to be nondeductible, regardless of the purpose or origin of the loan. The definition of a group also is broadened. Under the previous rules, for example, a decisive influence between a lender and borrower was required to constitute a group, but under the new rules, a substantial influence is sufficient. The deduction of interest still may be allowed if certain conditions are satisfied (e.g., the corresponding interest income is taxed at a rate of at least 10% in the hands of the beneficial owner and the main reason for the debt is other than to obtain a substantial tax benefit, or if the intragroup debt is determined to be based on predominantly sound business reasons). The changes in the interest deduction limitation are effective as from 1 January 2013.

See also **Sweden Tax Alert — 20 September 2012**.

Taiwan

Changes to Capital Gains Tax

An amendment to Taiwan's Income Tax Act enacted on 8 August 2012 introduces changes to the taxation of capital gains with respect to the sale of securities. Under the amended rules, capital gains derived by a profit-seeking enterprise from the sale of securities that are exempt from income tax but considered a taxable item under the alternative minimum tax (AMT) regime, remain within the scope of AMT. However, the amount of the exemption is reduced from NTD 2 million to NTD 500,000 and the AMT rate increases from 10% to 12%. Fifty percent of capital gains are exempt if the securities are held for more than three years, and losses are available for carryforward for up to five years. The amendments further clarify that a nonresident profit-seeking enterprise that does not have a fixed place of business or business agent (i.e., a PE) in Taiwan is not required to pay AMT on gains from the sale of securities, however, if a foreign enterprise does have a PE in Taiwan, it will be subject to the same tax treatment as a resident profit-seeking enterprise. The changes are effective as from 1 January 2013.

See also **Taiwan Tax Alert — 27 July 2012**.

Ukraine

New Tax Benefits for IT Companies

On 2 August 2012, the Ukrainian government enacted a law that provides a special 10-year regime for certain companies engaged in a number of qualifying IT-related activities (including software development). Under the new regime, qualifying companies are entitled to a 5% corporate income tax on IT-related activities. The special regime applies from 1 January 2013 to 31 December 2022.

See also **World Tax Advisor — 14 September 2012**.

Enacted tax law changes that are effective as from 1 April 2013

The following section includes a brief summary of major international income tax law changes enacted before 1 January 2013, but are effective as from 1 April 2013.

Japan

United Kingdom

Japan

2012 Tax Reform Applicable for Fiscal Years Beginning on or After 1 April 2013

The Japanese government enacted the 2012 Tax Reform on 30 March 2012. The key change included in the reform is a restriction on the deductibility of interest paid to certain foreign affiliates ("earnings stripping"). Specifically, the enacted earnings stripping rule disallows deductions of interest expense paid to foreign related parties to the extent such interest exceeds 50% of the Japanese company's adjusted taxable income. Related parties include a company that owns (or is owned), directly or indirectly, at least 50% by the company paying the interest. Interest paid by a company whose debt is guaranteed by such controlled companies also would be subject to the limitation. The deductibility restriction is an addition to the existing thin capitalization rules and is applicable for fiscal years beginning on or after 1 April 2013.

See also **Japan Tax Alert — 17 December 2011** and **World Tax Advisor — 12 April 2013**.

United Kingdom

Corporate Income Tax Rate Reduction Effective as from 1 April 2013

On 17 July 2012, the UK Finance Act 2012 received Royal Assent, passing into law a number of tax measures announced in the UK Budget 2012. A key measure included in this legislation is the phased-in reduction of the corporate income tax rate. Pursuant to the newly enacted legislation, a 23% corporate income tax rate is effective 1 April 2013, in place of the previously enacted 24% tax rate, which became effective 1 April 2012. Because the reduced tax rate is effective from 1 April, companies that do not have a 31 March year-end may be subject to a blended tax rate on income earned in the reporting period that includes the effective date of the tax rate change. For example:

- Company X is organized and operating under UK law and has an accounting period ending 31 December 2013.
- With the enactment of the 23% tax rate effective as from 1 April 2013, Company X's 2013 blended tax rate will decrease to 23.25%, where the 24% tax rate is applicable from January 2012 through March 2012 and the 23% tax rate is applicable from April 2013 through December 2013.

In addition to the corporate income tax rate reduction, the measures passed by the Finance Act 2012 included controlled foreign corporation reform effective from 1 January 2013, and the introduction of a "patent box" regime effective from 1 April 2013.

See also **Global Tax Developments**, **UK Corporate Tax Rate Reduction — 26 July 2012**, and **UK Tax Alert — 21 March 2012**.

On the horizon…

The following developments in tax law had not become effective as of 31 March 2013, but may, in certain cases, become effective in the near future. Please follow up with your U.S. or local country tax advisor for more information.

Australia — Bill Released to Amend General Anti-Avoidance Rule

On 13 February 2013, the Australian government introduced a bill into parliament that includes amendments to the general anti-avoidance rule in Part IVA of the Income Tax Assessment Act 1936. These amendments are expected to create additional uncertainty as to how aspects of Part IVA apply, and differences in interpretation between the Australian Taxation Office and taxpayers likely will lead to further litigation. The amendments, once passed, will apply to schemes entered into, or commenced to be carried out, from 16 November 2012. Taxpayers should review transactions entered into, or commenced to be carried out, as from 16 November 2012.

See also **Australia Tax Alert — 18 February 2013**.

Belgium — Changes to Notional Interest Deduction (NID)

Belgium's current maximum NID rates of 3% for large enterprises and 3.5% for small and medium-sized enterprises (SMEs) remain unchanged. However, to align the NID rate with recent changes to the 10-year government bond rate, the NID rate would be calculated based on the average 10-year government bond rate for July, August and September of the preceding tax year. This new reference rate would apply as from tax year 2014 (applicable to years closing as of 31 December 2013), resulting in a lower effective NID rate of 2.742% for large enterprises and 3.242% for SMEs.

See also **World Tax Advisor — 14 December 2012**.

Finland – Corporate Tax Rate to Be Lowered

On 21 March 2013, the Finnish government announced a plan to reduce the corporate tax rate and, on 27 March, it announced the framework for budgets for years 2014-2017, including information about contemplated changes to the corporate tax rules. The most significant expected changes are as follows:

- Reduction of the corporate income tax rate from 24.5% to 20% as from 2014;
- Abolition of the temporary R&D incentive and double tax depreciation for investments in production facilities and machinery as from 2015;
- Abolition of the tax deductibility of entertainment costs as from 2014;
- Introduction of asset-based tax depreciation for long-term investments instead of the current pool-based tax depreciation; and
- Introduction of limits on the deductibility of interest.

More changes are expected to be proposed to the corporate income tax regime. A recently established working group is looking at areas such as revisions to the group tax and loss relief regimes and abolition of the income "baskets" applicable to corporate taxpayers.

See also **World Tax Advisor – 12 April 2013**.

France – Draft Administrative Guidelines on Global Cap on Financial Charges

The French tax authorities (FTA) published long-awaited draft guidelines on 29 March 2013 regarding the new limitation on the deduction of financing expenses. The Finance Bill of 2013 introduced a global cap on "net finance charges." The cap is set at 85% (reduced to 75% as from FY 2014) when net finance charges exceed EUR 3M for a company or a tax group. The draft guidelines clarify the scope of the new limitation, the manner in which net finance charges should be calculated and the coordination with other interest deduction limitations.

See also **World Tax Advisor – 12 April 2013** and **France Tax Alert – 30 September 2012**.

India — Tax Measures in Budget 2013/2014

India's annual budget for 2013/2014 presented on 28 February 2013 includes measures that could adversely impact foreign entities.

The most important budget proposals from an international tax perspective are as follows:

- The corporate tax rate will remain unchanged, but the surcharge on companies would be increased from 5% to 10% for domestic companies and from 2% to 5% for foreign companies. As a result, the effective tax rate for an Indian company earning more than INR 100 million would be 33.99% for a domestic company and 43.26% for a foreign company.
- The domestic withholding tax rate on royalties and fees for technical services would be increased from 10% to 25%. (If a nonresident wishes to benefit from a reduced rate of withholding tax under an applicable tax treaty, it is required to produce a tax residence certificate, as well as register with the Indian tax authorities and obtain a Permanent Account Number or PAN (failure to obtain a PAN will result in the application of the domestic withholding tax rate of 20%)).
- Share buybacks by an Indian company, other than a listed company, would be subject to a distribution tax of 20% (an effective rate of 22.66%, including the surcharge and education cess).
- The introduction of the general anti-avoidance rule (GAAR) would be postponed until 1 April 2015. The GAAR will apply only when the "main purpose" of an arrangement is to obtain a tax benefit. Further, the applicability of the GAAR in a particular case would be subject to approval by a panel whose decision would be binding on the tax payer and Revenue authorities.

The tax proposals will now be deliberated by both houses of parliament and then enacted into law. Unless otherwise specified, the proposals generally would be effective as from 1 April 2013.

See also **World Tax Advisor — 8 March 2013**.

Japan — Protocol to Treaty with U.S.

On 24 January 2013, Japan and the U.S. signed a new protocol to amend the 2003 income tax treaty and accompanying protocol. The proposed protocol provides, for the first time in Japan's history of income tax treaties, a general withholding tax exemption for interest. Subject to ratification, the proposed protocol also would broaden the scope of the withholding tax exemption for some dividends, introduce mandatory binding arbitration procedures, facilitate tax administration and bring the current treaty into closer conformity with the current tax treaty policies of both countries. Although Japan does not have a model income tax treaty similar to the U.S. model issued by the U.S. Treasury Department, Japan's government may use the proposed protocol as a model for renegotiating its existing income tax treaties with other countries and for negotiating new treaties in the future.

See also **World Tax Advisor — 22 February 2013**.

Malta – Election Results in a Change of Government But Not Policy

A new government was elected in Malta on 10 March 2013, as a result of which the Labor Party now governs. The change in government is not likely to result in any major changes that would affect Malta's economic and political stability. The 2013 budget, as tabled by the outgoing government and which is subject to approval by the newly formed parliament, is expected to be retained in its entirety. The 2013 budget bill includes a proposal to further extend Malta's royalty exemption to include income from trademarks. It proposes to extend the participation exemption regime to include profits and gains derived by a Maltese company that are attributable to a permanent establishment outside Malta, and to the transfer of such permanent establishment. The budget also includes a proposal that would open the door for the introduction of a group tax consolidation system.

See also **World Tax Advisor – 12 April 2013**.

Spain — Protocol Signed to Amend Treaty with U.S.

On January 14, 2013, Spain and the U.S. signed a protocol that would amend the existing income tax treaty and protocol. If the proposed protocol is ratified and enters into force, the treaty will be much more similar than it is now to U.S. treaties with other major EU member states. Thus, the amended treaty would require each country to reduce its current tax in many cases on dividend, interest and royalties paid to residents of the other country; the revised limitation on benefits article would allow for "derivative benefits" and would limit benefits in the case of income earned through third-country permanent establishments. The amended treaty also would require the competent authorities to use binding arbitration to resolve future cases that they are unable to settle on their own.

See also **United States Tax Alert — 15 January 2013**.

United Kingdom — 2013 Budget Measures Affecting Multinationals

The 2013 UK budget announced on 20 March 2013 includes a number of tax measures to promote growth. The headline announcement is a further 1% cut in the rate of corporation tax giving the UK a rate of 20% as from 1 April 2015. The announcement of the 20% rate builds on the reductions announced in recent budgets such that the 24% rate reduced to 23% as from 1 April 2013 and then to 21% as from 1 April 2014. In addition, the Chancellor announced in the 2012 budget an above-the-line R&D tax credit to be introduced as from 1 April 2013. The 2013 budget increases the amount of the credit from 9.1% of qualifying spend to 10%. The 21% and 20% rates and the R&D tax credit will apply once Finance Bill 2013 receives Royal Assent, likely in July 2013.

See also **World Tax Advisor — 22 March 2013**.

United States – FY2014 Budget and Greenbook Released

On April 10, 2013, the Obama Administration released its FY2014 Budget and the Treasury Department released the General Explanations of the Administration's Fiscal Year 2014 Revenue Proposals (Greenbook). The FY2014 Budget contains several carryover international tax proposals from the FY2013 Budget. It also includes two proposals (discussed below) that have not been in prior Obama Administration budgets.

Minimum tax on foreign earnings

The FY2014 Budget incorporates by reference the President's Framework for Business Tax Reform, released in February 2012 (Framework), and it specifically references the Framework's proposed minimum tax on foreign earnings. While the budget incorporates the Framework, neither it nor the Greenbook provides additional details or explanations of the proposals in the Framework.

The Framework proposes that "income earned by subsidiaries of U.S. corporations operating abroad must be subject to a minimum rate of tax." More specifically, "foreign income deferred in a low tax jurisdiction would be subject to immediate U.S. taxation up to the minimum tax rate with a foreign tax credit allowed for income taxes on that income paid to the host country." The Framework does not specify what the Obama Administration believes the minimum tax rate should be or whether there would be additional US taxation on these foreign earnings upon repatriation.

Exempt foreign pension funds from application of FIRPTA

The Foreign Investment in Real Property Act (FIRPTA) generally imposes a tax on gains of foreign individuals or foreign corporations from the disposition of U.S. real property interests. The proposal would exempt from the application of FIRPTA the gains of foreign pension funds derived from the disposition of U.S. real property interests. For purposes of this exemption, a foreign pension fund generally would mean a trust, corporation or other organization or arrangement that 1) is created or organized outside the U.S.; 2) is exempt from income tax in the jurisdiction in which it is created or organized; and 3) substantially all of the activity of which is to administer or provide pension or retirement benefits.

See also **Global Tax Alert – 10 April 2013**.

United States — Pending Treaty with Poland

On 13 February 2013, the U.S. and Poland signed a new income tax treaty to replace the current treaty, which dates from 1974. The most notable change is the addition of a comprehensive limitation on benefits article to discourage treaty shopping. In addition, the treaty modernizes the current treaty to take account of U.S. tax developments, including the enactment of the Foreign Investment in Real Property Tax Act, the branch profits tax and the real estate mortgage investment conduit rules; Internal Revenue Code section 894(c) (treaty benefits for income derived through hybrid entities); and the OECD Report on the Attribution of Profits to Permanent Establishments. Surprisingly, the treaty increases the permitted withholding tax on most interest from 0% to 5%.

The treaty will enter into force after ratification by both the U.S. and Poland, and after the countries exchange instruments of ratification, possibly by the end of 2013. The treaty generally would be effective, in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month following the date the treaty enters into force. In respect to other taxes, the new treaty generally would be effective for taxable periods beginning on or after 1 January of the first full calendar year after the date the treaty enters into force. The treaty does not provide for "grandfather" relief.

See also **World Tax Advisor — 22 February 2013**.

Did you know?

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

Belgium — Guidance Issued on Application of Treaty with U.S.

Belgium's tax authorities issued a circular on 5 February 2013 that clarifies the application of the 2006 Belgium-U.S. tax treaty. The circular provides commentary and a number of useful examples that help to clarify the Belgian tax authorities' interpretation of most provisions in the treaty. For example, unlike the OECD model, the 2006 treaty does not include a tiebreaker rule for determining the residence of corporations. In this respect, the circular states that, unless the residence for purposes of the treaty of a company that is a resident for tax purposes under the domestic law of both Belgium and the U.S. is resolved by a mutual agreement between the two countries' competent authorities, such a dual resident company will be denied most treaty benefits.

See also **World Tax Advisor — 22 March 2013**.

China — Simplified Rules on Administration of Foreign Exchange for Direct Investment

China's State Administration of Foreign Exchange (SAFE) has issued guidance that simplifies and relaxes the rules governing the foreign exchange administration of both inbound and outbound investment (Circular 59). Circular 59, which applies as from 17 December 2012, eliminates the advance approval required for many foreign direct investment activities, such as setting up a foreign exchange bank account, transferring foreign exchange capital funds to certain accounts, etc., so that banks can directly handle investors' requests. In addition to simplifying the administrative burdens on the SAFE, Circular 59 also is expected to benefit foreign investors.

See also **World Tax Advisor — 25 January 2013**.

Denmark — Tribunal Rules on Beneficial Ownership under Treaty with U.S.

Denmark's National Tax Tribunal has published a ruling dated 30 January 2013, in which it concluded that a U.S. parent company of a Danish check-the-box entity was not taxable in Denmark on interest income derived through the Danish entity. The tribunal found that the U.S. parent should be considered the beneficial owner of the interest income. Since the U.S. parent and the debtor with respect to the interest (an ultimate U.S. Parent) both were resident in the U.S., the U.S. would have exclusive taxing rights under article 21 (Other income) of the Denmark-U.S. tax treaty, and article 11 (Interest) would not apply.

See also **Denmark Tax Alert — 27 February 2013**.

European Union — AG Releases Opinion on Finland's Loss Forfeiture Rules

Advocate General (AG) Sharpston of the Court of Justice of the European Union (CJEU) issued her opinion on 7 February 2013 in a case involving Finland's loss forfeiture rules. At issue was whether the granting of an exception to the loss forfeiture rules where there has been a change in control of a company constitutes state aid under EU rules. The purpose of the state aid rules (as found in the Treaty on the Functioning of the European Union, or TFEU) is to ensure that "government interventions do not distort competition and intra-EU trade." The TFEU contains a general prohibition on state aid measures, unless they are specifically approved and authorized by the European Commission ("standstill obligation") If the CJEU follows AG Sharpston's opinion, Finland can continue to apply the discretionary system for the retention of losses provided the European Commission does not consider the rules to be incompatible with the internal market.

See also **European Union Tax Alert — 14 February 2013**.

France — Tax credit for competitiveness and employment

The third amended Finance Act for 2012 established a "credit for competitiveness and employment" ("*Credit d'Impôt pour la Compétitivité et l'Emploi*" or "CICE") when enacted on December 31, 2012. The tax credit is based on all wages paid to salaried employees in a given calendar year for salaries that do not exceed 2.5 times the French minimum wage (salaries of employees who earn more than 2.5 times the minimum wage are excluded from the computation), calculated using statutory working hours, plus overtime or additional hours, where appropriate. The tax credit is determined by multiplying the amount of qualifying wages paid in 2013 by 4% and the amount of qualifying wages paid in 2014 (and thereafter) by 6%. The tax credit may be applied to offset a corporate taxpayer's income tax liability. If there is a tax credit carryforward, it is carried forward for three years and may even be refunded when not fully utilized, at the end of this period.

See also **Accounting for Income Taxes Quarterly Hot Topics: March 2013**.

India – CBDT Issues Guidance on Transfer Pricing Rules Applicable to R&D Activities

India's Central Board of Direct Taxes issued two circulars on 26 March 2013, one providing clarification regarding the use of the profit split method for related party transactions involving intangible property (Circular No. 2), and the other stipulating the requirements for a research and development (R&D) center to be classified as a contract R&D unit (Circular No. 3).

See also **World Tax Advisor – 12 April 2013**

Italy — One-time IRES Refund Opportunity Available for Companies

Italian companies and branches of foreign companies have a limited window of opportunity to obtain a refund of prior corporate income tax (IRES) overpaid during the past four fiscal years (2007-2011 for calendar year taxpayers) because they were not allowed to deduct a certain portion of their liability for the regional tax on productive activities (IRAP) for IRES purposes. The portion concerned is that attributable to such corporations' personnel costs. The special onetime refund claim must be filed within 60 days from the initial filing date. The initial filing dates run from 18 January 2013 to 15 March 2013, so the filing window will expire between 19 March 2013 and 15 May 2013. Depending on the Italian company's specific tax position in each relevant tax year, the claim could result in an actual cash refund or an additional NOL available for carryforward.

See also **Italy Tax Alert — 24 January 2013**.

Malta – Treaty Developments

Malta's tax treaty network, consisting of 63 tax treaties, has experienced a significant degree of development over the past six months. New tax treaties with Bahrain, Hong Kong, Saudi Arabia, Switzerland, and Uruguay entered into effect on 1 January 2013 (1 April 2013 in the case of Hong Kong). A new treaty with Guernsey and a revised treaty with Norway will enter into effect on 1

January 2014. New tax treaties have been negotiated with Armenia and Mexico, a protocol to the existing treaty with South Africa has been signed and the treaty established with Russia has been approved for signature. Malta also has concluded tax information exchange agreements with the Bahamas, Bermuda and Gibraltar.

Look up treaty rates and other international tax information on **Deloitte International Tax Source**.

Mexico — Tax Amnesty Program Introduced

Mexico's Federal Revenue Law for Fiscal Year 2013, published in the official gazette on 17 December 2012, includes a tax amnesty that will enable taxpayers to settle tax liabilities incurred before 31 December 2012, as well as interest and certain penalties. The tax amnesty mainly covers income tax, the business flat tax, VAT and customs duties and fines imposed due to noncompliance with formalities. The tax amnesty will be available during fiscal year 2013, since the Federal Revenue Law is issued on an annual basis (traditionally these programs are available only at the beginning of a new administration). However, the Mexican tax authorities have requested taxpayers to apply for the benefits of this program no later than 31 May 2013.

See also **World Tax Advisor — 25 January 2013**.

OECD — Report Issued on Base Erosion and Profit Shifting

The Organization for Economic Cooperation and Development (OECD) released its first report on base erosion and profit shifting (BEPS) on 12 February 2013. The OECD report is responding to the growing perception that governments lose substantial corporate tax revenue because profits are shifted to favorable tax locations and that traditional international tax principles may no longer be adequate for countries to develop appropriate responses to BEPS. The 91-page report was presented at the 15-16 February meeting of G20 finance ministers and central bank governors in Moscow.

The goal of this report is to establish the case for action by showing the extent of base erosion and profit shifting. The G20 agreed that a problem exists and that action is needed (which is likely). In a communique issued at the end of the Meeting of G20 Finance Ministers and Central Bank Governors in Moscow on 16 February 2013, the G20 Finance Ministers and Central Bank Governors stated,

> In the tax area, we welcome the OECD report on addressing base erosion and profit shifting and acknowledge that an important part of fiscal sustainability is securing our revenue bases. We are determined to develop measures to address base erosion and profit shifting, take necessary collective actions and look forward to the comprehensive action plan the OECD will present to us in July.

The OECD group will consider work streams that will be undertaken to address the problem. The current plan is to present those work streams to the G20 in July 2013 when the G20 meet again in Moscow. The plan will (i) identify actions needed to address BEPS; (ii) set deadlines to implement actions; and (iii) identify the resources needed and the methodology to implement these actions. The report concludes that BEPS is a significant problem for both OECD member and non-member states, and that "the international common principles drawn from national experience to share tax jurisdiction may not have kept pace with the changing business environment."

See also **OECD Tax Alert — 14 February 2013** and **Dbriefs Bytes – 15 February 2013 and 22 February 2013**

Sweden — Foreign Non-UCITS Investment Funds Awarded Refund of Withholding Tax

In recent decisions issued by a Swedish administrative court, U.S. investment funds taxed as regulated investment companies (RIC) were awarded a refund of tax that had been withheld during 2004-2009. The court found that the funds were comparable to Swedish investment funds and that the withholding tax that had been levied constituted an impermissible discrimination under EU law. Investment funds should consider whether they have any Swedish withholding taxes that potentially could be recovered. Reclaims can be made during 2013 for withholding tax levied on dividend distributions as from 2008.

See also **World Tax Advisor — 8 March 2013**.

United States

Final and Temporary Regulations Address Outbound Asset Transfers

On 18 March 2013, the Internal Revenue Service and Treasury Department issued final and temporary regulations under Internal Revenue Code sections 367(a), 367(b) and 1248(f). These regulations finalize 2008 proposed regulations addressing outbound transfers and distributions under sections 361 and 355. In addition, temporary regulations revise the coordination between the section 367(a) asset and indirect stock transfer rules. The final regulations under sections 367(a)(5), 367(b) and 1248(f) apply to transfers occurring on or after 17 April 2013; the temporary regulations revising the indirect stock transfer rules apply to transactions occurring on or after 18 March 2013.

See also **United States Tax Alert — 22 March 2013**.

Proposed Regulations Address GRAs and Other Outbound Transfer Reporting

On 30 January 2013, the Internal Revenue Service (IRS) and the Treasury Department issued a notice of proposed rulemaking stating proposed regulations that would revise the reporting regime applicable to outbound stock and property transfers under sections 367 and 6038B. The proposed regulations address several different filings, most notably section 367(a) gain recognition agreements (GRAs). The regulations propose common standards to address untimely and incomplete filings, including a revised coordination of the section 367 and section 6038B rules. The standard applicable to taxpayers seeking to avoid gain recognition under section 367(a) by remedying untimely or incomplete GRA filings would be revised from proof that the failure to comply was “due to reasonable cause and not willful neglect” to proof that the failure “was not willful”. The preamble to the proposed regulations explains that the IRS and Treasury Department believe that gain recognition under section 367(a)(1) should apply only if a failure to timely file an initial GRA or a failure to comply with the section 367(a) GRA regulations with respect to an existing GRA is “willful.” The regulations are proposed to be effective for filings that are due on or after the date the regulations are published as final, and would also apply to requests for late or incomplete filing relief that are submitted to the IRS on or after that date.

See also **United States Tax Alert — 4 February 2013**.

U.S. Government Issues Final FATCA Regulations

The U.S. Treasury Department and the Internal Revenue Service (IRS) released final regulations on 17 January 2013 implementing the information reporting and withholding tax provisions for foreign financial institutions (FFIs) under the Foreign Account Tax Compliance Act (FATCA).

Under FATCA, FFIs are required to report information about offshore accounts and investments held by U.S. taxpayers to the IRS on an annual basis. FFIs include, among others, banks, insurance companies, hedge funds, mutual funds and private equity firms. FFIs must enter into formalized agreements with the IRS to share the identities of U.S. account and asset holders; otherwise, they will face a 30% withholding charge. FATCA also imposes new requirements on certain U.S. entities and Non-Financial Foreign Entities (NFFEs).

After taking into consideration comments received on proposed regulations published in February 2012, Treasury and the IRS believe they are providing a risked-based approach that effectively addresses policy, eliminates burdens and builds on existing practices and procedures. To that end, the final regulations attempt to meet this goal by limiting the application of FATCA to institutions, obligations and accounts that present the concerns FATCA seeks to address.

The final regulations also address the coordination of inter-governmental agreements (IGAs) by making it clear that FFIs in “Model 1” jurisdictions (i.e., jurisdictions that signed the first model IGA) will be governed by the laws implemented by their own countries, while those in “Model 2” jurisdictions (i.e., jurisdictions that signed the second model IGA) will need to follow the regulations.

See also **World Tax Advisor — 25 January 2013**.

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.

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 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 Management's Discussion & Analysis (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 company'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.

We have accumulated a select group of example disclosures that report impacts of enacted laws and the potential impacts of proposed legislation. The information in these example disclosures reflects pronouncements as of 31 March 2013. These disclosures were obtained from public filings on www.sec.gov. Although taken from public filings, any information specific to the registrant has been removed. New laws are being enacted and new proposals are introduced on a regular basis. The disclosures included in this publication cover only the period noted above. The user of this document should consider new laws enacted or proposed after the period covered and consider whether disclosures would be impacted.

These disclosures may be used to gain insight into registrants' communications to their shareholders and the market about the impacts that tax legislation could have on their business. It is not a substitute for your understanding of such requirements and the exercise of your judgment. You are presumed to have a thorough understanding of the requirements and should refer to the text of the underlying rules, as necessary, in considering particular items in this example disclosure.

See also **Example SEC Comments: Income Taxes; Example Disclosure: Accounting for Income Taxes; and Sample Disclosures: Tax Legislation** – A compilation from public filings of example SEC comments and example disclosures.

Example disclosures with respect to the effect of the corporate tax rate changes in Colombia, Luxembourg and Sweden

“On December 26, 2012, Colombia enacted a tax reform bill that, among other things, decreased the corporate tax rate from 33% to 25%, but also added a new 9% tax for equality, which results in a combined tax rate of 34%. Net operating losses cannot be utilized against the new 9% tax for equality, and therefore the associated deferred tax asset must now be based on the lower 25% corporate tax rate only. Other deferred tax assets and liabilities must now be based on the higher combined tax rate of 34%. Included in deferred foreign tax expense (benefit) is a $X million expense to adjust our Colombian net deferred tax assets and liabilities for the change in rates.”

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“On January 1, 2013, new tax legislation became effective in Sweden that limits the deductibility of interest paid on certain intra-group debt instruments. Uncertainty exists with respect to the interpretation of the legislation. Adverse interpretation of the legislation could cause us to write down some or all of the $X million in deferred tax assets related to intra-group debt instruments in our internal capital structure, which would have an adverse effect on our results of operations and financial condition.”

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“Effective January 1, 2013, Sweden reduced its corporate tax rate from 26.3% to 22.0%, and Luxembourg increased its corporate tax rate from 28.8% to 29.2%. This resulted in a reduction in Company X’s net deferred tax liabilities in Sweden and an increase in Company X’s net deferred tax assets in Luxembourg at December 31, 2012. In addition, during the quarter Company X had a net release of valuation allowances on deferred tax assets in Luxembourg and Subsidiary X established a valuation allowance on deferred tax assets of a group of U.S. companies reported in the Other Operations segment. In total, these changes resulted in an increase to adjusted book value per share of $X.XX in the fourth quarter of 2012.”

Example disclosure with respect to the effect of a tax holiday in India and the Philippines

“Due to the effect of temporary or timing differences resulting from the differing treatment of items for tax and accounting purposes and minimum alternative tax obligations in the U.S. and India, future cash outlays for income taxes are expected to exceed our current income tax expense but will not adversely impact the Company’s liquidity position. Specifically our software and product development operations in India benefit from a tax holiday which will continue through 2015; as such the Company's local India taxable income derived from export activities in support of our operating divisions around the world is not taxed. After the tax holiday expires such taxable income generated by our India operations will be taxed at 50% of the normal Indian 33.99% corporate tax rate for a period of five years. During 2012 the tax holiday in India had the effect of reducing income tax expense by $XX.X million or approximately $X.XXX per diluted share. However the Company's operating cash savings in regards to outlays for taxes was effectively only $X.X million, since $X.X million of Minimum Alternative Tax (“MAT”) taxes were assessed and paid against 2012 income during the year ended December 31, 2012, as advance payments made in 2012 for taxes due beyond 2014 in India.”

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“In 2012, the effective income tax benefit stems primarily from the reversal of the net deferred income tax liability resulting from the write down of goodwill and other intangible assets, and the impact of the Philippine tax holiday, partially offset by the accrual of withholding taxes related to potential repatriation of earnings in the Philippines (see below). The Company's Philippine tax holiday was effective through September 2012. The Company is in the process of applying for a one-year extension. Although management expects the extension to be approved based on its discussion with the foreign taxing authority, the Philippines tax liability has been computed assuming no tax holiday on the post expiration earnings. The impact of this tax holiday decreased foreign taxes by $XXX,XXX, $XXX,XXX and $XXX,XXX for the fiscal years 2012, 2011 and 2010, respectively."

Example disclosures with respect to ASC 740-30 (formerly APB 23) Assertions

"Prior to 2009, the Company asserted under ASC 740-30 (formerly APB 23) that the unremitted earnings of its Irish subsidiary (Subsidiary X) were permanently invested. In 2009, the Company withdrew its permanent investment assertion for Subsidiary X's future earnings and provided deferred taxes on the earnings subsequent to 2008. In light of the Company's debt refinancing concluded in 2011, the Company reassessed its unremitted earnings position in the fourth quarter of 2011 and concluded all of Subsidiary X's earnings including the 2009 - 2011 period were permanently invested overseas. Accordingly the deferred tax liability recorded as of December 31, 2010 was reversed but there was no income statement impact because of the valuation allowance."

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"Our Foreign subsidiary (Subsidiary X) generates earnings that are not subject to United States income taxes so long as they are permanently invested in the Company's operations outside the United States. Under ASC 740-30 (formerly APB 23), unremitted earnings of Subsidiary X that are no longer permanently invested would become subject to deferred income taxes under United States tax law. We consider the following matters, among others, in evaluating our plans for indefinite reinvestment of Subsidiary X's earnings: (i) the forecasts, budgets and financial requirements of both Company X and our other foreign subsidiaries, both for the long term and for the short term; (ii) the tax consequences of any decision to reinvest earnings of Subsidiary X, including any changes in United States tax law relating to the treatment of these unremitted earnings; and (iii) any U.S. and foreign government programs or regulations relating to the repatriation of these unremitted earnings . If Subsidiary X's unremitted earnings are no longer permanently reinvested, we would need to make provision for deferred income taxes on these unremitted earnings, which could materially adversely affect our results of operations. Furthermore, if we initiate actions to repatriate these unremitted earnings and precipitate payments of U.S. income taxes, such payments could materially adversely affect our liquidity."

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"As a result of the 2012 Change in Control Transaction and increased debt service requirements resulting from the additional debt incurred by Company X Holding, we asserted under ASC 740-30 that all unremitted foreign earnings of Company X accumulated as of April 30, 2012, were not indefinitely reinvested outside the U.S. Accordingly, we recorded a deferred tax liability for the full estimated U.S. tax cost, net of related foreign tax credits, associated with remitting these earnings back to the U.S.

The effective tax rate was XXX% for the year ended December 31, 2012. This rate was higher than the 35% U.S. federal statutory rate primarily due to the lapse of the look-through rule and the reduction in available foreign tax credits, the unfavorable impact of ASC 740-30 and the non-deductibility of certain costs incurred in connection with the 2012 Change in Control Transaction, partially offset by a favorable tax rate differential on the Company's foreign earnings."

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 U.S. 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.) 2013	2014	Date the combined national/ local rate enacted	Notes
Argentina	35%	35%	N/A	A 1% asset tax on corporate assets, including shareholdings in foreign companies (but not holdings in resident companies) operates as a minimum income tax. Asset tax paid may be credited against the company's income tax liability for up to 10 fiscal years.
Australia	30%	30%	N/A	The government previously proposed a reduction of the corporate tax rate from 30% to 29%. In May 2012, it was announced that the proposed reduction was abandoned.
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	20%	20%	27 Sep 2012	On 27 September 2012, the tax reform bill was enacted to increase the corporate income tax rate (First Category Income Tax) from 18.5% to 20% on earnings accrued as from 1 January 2012. To the extent of income subject to the First Category Tax as a single tax, the 20% tax rate is applicable from 1 September 2012.The rate was scheduled to revert to 17% in 2013 after being temporarily increased following the 2010 earthquake; however, the 20% rate will continue to apply as from 1 January 2013.
China	25%	25%	16 Mar 2007 26 Dec 2007	Companies that were entitled to the 15% lower rate under old law were entitled to a gradual increase in the tax rate to 25% over a five-year period. The last such gradual increase applied in 2012. Entities qualifying as small-scale taxpayers were subject to a 20% tax rate. A reduced 15% tax rate applied 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.) 2013	2014	Date the combined national/ local rate enacted	Notes
France	33.33% – 36.10%	33.33% – 36.10%	29 Dec 2011 & 30 Dec 2012 (See **Note 1**)	For taxpayers with a fiscal year ending before 31 December 2011, the corporate tax rate was 33.33% with an additional 3.3% surcharge applicable when the global corporate income tax charge exceeded EUR 763,000 (i.e., a combined effective corporate tax rate of 34.43%). For taxable income derived in a fiscal year closed on or after 31 December 2011 and prior to or on 30 December 2015, an additional surcharge of 5% (based on the income tax due at the standard tax rates) is applicable for companies with revenue exceeding EUR 250 million (please see **Note 1** for details). As a result of the new surcharge, the effective tax rate applicable to large profitable companies increases from either 33.33% or 34.43% to either 35% or 36.10%, respectively. These rates do not include the impact of the CVAE, an annual local business tax, which is considered an income tax under U.S. GAAP. These rates also do not include the impact of the 3% surtax on distributions that was enacted on 17 August 2012 and which is considered an income tax and effectively creates a dual tax rate regime in France under U.S. GAAP (please 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%	30.9% or 32.45%	8 Apr 2011	The effective rate for domestic companies is 30.9% (where taxable income is less than or equal to INR 10 million) and 32.45% (where taxable income exceeds INR 10 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). 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 (please 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 Finance Act 2013, enacted on 27 March 2013,includes an increase in the capital gains tax rate from 30% to 33% that is effective for disposals occuring on or after 6 December 2012.
Italy	27.5%	27.5%	28 Dec 2007	IRAP, the regional tax on productive activities, is levied within a range of up to one percentage point around the basic IRAP rate (3.9%). From 2011, the basic IRAP rate is 4.65% for banks and 5.9% for insurance companies. Taxpayers will need to determine whether to treat IRAP as an income tax under ASC 740. An additional 10.5% “Robin Hood” tax is levied on certain companies. (please see **Note 4** for details)

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.)		Date the combined national/ local rate enacted	Notes
	2013	2014		
Japan	37%–39% or 40%–42%	37%–39% or 40%–42%	30 Nov 2011	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 is effective for three consecutive years starting with the first fiscal year beginning on or after 1 April 2012. Japanese companies 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. Consequently, for taxpayers operating in Tokyo, the local enterprise tax is generally levied on taxable income at a rate of either 10.073% or 7.552%, and 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. The local enterprise tax is deductible for national corporation tax purposes generally when it is paid. As such, the change in the national corporate income tax rate will have an effect on the applicable local income tax rate(s). Following these changes, the combined effective tax rate effective for three years starting in fiscal year 2012 (net of applicable tax benefit) is approximately 37%-39%. Subsequent to these first three fiscal years, the temporary surtax will no longer apply and the combined effective tax rate will decrease by approximately 2.3 percentage points.
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%	29%	7 Dec 2009 and 17 Dec 2012	The 30% tax rate remains in effect for 2013, but will decrease to 29% in 2014 and revert to the 28% rate in 2015. A special regime applies for maquiladoras. A Business Flat Tax (IETU) was introduced in 2007 and provided for a tax rate of 16.5% in 2008, 17% in 2009 and 17.5% in 2010 and thereafter. IETU is calculated independently from the regular tax (ISR) using a modified tax base. The ISR effectively paid can be credited against the IETU liability. The flat tax is treated as an income tax for ASC 740; however, taxpayers will need to determine whether they are required to record deferred taxes on the basis of ISR, IETU, or both.
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.
Peru	30%	30%	N/A	Certain oil and gas or mining companies that signed a tax stability agreement with the government are subject to an additional 2% tax for the period covered by the agreement. In addition, a special corporate tax regime is available for certain types of resident enterprises if income does not exceed a specified amount.
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 regional governments of Russia. As from 1 January 2012, certain companies operating in a Special Economic Zone may be subject to a combined reduced tax rate ranging from 15.5% to as low as 0%.
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 2013 refers to a financial year ended in 2012).
Sweden	22%	22%	22 Nov 2012	The corporate tax rate reduced from 26.3% to 22% as from fiscal years starting on or after 1 January 2013.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2013	2014	Date the combined national/ local rate enacted	Notes
Switzerland	12%–24%	12%–24%	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	24% and 23%	23%	17 Jul 2012	A 24% tax rate was effective from 1 April 2012 and a 23% tax rate is effective from 1 April 2013. As a result of the mid-year change, a blended tax rate of 23.25% applies for taxpayers with a December 31 year-end. The corporate tax rate is expected to further reduce to 21% with effect from 1 April 2014, and to 20% from 1 April 2015, but these reductions have not yet been enacted.

Note 1: On 30 December 2012, the 2013 Finance Bill was enacted extending the additional surcharge of 5% applicable for companies with revenues exceeding EUR 250M to all fiscal years closing prior to and on 30 December 2015 (previously 30 December 2013).

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 16.2225% 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% or 32.445% to 40.55% or 41.87%, respectively.

Note 4: Law No. 148, enacted on 16 September 2011, introduces 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 Development* 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.

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2012 Global Transfer Pricing Country Guide — A comprehensive and authoritative guide, compiling essential information regarding the transfer pricing regimes in 54 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 2013 Training — Professionals continue to face significant challenges in financial accounting and reporting for income taxes. Deloitte's Financial Reporting for Taxes training can help you stay informed. Our next program with multiple course offerings is scheduled for May 13–17, 2013 in Jersey City, New Jersey. Course offerings are designed for corporate tax and accounting professionals. We encourage you to **register** early due to limited meeting space and number of reserved hotel rooms. Also, take advantage of multiple course discounts.

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