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 2014. Accordingly, certain aspects of this document may be updated as new information becomes available. Financial statement preparers and other users of this document should take actions to remain abreast of and carefully evaluate additional events that may be relevant to accounting for income taxes matters.

Applicable U.S. GAAP guidance

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

Enacted tax law changes: enacted during 1 January to 31 March 2014

The following section includes a brief summary of major international income tax law changes enacted during the period 1 January to 31 March 2014, unless specified otherwise.

Austria

2014 Tax Reform Enacted

Date of enactment: 28 February 2014
Effective date: Various

The Austrian legislature passed the 2014 reform act on 28 February 2014, with certain rules becoming effective on 1 March 2014. The enacted bill reflects some changes from the draft bill circulated in January. The package includes, among other items, changes to the tax group regime (effective as from 1 January 2015), abolition of the capital tax (as from 1 January 2016), and limits on deductions for interest and royalty payments (for interest/royalty expenses accruing after 28 February 2014).

See also **Austria Tax Alert – 23 January 2014** and **Austria Tax Alert – 20 March 2014.**

Chile

Scope of Foreign Tax Credit Expanded and Electronic Billing Now Mandatory

Date of enactment: 31 January 2014
Effective date: Various

A law published in Chile's official gazette on 31 January 2014 modifies the foreign tax credit rules and makes electronic billing mandatory.

The changes to the foreign tax credit rules apply to income received (or accrued, in the case of branches of foreign companies) as from 1 January 2014. If foreign tax on the income was paid before that date, the corresponding foreign tax credit will be governed by the rules in effect at that time.

The new law generally makes the electronic issuance of certain invoices mandatory, although taxpayers located in areas without internet or electricity coverage may be authorized by the tax authorities to continue issuing paper invoices. The electronic invoicing requirement will be phased in over the next two years, with the exact date depending on the taxpayer's volume of sales (the date for the first wave of taxpayers (those with sales exceeding USD 4,160,000) is 1 November 2014).

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

Tax Treatment of Investment Funds Overhauled

Date of enactment: 7 January 2014
Effective date: Various

A law that overhauls the tax treatment of investment funds, mutual funds and private funds has been enacted, and was published in Chile's official gazette on 7 January 2014. The law will enter into force once the relevant implementing regulations have been issued. Among the changes are a reduction in the withholding tax rate on distributions by qualifying Chilean investment funds to nonresident investors from 35% less the underlying corporate income tax credit (currently generally 18.75%) to 10%. Distributions of foreign-source income to nonresident investors by a Chilean investment fund investing 80% of its assets abroad will be exempt if certain requirements are met.

Curaçao

New Export Regime Targets Financial Sector

Date of enactment: 1 January 2014
Effective date: 1 January 2014

Curaçao's profit tax regulation has been amended to introduce a beneficial export regime for companies engaged primarily in transactions with foreign clients. The new regime, which applies as from 1 January 2014, is designed as an alternative incentive for the international financial sector, since the old offshore regime was abolished in 2000 and the transition rules will expire in 2019.

Under the export regime, the profits of a qualifying company will be taxed at an effective tax rate (ETR) of approximately 4% (3.9875%). The ETR, which is slightly higher than the old offshore tax rate of 2.4%-3%, is calculated by treating 95% of the profit as foreign profit that is taxed at 1/10 of the general tax rate of 27.5%. The remaining profit of 5% is taxed at the general tax rate of 27.5%, resulting in an ETR of 3.9875% for the total profit. If the general profit tax rate decreases, the applicable export regime rate also will automatically decrease.

The parliament also approved a draft bill that aims to make Curaçao a more attractive location for insurance companies that operate internationally, including captive insurance companies. These companies will be able to opt, for a renewable period of five years, to pay profit tax (27.5%) on 5% of the premiums and capital received with respect to insurance of risks outside of Curaçao. The ETR in those cases will be 1.375% of the gross premiums and capital received. Companies that apply for this regime will not be entitled to benefit from the export regime.

See also **World Tax Advisor – 28 February 2014.**

Hong Kong

Tax Rate on Captive Insurers Cut

Date of enactment: 19 March 2014
Effective date: 28 March 2014

Hong Kong's Legislative Council passed a bill on 19 March 2014 to provide a tax concession for captive insurers in the form of a 50% reduction in the profits tax on their insurance business involving offshore risk. The concession will take effect as from year of assessment 2013/14, with an effective date of 28 March 2014.

Captive insurance companies are insurance companies established with the specific objective of insuring risks of companies within the same group, and their use is becoming a popular means of risk management. The Central People's Government promulgated a policy in June 2012 encouraging enterprises in Mainland China to form captive insurers in Hong Kong to enhance their risk management.

See also **World Tax Advisor – 11 April 2014**.

India

Interim 2014 Budget Approved

Date of enactment: 4 March 2014
Effective date: 1 April 2014

India's "interim budget" was presented on 17 February 2014, approved by the president on 4 March 2014 after being passed by both houses of the Indian parliament, and is effective from 1 April 2014. A regular budget likely will be presented by the new government after the general election in May 2014.

The interim budget did not contain any income tax law changes, but because it did not address "sunset provisions" that expired on 31 March 2014, including the special low tax rate of 15% for certain foreign dividend income, that rate increased to the normal corporate income tax rate of 30% (although it is possible that the 15% rate will be extended on a retroactive basis when the new parliament assembles after the election). Further, since the interim budget did not address the one-time surcharge of 10% on individuals with taxable income exceeding INR 10 million, the surcharge will continue to be levied until the new government takes action to withdraw it.

See also **World Tax Advisor – 28 February 2014.**

Italy

Additional Surcharge on Financial Institutions and Insurance Companies

Date of enactment: 29 January 2014
Effective date: Various

A law decree issued by the Italian government on 30 November 2013 and published on the same date in the official gazette, and converted into law on 29 January 2014, provides that a surcharge of 8.5% will apply to the income of banks, other financial institutions and insurance companies, in addition to the corporate tax rate of 27.5%, for FY 2013.

Japan

Tax Reform Proposals Enacted

Date of enactment: 20 March 2014
Effective date: Various

On 20 March 2014, Japan's parliament (Diet) enacted the 2014 tax reform proposals that support the government's efforts to revitalize the economy through tax incentives aimed at encouraging investment and consumption by corporations. Along with various tax credit and special depreciation incentives, the legislation includes a provision to repeal the 10% special reconstruction corporation surtax one year earlier than originally scheduled. This will result in a reduction in the Japanese effective tax rate (e.g. the effective corporate income tax rate of a company with its headquarters in Tokyo has been reduced from approximately 38% to 35.64% for fiscal years beginning on or after 1 April 2014). In addition, the legislation will change the way permanent establishments are taxed in Japan for fiscal years beginning on or after 1 April 2016 for corporate tax purposes and from 2017 for income tax paid by individuals.

See also **World Tax Advisor – 10 January 2014.**

Latvia

Changes Made to Credits and Incentives Regime

Date of enactment: 1 January 2014
Effective date: Various

On 1 January 2014, the Latvian parliament revised the corporate income tax relief available for large investments and announced a new "super deduction" for certain research and development (R&D) costs.

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

A super deduction of 300% of applied research and experimental development costs will be introduced as from 1 July 2014 (limited to labor costs and services of certain certified institutions); the deduction will be granted provided the taxpayer maintains internal project documentation, which will need to be presented to the tax authorities upon request. The government is expected to issue regulations on R&D project documentation and compliance.

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

Malaysia

2014 Finance Act Enacted

Date of enactment: 23 January 2014

Effective date: Various

Malaysia's 2014 Finance Act was published in the official gazette on 23 January 2014. Highlights of the act include the following: amounts arising from the compulsory acquisition or requisition of stock in trade will be treated as gains or profits from a business, a deduction is granted for interest on loans, small compaines are relieved from making estimated tax payments for their first two years of operation, and the electronic filing of tax returns is now mandatory for companies.

Portugal

Corporate Income Tax Reform

Date of enactment: 16 January 2014
Effective date: 1 January 2014

A reform of Portugal's corporate tax code, which was published in the official gazette on 16 January 2014, is effective as from 1 January 2014 and includes the following changes:

- The corporate income tax rate is reduced from 25% to 23%.
- The benefits of the participation exemption for dividends and capital gains are expanded.
- A Portuguese company can elect not to take into account the profits and losses of its foreign permanent establishment if certain conditions are satisfied.
- A patent box regime is introduced that grants a 50% exemption from corporate tax for companies exploiting patents, industrial designs or models.

See also **Portugal Tax Alert — 24 October 2013.**

Spain

New Tax Rules Issued on Debt Restructuring

Date of enactment: 7 March 2014
Effective date: 1 January 2014

The Spanish government enacted a law on 7 March 2014 that includes several measures affecting the tax treatment of debt restructuring transactions. The new rules (which are effective retroactively as from 1 January 2014) affect the tax treatment of the issuance of equity for debt and the partial waiver of debt under the insolvency law, and the transfer tax and stamp duty implications of partial waivers and other agreements that reduce a borrower's obligations.

See also **World Tax Advisor – 28 March 2014.**

Ukraine

New Law Included Provisions Affecting Direct and Indirect Taxes

Date of enactment: 31 March 2014
Effective date: Various

A law aimed at reducing the Ukrainian budget deficit and averting a fiscal crisis by increasing tax revenue and cutting government spending was signed by the president and published on 31 March 2014. Some provisions became effective on 1 April 2014, and the remainder will enter into effect gradually over a period of time. As from 1 April 2014, the permanent base rate for corporation income tax is 18%.

See also **World Tax Advisor – 11 April 2014.**

Enacted tax law changes: enacted prior to 1 January 2014 and are now effective during 1 January to 31 March 2014

The following section includes a brief summary of major international income tax law changes enacted before 1 January 2014, but are first effective in the period 1 January to 31 March 2014.

Belgium – New NID Regime for Foreign Branches and Real Estate

Changes to Belgium's notional interest deduction (NID) that apply to branches of Belgian companies and real estate situated in a tax treaty country were adopted on 21 December 2013 and published in the official gazette on 31 December. The new rules apply from tax year 2014 (i.e. accounting years ending between 31 December 2013 and 30 December 2014). The net assets that are attributable to a permanent establishment (PE) or real estate situated in a treaty country are no longer excluded from the NID calculation base. For PEs located in treaty countries outside the European Economic Area (EEA), the NID calculated on the net assets of PEs or real estate in a treaty country within the EEA is excluded only to the extent the NID attributable to the PE or real estate is lower than or equal to the profits attributable to such assets/real estate. In other words, a company no longer loses the benefit of the NID attributable to a lossmaking PE/real estate located in an EEA treaty country; it only loses the NID on a PE/real estate in a treaty country within the EEA to the extent the locally realized profit is at least equal to the NID on the locally invested assets.

See **World Tax Advisor — 8 November 2013**.

Brazil – Changes to the Gross Revenue Limitation Effective

A federal law published in Brazil's official gazette on 17 May 2013 introduced changes to the gross revenue limitation under the presumed profit regime. The changes apply as from 1 January 2014. There are two different methods available to calculate corporate income tax in Brazil: the "*lucro real*" (actual profit regime) and the "*lucro presumido*" (deemed profit regime). The regimes differ in their mechanics and complexity. The actual profit regime begins with book income and considers deductible and nondeductible expenses in its computation. The presumed profit regime provides a simplified calculation allowing the taxpayer to calculate its income tax on a deemed basis related only to its revenue. Under the new law, legal entities whose total gross income does not exceed BRL 78 million in the previous year (currently BRL 48 million) or BRL 6.5 million multiplied by the number of months the company carried out its activities in the previous year (if less than 12 months) can opt to be taxed under the presumed profit regime. The combined rate would be the same for both methods (34%), but depending on the profitability of the company, one method may be more advantageous than the other.

Denmark – Corporate Income Tax Rate Reduced

The Danish Parliament passed four bills on 27 June 2013 that include a gradual reduction of the corporate income tax rate from 25% to 24.5% in 2014, to 23.5% in 2015, and to 22% as from 2016. The rate reduction will not apply to businesses in the oil and gas industry, and the special payroll duty payable by financial businesses will be increased gradually to offset the reduction in the rate.

See also **Denmark Global Tax Alert – 17 May 2013**.

Finland – Goverment Proposal on Changes in Taxation of Companies

Changes to Finland's income tax rules and the taxation of distributions by companies were enacted on 17 December 2013 and ratified by the president on 29 December, with the amendments applying as from 1 January 2014. The most significant amendments are as follows:

- The corporate tax rate is reduced to 20%;
- The tax exemption applicable to domestic intercompany dividends is expanded to apply to dividends received from companies resident in an EU/EEA member state, so that the exemption will cover companies that previously were outside the scope of the EU parent-subsidiary directive;
- Dividends received from outside the EU/EEA are fully taxable;
- Interest on loans between related parties is deductible only up to 25% of earnings before interest, taxes, depreciation and amortization, and the calculation base for tax deductible interest expense is narrowed by excluding depreciation and changes in the value of financial assets;
- Entertainment costs are no longer deductible for tax purposes; and
- The additional/accelerated depreciation for R&D activities and certain investment will no longer apply as from 2015.

See also **Finland Tax Alert – 14 November 2013.**

France – New Disclosure Obligations

Pursuant to France's finance law for 2014, enacted on 30 December 2013, companies that are required to maintain contemporaneous transfer pricing documentation must disclose binding rulings granted by non-French tax authorities to group affiliates, and to provide, upon request, a copy of the management accounts and the consolidated accounts of the group. C companies also are required to provide, upon request, a copy of the management accounts and the consolidated accounts of the group in the course of tax audit. These new requirements apply as from 1 January 2014.

See also **World Tax Advisor – 24 January 2014.**

France – New Percentages for Calculation of General Interest Deduction Limitation and CICE

For companies (or French tax consolidated groups) with net financing expenses exceeding EUR 3 million, the portion of financing expenses for which a deduction is disallowed under the general interest deduction limitation increased from 15% to 25% on 1 January 2014, pursuant to the 2013 finance law passed in 2012.

On the same date, the rate of the tax credit for competitiveness (CICE) increased from 4% to 6%. The CICE is equal to a percentage of the total wages paid to employees that earn no more than 2.5 times the legal minimum wage. The employer will receive a cash refund for any excess credit over the income tax liability of the following three years.

Ghana – 2014 Amendent to Internal Revenue Act

Following proposals made in the 2014 budget statement, the Internal Revenue (Amendment) (No.2) Act 2013 has been passed to provide for the imposition of capital gains tax on petroleum operations, to amend withholding tax rates for nonresidents and the tax rates for free zone enterprises after their tax holiday period, and other related matters.

Gibraltar – Royalty Income Subject to Income Tax

Gibraltar's Income Tax Act has been amended to bring royalty income within the scope of taxation. As from 1 January 2014, royalties that are deemed to accrue in, or be derived from, Gibraltar are subject to corporate taxation at a rate of 10% (20% in the case of utilities or companies abusing a dominant position). Royalty income is deemed to accrue in, or be derived from, Gibraltar where the company receiving the income is registered in Gibraltar.

See also **Gibraltar Tax Alert — 24 December 2013**.

Greece – New Tax Code Strengthens Thin Cap Rules, Introduces CFC Rules

Several changes to Greece's tax rules were approved by the parliament on 31 December 2013 and apply as from 1 January 2014. These include changes to the thin capitalization and withholding tax rules, as well as the definition of business profits. Moreover, a new Tax Procedures Code contains a new regime for tax audit procedures and new penalties for violations of the tax law.

See also **World Tax Advisor — 27 September 2013.**

Honduras – Tax Reform Enacted

A tax reform law published in the Honduras' official gazette on 30 December 2013 and that applies as from 1 January 2014 includes the following measures:

- A 1.5% tax on gross income equal to or in excess of HNL 10 million in specific cases, with a lower rate of 0.75% applying to certain taxpayers;
- A 10% tax on the gross revenue of air, sea and land companies incorporated overseas and operating in Honduras;
- A 10% withholding tax on dividends received by Honduran-resident individuals or legal entities;
- A 4% withholding tax on capital gains from the sale of real estate, rights and securities by nonresidents;
- A 10% tax on the increase in value of real property;

- A 10% tax on payments made for the sale of property, rights and shares;
- A 5% solidarity contribution that must be paid by legal entities (except for entities that fall within the scope of the special import and tourism regimes) on net taxable income exceeding HNL 1 million; and
- The repeal of many income tax exemptions and duty-free arrangements for importers and nonprofit organizations (with some exceptions).

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

Hungary – Changes to Participation Exemption and Company Migration Rules

Changes to Hungary's participation exemption and the taxation of company migrations that were approved by the parliament are effective as from 1 January 2014.

The ownership threshold to benefit from the participation exemption for capital gains on the sale of shares in a company is reduced from 30% to 10% and the deadline for reporting the acquisition to the tax authorities is extended from 60 days to 75 days. The one-year holding period is unchanged.

Under the new company migration rules, nonresident entities that migrate their tax residence to Hungary by transferring management and control to Hungary will be entitled to a fair market value basis for tax depreciation purposes. The rules allow companies migrating to Hungary to step up the tax value of their assets to market value, irrespective of the historic or current foreign tax value of those assets.

See also **Hungary Tax Alert — 11 October 2013.**

Ireland – Finance Act 2013 Passed

Finance (No. 2) Act 2013, presented to Ireland's parliament on 24 October 2013 and passed on 18 December 2013, incorporates the measures announced in the budget on 15 October and introduces a number of additional measures relevant to investment in Ireland. The Finance Act also includes a measure addressing "stateless companies" to eliminate arbitrage opportunities using the tax residence rules of Ireland and those of its treaty partners.

See also **Ireland Tax Alert — 25 October 2013.**

Israel – Corporate Income Tax Rate Increase Enacted

The 2013 budget approved by the Israeli parliament on 30 July 2013 and applicable as from 1 January 2014 includes an increase in the "headline" corporate income tax rate from 25% to 26.5%, an increase in the beneficial rate (from 12.5% to 16%) granted under the Law for the Encouragement of Capital Investment for industrial companies located in the middle of Israel, and an increase from 7% to 9% in the beneficial rate granted to industrial companies located in Zone A. Dividends distributed to individuals and foreign residents out of income that was subject to the reduced tax rates under the Encouragement Law are subject to a 20% tax rate (instead of 15%).

Changes to the controlled foreign corporation and foreign occupation company rules were published on 25 December 2013 and apply as from 1 January 2014.

Italy – 2014 Budget Law Enacted

The 2014 budget law passed by Italy's parliament on 27 December 2013 and published in the official gazette on the same day applies as from 1 January 2014. The law includes changes to the tax rules applicable to multinational companies with activities in Italy, including the following:

- Increased rates for the notional interest deduction for FY 2014-2016.
- A one-time step-up opportunity for tangible and intangible property, as well as for some qualifying participations booked in the stand-alone financial statements as of 31 December 2012.
- Making permanent the tax step-up optional regime for goodwill, trademarks and other IP booked in consolidated financial statements.
- An opportunity for Italian individuals and nonresident entities to step up the tax base of unlisted participations (and land).
- Changes to the local tax on productive activities (IRAP), such as a deduction for newly hired employees and an option for Italian entities to convert IRAP deferred tax assets into tax credits.

See also **World Tax Advisor – 10 January 2014.**

Japan – Earnings Stripping Rules Now Effective

Japan's new earnings stripping rules are applicable for fiscal years beginning on or after 1 April 2013; for entities with a December year end, the year commencing 1 January 2014 will be the first year the rules apply.

The earnings stripping rules form part of a three-pronged approach by the tax authorities to limit the erosion of a Japanese company's tax base through the payment of "excessive interest" on debt from related parties. Excessive interest is determined relative to:

- Transfer pricing rules that limit deductions where interest rates exceed an arm's length amount;
- Thin capitalization rules that limit interest deductions for highly leveraged compnies; and
- Earnings stripping rules that limit deductions for companies that do not generate sufficient income.

These rules may restrict an interest deduction that is not limited under the thin capitalization rules. Additionally, an interest expense restriction under the earnings stripping rules may be more difficult to mitigate than a restriction under the thin capitalization rules because a potential disallowance under the earnings stripping regime is dependent upon many variables, such as taxable income for the year, which may include factors that the taxpayer cannot control.

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

Mauritius – 2014 Finance Act Passed

The Mauritius Finance Act for 2014, enacted on 20 December 2013 and effective as from 1 January 2014, includes various direct and indirect tax measures, including the following:

- The special levy on banks for "segment A banking activities" will be computed on 10% of chargeable income for years of assessment 2014 and 2015 (compared to the previous basis of a proportion of turnover and book profits). The special levy, together with the 15% income tax and a 2% corporate social responsibility fee, will give rise to an overall charge of 27% for segment A business for banks. Segment B banking activities will not be affected. (Segment A and B activities relate to banking transactions with residents and nonresidents or corporations holding a Global Business License issued under the Financial Services Act, respectively.) ;
- A statutory exemption will apply to income derived from the charter of foreign-owned ships;

- A single 5% rate of land transfer tax will apply; and
- The exemption from the payment to the Levy, National Pensions Fund and National Savings Fund for foreign employees in their first two years of employment is eliminated, except for individuals working in export-oriented enterprises.

See also **World Tax Advisor – 22 November 2013.**

Mexico – Tax Reform Passed

The 2013 Mexican tax reform package, published in the official gazette on 11 December 2013, generally applies as from 1 January 2014. The broad-based reform contains a number of measures that affect companies doing business in Mexico, including changes to the rules governing maquiladoras. The reform eliminates some taxes, but increases rates on other taxes. It eliminates many tax benefits and preferential tax regimes that, according to Mexico's tax authorities, have been used by taxpayers to reduce their tax liabilities. Specific measures are included to prevent tax treaty abuse and to limit the deduction of payments made to related parties in Mexico and abroad. The tax reform tightens the requirements for a maquiladora to qualify for PE protection and significantly limits some of the benefits that have been granted to such companies.

See also **Mexico Tax Alert — 12 December 2013** and **World Tax Advisor — 13 December 2013.** For a discussion of the related accounting for income taxes implications, see **Accounting for Income Taxes Quarterly Hot Topics: December 2013**.

Mexico – Presidential Decree Mitigates Effect of Tax Reform on Maquiladoras

The Mexican president issued a decree on 26 December 2013 that grants maquiladoras several tax benefits relating to income tax, VAT, and the use in Mexico of machinery and equipment owned by nonresidents in order to mitigate some of the effects of the 2013 tax reform. Subsequently, on 30 December 2013 and 1 January 2014, the Mexican tax authorities (SAT) issued miscellaneous tax provisions that clarify some of the tax reform measures affecting maquiladoras. The tax reform—which generally is effective as from 1 January 2014—tightens the requirements for a maquiladora to qualify for benefits and significantly limits some benefits that were granted in the past.

See also **Mexico Tax Alert — 4 January 2014** and **World Tax Advisor – 10 January 2014.**

Norway – Budget for 2014 Contains Interest Deduction Limitation Rule

As from 1 January 2014, the rule limiting the deduction of interest on related party debt is effective. This rule was included in Norway's budget for 2014, which was passed on 8 November 2013. The rule is designed to restrict earnings stripping via intercompany debt financing in Norway. For taxpayers with a divergent financial year, the rules will apply for the financial year ending during 2014, with no grandfathering rules.

See also **Norway Tax Alert — 15 October 2013** and **Norway Tax Alert — 8 November 2013.**

Romania – Participation Exemption Regime Introduced

On 15 November 2013, Romania introduced a participation exemption regime on dividends, capital gains and liquidation proceeds that applies to domestic holding companies. Under the new regime, which became effective on 1 January 2014, the following are considered nontaxable income for corporate income tax purposes, provided a Romanian legal entity holds, for an uninterrupted period of at least one year (reduced from two years), at least 10% of the share capital of the subsidiary:

- Dividends received from a Romanian entity or from an entity resident in a country that has concluded a tax treaty with Romania;
- Capital gains derived from the sale/transfer of shares in a Romanian or nonresident legal entity located in a country that has concluded a tax treaty with Romania; and
- Income from the liquidation of a Romanian or nonresident legal entity located in a tax treaty country.

See also **World Tax Advisor – 24 January 2014.**

Russia – New Regional Tax Incentives Introduced

A law introduced in Russia on 30 September 2013 provides profits tax and mineral resources extraction tax incentives to investors in certain regions in the far eastern part of the country and Siberia. Under the incentives, which apply as from 1 January 2014, qualifying investors are entitled to a profits tax rate of 0% to 10% for the first five years of income generation and from 10% to 18% for the following five years. The law removes the federal portion from the total 20% profits tax rate (the profits tax rate comprises federal and regional parts, with 2% payable to the federal budget and 18% payable to the regional budget) for 10 years. The regional portion of the rate will be a maximum of 10% for the first five years and at least 10% for the next five years, subject to any changes to the relevant regional laws.

See also **World Tax Advisor — 13 December 2013.**

Slovenia – Scope of Thin Cap Rules Expanded

Amendments to Slovenia's corporate income tax that apply as from 1 January 2014 include changes to the thin capitalization rules.

The thin capitalization rules previously applied to interest on loans granted by shareholders that held directly or indirectly (at any time during the tax year) at least 25% of the capital or voting rights of the taxpayer if, at any time during that period, the shareholder loans exceeded a debt-to-equity ratio of 4:1. Such interest was nondeductible and was recharacterized as a dividend. The rules did not apply if the taxpayer was able to demonstrate that the loan would have been granted on similar terms by an unrelated third party. Under the revised rules, a loan granted by a related company will be deemed to be a loan granted by a shareholder. For these purposes, a company granting a loan will be regarded as related to the company receiving the loan if shareholders (and in the case of shareholders that are individuals, their family members and related legal persons) hold directly or indirectly at least 25% of the capital or voting rights of both companies. As a result, a loan granted by a sister company of the taxpayer may be considered a loan granted by a shareholder of the taxpayer for purposes of the thin cap rules.

To calculate the debt-to-equity ratio under the revised rules, equity includes all categories of equity according to accounting standards (i.e. net profits and losses for the year will not be included in the calculation of equity for these purposes). Equity will be calculated as the average of equity at the beginning and the end of the tax period (currently, equity is calculated as the average of equity as of the last day of each month of the tax period).

See also **World Tax Advisor – 11 October 2013.**

Spain – Fiscal Year 2014 Budget Enacted

Spain's fiscal year 2014 budget, published in the official gazette on 26 December 2013, contains tax measures that usually are included in the annual budget laws and extends measures that were introduced in recent years to increase tax collection. Some of the main measures included in the budget are as follows:

- The reduced corporate tax rate of 25% applicable to entities with turnover of less than EUR 5 million that have less than 25 employees but that maintain or create jobs has been extended for fiscal year 2014.
- For fiscal year 2014, the withholding tax rates on payments to foreign individuals or entities will continue to be 21% and 24.75%, depending on the nature of the payment.
- The "complementary tax" to the general personal income tax that was approved for 2012 and 2013 has been extended to fiscal year 2014.
- The elimination of the 100% exemption to the wealth tax, which originally was introduced in 2008, is extended for fiscal year 2014.

See also **World Tax Advisor – 10 January 2014**.

Vietnam – Decree Outlines Corporate Tax Incentives

A decree issued by the Vietnamese government on 26 December 2013 includes a reduction in the corporate income tax rate (from 25% to 22% from 1 January 2014 and 20% from 1 January 2016), as well as guidance on tax incentives in the Corporate Income Tax Law and the Amended Law ratified by the National Assembly in 2013. The decree, which became effective on 15 February 2014, replaces previous decrees to apply retroactively as from the fiscal year 2014.

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

Enacted tax law changes: enacted prior to 1 January 2014 and are effective as from 1 April 2014

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

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

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

On the horizon…

The following developments in tax law had not yet been enacted as of 31 March 2014, but may, in certain cases, be enacted and become effective in the near future. Please follow up with your U.S. or local country tax advisor for more information.

Australia – New Draft Legislation on Investment Manager Regime

On 30 January 2014, the Australian government released a third version of exposure draft (ED) legislation for the third and final element of the investment manager regime (IMR), which also amends already-enacted elements of the IMR. Comments were requested by 14 February 2014. It is hoped that the law will be enacted by mid-2014.

The stated objective of the IMR is to remove tax impediments to particular kinds of investment made into or through Australia by certain foreign-managed funds that have wide membership. This is achieved by providing foreign residents with an Australian income tax exemption for their investments through such funds. In the absence of the IMR, many foreign funds could be subject to Australian tax on Australia-source income and gains.

IMR 3 is intended to provide the prospective, long-term IMR exemption. The interaction of the latest ED with the already-enacted elements of the IMR is unclear, and will need to be clarified with the government through the consultation process.

See also **Australia Tax Alert — 5 February 2014.**

Bosnia and Herzegovina – New Corporate Tax Law Under Review

A new corporate income tax law is expected to be enacted in the Federation of Bosnia and Herzegovina by the end of 2014 and likely will apply as from January 2015. The most important measures in the law from an international perspective are:

- Interest income on deposits would be subject to a 10% withholding tax.
- Existing tax incentives (related to export and investment in production) would be abolished.
- The transfer pricing rules would be amended to include all five transfer pricing methods prescribed by the OECD transfer pricing guidelines and transfer pricing documentation would be required for a taxpayer to be able to recognize tax losses in a tax balance sheet.
- Thin capitalization rules would be introduced.
- The definition of a permanent establishment would be amended to comport with the wording of article 5 of the OECD model treaty.

The draft of the law still must be approved by parliament.

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

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

Canada's 2014 federal budget, tabled in the House of Commons on 11 February 2014, contains two proposals that will have a significant impact on inbound investment into the country: (1) a proposed anti-treaty shopping rule, and (2) proposed amendments to the thin capitalization and withholding tax rules with respect to third-party financing backed by loans or asset pledges of non-arm's length nonresidents.

A 60-day consultation period ended on 12 April 2014. The government requested comments in respect of transitional relief and the specific examples described above.

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

Hong Kong – 2014/15 Budget Announced

The 2014/15 budget announced on 26 February 2014, contains measures to enhance Hong Kong's position as an international hub, improve the business environment, promote the four pillar industries (financial services, logistics, tourism and professional services), and sustain economic growth and, at the same time, to provide a better social and economic environment for its population.

The budget re-emphasizes the importance of economic development through the pillar industries and the need to further strengthen Hong Kong's existing service offerings, such as RMB trade financing, RMB-denominated financial products and cross-border reinsurance, direct cross-border investment from Mainland China, asset management and fund development. Additionally, it is proposed to develop Hong Kong as a "smart city" in terms of information technology and enhance Hong Kong's reputation as an international hub.

The budget also reiterates that the Inland Revenue Department will step up its efforts to combat tax avoidance and evasion, to prevent revenue losses on taxes and to recover tax due through the effective use of information technology and international experience.

See also **World Tax Advisor – 28 February 2014.**

India: Revision to Direct Taxes Code, 2013

The Indian government introduced a revised version of the Direct Tax Code, 2013 (DTC) on 1 April 2014, incorporating suggestions made by the Standing Committee on Finance to whom the Direct Tax Code, 2010 was referred. The revised DTC makes various changes to the 2010 version. Fundamentally, DTC has been conceptualized to consolidate and amend the law relating to all direct taxes in order to establish an economically efficient, effective and equitable tax system that would facilitate voluntary compliance, reduce the scope for dispute and minimize litigation. A new government will be elected during April and May 2014, and it is expected that new government constituted will pick up the DTC as one its priorities.

Italy: Scope of Advance Tax Ruling Procedure Expanded to Cover Existence of PE

A law decree issued by Italy's government on 23 December 2013 (published on the same day in the official gazette and converted into law on 21 February 2014) expands the scope of the advance tax ruling procedure to allow nonresident entities operating in Italy to request a ruling from the tax authorities on whether the nonresident's activities create a permanent establishment in Italy under Italian domestic law or tax treaty provisions. If the tax ruling is granted, it will be binding on both the Italian tax authorities and the nonresident for five fiscal years, provided the relevant facts and circumstances do not change.

See also **World Tax Advisor – 24 January 2014.**

Malaysia – Proposed Incentives Announced in the 2014 Budget

Measures included in the 2014 budget include the following:

- Extension of tax incentives for new four-star and five-star hotels;
- A double deduction for employers that implement the mandatory minimum wage;
- A tax incentive package in line with the implementation of the Goods and Services Tax;
- The introduction of thin capitalization rules; and.
- An amendment to the definition of a permanent establishment to comport with the wording of article 5 of the OECD model treaty.

Singapore – Highlights of 2014 Budget

The principal focus of Singapore's 2014 budget, announced on 21 February 2014, is to reinforce and build on the steps taken in recent years toward achieving quality growth (mainly through innovation and higher productivity) and building a fair and equitable society. Some of the key provisions include abolishing withholding tax on certain payments made to Singapore permanent establishments that are Singapore branches of nonresident companies, extending and enhancing the Productivity and Innovation Credit scheme, and the extension of several tax incentive schemes. As with earlier years, it is expected that the proposals will be enacted toward the end of 2014, after parliamentary readings.

See also **World Tax Advisor – 28 February 2014.**

South Africa – Proposed R&D Tax Incentives

The 2014 budget includes several proposed amendments, including one that is related to R&D tax incentives. The proposed amendment makes the first three phases of clinical research eligible for the R&D tax incentive, even if the trials are directed or controlled from abroad. The R&D allowance will be further enhanced to allow for the inclusion of green related technology.

United Kingdom – 2014 Budget Announced

The Chancellor of the Exchequer delivered the UK budget for 2014 on 19 March 2014, a budget that is intended to promote further growth and investment.

The budget targets a number of key areas relevant for foreign multinational groups investing into the UK: support for the manufacturing sector by way of investment relief, extension of research and development (R&D) relief for small and medium-sized enterprises (SMEs) and additional government financing to promote exports.

There was no specific reference to the OECD's Base Erosion and Profit Shifting (BEPS) project in the budget statement itself, but the UK government has released a position paper that sets out the UK's priorities for the project's ongoing work streams. This confirms the government's commitment to the project through 2014 and 2015, and to implement appropriate changes to the UK tax code "as soon as possible." Importantly, the note re-affirms the UK's commitment to seek international agreement on changes, but it does warn of "supplementary rules to tackle specific issues raised by digitization if progress on updating the existing international framework fails to materialize."

See also **United Kingdom Tax Alert — 19 March 2014** and **United Kingdom 2014.**

United States – The International Tax Provisions of the Tax Reform Act of 2014

On February 26, 2014, Ways and Means Committee Chairman Dave Camp (R-MI) released a discussion draft of a proposed comprehensive overhaul of the Internal Revenue Code, including its international tax rules (the 2014 Draft). The international tax provisions of the 2014 Draft generally follow the territorial regime discussion draft that Chairman Camp released in October 2011 (the 2011 Draft), but with significant changes. The amendments proposed by the 2014 Draft include proposed effective dates that would generally make them effective for taxable years beginning after December 31, 2014.

See also **United States Tax Alert – 28 February 2014.**

United States – FY 2015 Budget Proposal Released

President Obama released a fiscal year 2015 budget blueprint on 4 March 2014 that includes tax increases primarily targeting multinational corporations and high-income individuals, to pay for lower- and middle-class tax relief, increased spending on transportation infrastructure and deficit reduction. The tax section of the president's budget renews a number of provisions from his previous annual submissions and includes some notable new revenue raisers.

The budget also includes some new incentive proposals, including a proposal to increase the limitations for deductible new business expenditures and consolidate provisions for start-up and organizational expenditures. A variety of proposals carried over from previous budget packages would provide incentives for job creation, clean energy and manufacturing; investment in infrastructure; and individual retirement savings. The budget package does not explicitly address many of the 55 temporary tax deductions, credits and exclusions that expired at the end of 2013; however, it does include provisions that would renew or make permanent a number of these tax "extenders."

See also **World Tax Advisor – 14 March 2014** and **United States Tax Alert – 5 March 2014.**

The Senate Finance Committee approved a proposal on 3 April 2014 that would retroactively extend most of the expired tax provisions for two years (through 2015). The House Ways and Means Committee is expected to begin considering tax extenders legislation in April 2014. Ways and Means Committee Chairman Dave Camp, R-Mich., has indicated, however, that he is not interested in pursuing short-term extensions and will focus instead on making certain provisions permanent and eliminating others. A final extenders package is unlikely to get through Congress and be signed into law until late in 2014.

Did you know?

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

Argentina – List of Cooperative Countries Issued

Argentina's tax authorities issued a list of countries that are considered "cooperative" for tax transparency purposes on 6 January 2014. The new list replaces the previous "black list" of jurisdictions (that also applied under the controlled foreign company rules), which was terminated under a decree issued in May 2013; that decree directed the tax authorities to create a new list of jurisdictions that are deemed to be cooperative.

The main consequences of a country/jurisdiction not being included on the cooperative or "white" list are as follows:

- Transactions between an Argentine resident and an unrelated party located in a low tax (now a "noncooperative") jurisdiction are automatically subject to Argentina's transfer pricing rules;
- The withholding tax rate on interest payments made to financial or banking institutions located in a low tax (now noncooperative) jurisdiction is, in general, 35%, rather than the reduced rate of 15.05%; and
- The timing of deductions for certain expenses related to Argentina-source income for a beneficiary that is resident in a noncooperative jurisdiction is determined on a cash basis, rather than an accrual basis.

See also **World Tax Advisor – 24 January 2014.**

Belgium – Decision Issued on Constitutionality of Foreign Tax Credit Rules

Belgium's constitutional court issued a decision on the constitutionality of the Belgian foreign tax credit rules on 29 January 2014. The court held that the rules that disallow the carryover or refund of an unused foreign tax credit do not violate the constitution, but the rules that require the taxable base to include a foreign tax credit that has not actually been credited are unconstitutional (i.e. only a foreign tax credit that has effectively been credited can be treated as a disallowed expense).

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

Brazil – New Position Adopted on Tax Treatment of Payments for Technical Services Without Transfer of Technology

Brazil's National Treasury Attorney's Office (PGFN) has issued an opinion in which it revisited the tax authorities' long-standing position on the interpretation of the business profits article in Brazil's tax treaties with respect to payments made abroad for services that do not involve an accompanying transfer of technology.

The PGFN opinion was issued in response to a potential threat by Finland's government to terminate the existing Brazil-Finland tax treaty if Brazil were to seek to exert taxing rights with respect to payments made by a Brazilian resident taxpayer for technical services rendered in Finland by a Finnish company. The opinion adopts a change in the government's interpretation and acknowledges that remittances abroad for technical services without an accompanying transfer of technology should fall within the scope of the business profits article of a treaty and, therefore, will not be subject to withholding tax.

The PGFN opinion represents a major shift away from the position on the taxation of outbound payments for technical services that the Brazilian tax authorities have held for 14 years. The opinion indicates that the business profits article generally should apply to such payments where there is no accompanying transfer of technology. Although the PGFN opinion is nonbinding, it is a strong indication that the tax authorities will issue new measures to reflect the interpretations in the opinion.

See also **Brazil Tax Alert – 27 February 2014**.

China – Guidance Issued on Tax Treatment of Cross-Border Special Reorganizations

China's State Administration of Taxation issued guidance on 12 December 2013 that addresses the tax treatment of "special reorganizations" carried out by a nonresident entity. Two types of share transfers are affected:

- A nonresident's transfer of the shares of a resident enterprise to the nonresident's wholly-owned nonresident enterprise (foreign-to-foreign transfer); and
- A nonresident's transfer of the shares of a resident enterprise to the nonresident's wholly-owned resident enterprise (foreign-to-domestic transfer).

The guidance aims to clarify and streamline the review procedure for reorganizations qualifying for special tax treatment. The bulletin generally applies as from the date of issuance, although it also applies to transactions entered into before 12 December where the tax treatment of the transaction has not yet been finalized.

See also **World Tax Advisor – 24 January 2014.**

China – New Guidance Eases Exchange Controls in Shanghai Piloit FTZ

The Shanghai head office of the People's Bank of China and the Shanghai Branch of the State Administration of Foreign Exchange have issued guidance aimed at promoting the cross-border use of renminbi (RMB) and further relaxing exchange controls for qualified entities in the China (Shanghai) Pilot Free Trade Zone (Pilot FTZ). The Pilot FTZ, launched on 29 September 2013, aims at promoting the use of RMB at an international level; the FTZ generally is viewed as a trial initiative for further broadening the scope of foreign investment, international trade and financing activities.

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

Estonia – White List of Tax Jurisdictions Expanded

The Estonian government's official "white list" of jurisdictions that are not considered low-tax territories, originally issued in 2000, has been expanded to include five new jurisdictions as from 1 January 2014.

White-list jurisdictions automatically are considered jurisdictions to which Estonia's anti-avoidance rules targeting low-tax jurisdictions do not apply, since the tax systems of these jurisdictions are considered to be fair. The list is comprised of EU member states, Estonia's tax treaty partners and certain other countries.

The five new jurisdictions— Bahrain, Mexico, Thailand, Turkmenistan and Uzbekistan—have been added to the white list because Estonia's tax treaties with these countries entered into force during 2013 and became effective as from 1 January 2014. The amendment to the white list, which was issued on 30 January 2014 and is retroactively effective as from 1 January 2014, brings Estonia's total number of white-listed countries to 57.

See also **World Tax Advisor – 28 March 2014.**

European Union – AG Kokott Opines Netherlands Fiscal Unity Regime Incompatible with EU Law

AG Kokott of the Court of Justice of the European Union (CJEU) issued an opinion on 27 February 2014, recommending that the CJEU declare the fiscal unity regime in the Netherlands Corporate Income Tax Act incompatible with the freedom of establishment principle in the Treaty on the Functioning of the European Union. Specifically, the AG ruled that EU law is violated to the extent the Dutch rules (1) allow domestic parent companies to form a fiscal unity with their domestic "sub-subsidiaries" only when the intermediary subsidiary also is established in the Netherlands or where it is established in another EU member state but has a permanent establishment (PE) in the Netherlands; and (2) allow domestic subsidiaries to form a fiscal unity with each other only if their parent company also is Dutch or where the parent is established in another member state but has a Dutch PE. The AG opined that the fiscal unity between indirectly held Dutch resident entities also should be allowed if they are directly held by companies resident in other EU member states, without including the results of these EU companies in the fiscal unity. The CJEU still must issue its decision in the cases.

See also **European Union Tax Alert – 28 February 2014**.

France – New New E-Audit Documentation Requirements

The Amended Finance Law for 2012 provided that, as from 1 January 2014, companies in France must submit a standard audit file (SAF-T) for corporate income tax and VAT purposes. This file will have to be provided in an electronic format to the tax auditor within two weeks of the commencement of an audit. The SAF-T is an electronic file that records key business information in a specified common format for tax audit purposes and aims to simplify tax compliance and tax audit requirements as they relate to information required for tax purposes from business and accounting systems. The SAF-T contains various data fields (e.g. general ledger, sales, supply management, inventory, etc.) that must be completed in full (and in French) and the taxpayer must include for each entry the relevant date, the French GAAP number and name and supporting documentation, among other information.

The French tax authorities have indicated that, as from 1 January 2014, they will only accept accounting records kept in French GAAP (not records kept in foreign GAAP and translated into French GAAP).

See also **World Tax Advisor – 13 December 2013.**

Germany – Draft Decree-Law Published on Implementation of US FATCA Rules

Germany's tax authorities issued a first draft of the decree-law on the implementation of the US Foreign Account Tax Compliance Act (FATCA) rules into German law on 6 March 2014. The draft decree-law, which is expected to become effective in the near future, defines the necessary auditing and information reporting responsibilities for German financial institutions to comply with the FATCA rules. Financial institutions (generally banks and insurance companies) face extensive annual reporting obligations for information related to reportable accounts and payments made to "nonparticipating financial institutions" (as defined under the IGA). The necessary data must be submitted to the German federal tax authorities, who then will forward the data to the US tax authorities.

See also **World Tax Advisor – 28 March 2014.**

Greece – List of Noncooperative Jurisdictions Updated

Greece's Ministry of Finance issued its annual list of jurisdictions that are deemed to be noncooperative and a new list of jurisdictions that are deemed to have preferential tax regimes on 4 March 2014. Certain jurisdictions may appear on both lists.

According to the new income tax code that applies as from 1 January 2014, countries with a preferential tax regime are those with a statutory corporate income tax rate lower than 13% (i.e. 50% of the 26% Greek rate).

Five jurisdictions (Anguilla, Bermuda, British Virgin Islands, Gibraltar and Isle of Man) were included on the noncooperative list for the period 1 January through 28 February 2014. These jurisdictions were then removed from the list because, as from 1 March 2014, the convention on mutual assistance entered into effect in respect of the five jurisdictions.

See also **World Tax Advisor – 28 March 2014.**

India – Court Rules Back Office Operations Do Not Create PE

The Delhi High Court issued a decision on 5 February 2014 concerning the definition of permanent establishment (PE) under the India-US tax treaty, and ruling that an Indian entity that performed back office operations for its ultimate US parent company and a US subsidiary of its parent did not create a PE in India for the taxpayers. The court also provided guidance on situations that could create a PE in India and on the attribution of profits.

See also **World Tax Advisor – 28 February 2014.**

Luxembourg – Impatriate Tax Regime Extended to EEA Companies

Luxembourg's tax authorities issued a circular on 27 January 2014 that retroactively extends the scope of the tax regime for "impatriates" (i.e. employees that are part of an international group and that are seconded to a Luxembourg company of the group) to apply to EEA companies as from 1 January 2014). The circular also includes other minor modifications to extend the scope of the regime. Employees working in Luxembourg for the benefit of companies established in other EEA-member countries now are eligible for the regime, which provides tax exemptions on benefits that employers typically provide to impatriates (e.g. for relocation, housing, cost of living allowances, school fees); previously, only employees of Luxembourg companies were eligible for the regime. If an EEA-resident employer is not required to withhold wage tax on salaries and does not opt to do so on a voluntary basis, its impatriate employees are required to file Luxembourg income tax returns.

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

Luxembourg – Automatic Exchange of Information Under Savings Directive to be Implemented

As from 1 January 2015, Luxembourg will automatically exchange information with the other EU member states on interest (as defined in the currently applicable EU savings directive) paid cross-border to individuals and "residual entities" with a permanent address in the EU. The same will apply in the relation with dependent and associated territories that have reciprocity clauses in their bilateral savings taxation agreements concluded with Luxembourg. On 18 March 2014, the Luxembourg government submitted to the parliament a draft bill that would implement these changes into Luxembourg tax law.

See also **World Tax Advisor – 28 March 2014.**

Mexico – No Changes to Tax Regime Until 2018

A special commission announced on 27 February 2014 that the Mexican federal government has committed not to propose any additional changes to the legal framework of the tax system until 30 November 2018. A "tax certainty agreement" was signed by all branches and offices that are part of the federal government.

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

Netherlands – Reporting Obligation Substance Requirements Applicable for Financial Services Entities

As from 1 January 2014, financial service entities in the Netherlands must report on their annual income tax returns whether they satisfy the minimal substance requirements. Financial service entities are Dutch resident taxpayers whose activities during a year consist mainly of paying and receiving interest, royalties, rent or lease installments to or from entities not established in the Netherlands that belong to the same group as the taxpayer. Factors such as types of assets and liabilities, composition of sales, activities performed and how time is spent by the employees must be considered in determining if a taxpayer is a financial service entity. However, activities relating to the holding of participations are excluded from this assessment. Failure to comply with the disclosure requirements could give result in an administrative penalty.

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

Netherlands – Superme Court Confirms Treatment of Hybrid Instruments for Participation Exemption Purposes

The Dutch Supreme Court issued two decisions on 7 February 2014 regarding the distinction between debt and equity for Dutch tax purposes. In both cases, the court held that an instrument that is considered equity from a legal perspective will be treated as equity for purposes of the application of the participation exemption. The court also held that the refinancing transactions that converted the taxpayers' loans into preferred shares were not tax-abusive transactions.

See also **World Tax Advisor – 28 February 2014** and **Netherlands Tax Alert – 14 February 2014.**

Nigeria – Pioneer Incentive Regulations

On 30 January 2014, the Pioneer Incentive Regulations were released by the Chairman Governing Council of the Nigerian Investment Promotion Commission. The regulations provide policy clarification, consistency and transparency in applying for pioneer status. Companies qualifying for pioneer status are granted a five-year tax holiday.

OECD Releases Discussion Draft on Transfer Pricing Documentation and Country-by-Country Reporting

The OECD released a discussion draft on 30 January 2014 as part of its work on Base Erosion and Profit Shifting (BEPS), which sets out revised guidance on transfer pricing documentation requirements, in the form of a new draft Chapter V of the OECD's transfer pricing guidelines. Then, on 14 March 2013, the OECD published a public discussion draft to provide substantive proposals for public comments.

See also **World Tax Advisor – 14 February 2014**, **World Tax Advisor – 11 April 2014**, and **Arm's Length Standard – 3 February 2014.**

OECD Releases Discussion Drafts on Hybrid Mismatches

The OECD released two discussion drafts on 19 March 2014 that contain recommendations for neutralizing the effects of hybrid mismatch arrangements. The first draft sets out recommendations for domestic law changes and the second addresses the development of provisions under the OECD model treaty to clarify the treatment of hybrid entities. These papers are part of the OECD's work on Base Erosion and Profit Shifting (BEPS) and they follow on from the action plan released in July 2013.

The OECD has requested comments on the discussion drafts by 2 May 2014. A public consultation event will be held on 15 May 2014 before finalization of the proposals at the G20 meeting on 20 and 21 September 2014.

See also **World Tax Advisor – 28 March 2014.**

OECD Releases Discussion Draft on Preventing Treaty Benefits in Inappropriate Circumstances

On 14 March 2014, the OECD released a public discussion draft (or note) on Action 6 of its Action Plan on Base Erosion and Profit Shifting (BEPS), entitled "Preventing the Granting of Treaty Benefits in Inappropriate Circumstances." The draft is divided into three sections matching the three tasks identified by BEPS Action 6: 1) treaty provisions and/or domestic rules to prevent the granting of treaty benefits in inappropriate circumstances; 2) clarification that tax treaties are not intended to be used to generate double nontaxation; and 3) tax policy considerations that, in general, countries should consider before deciding to enter into a tax treaty with another country.

See also **World Tax Advisor – 28 March 2014** and **United States Tax Alert – 21 March 2014**.

OECD BEPS Action 1: Address the Tax Challenges of the Digital Economy

On 24 March 2014, the OECD released a public discussion draft on Action 1 of its Action Plan on Base Erosion and Profit Shifting (BEPS). Action 1 calls for the OECD to: "Identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties, taking a holistic approach and considering both direct and indirect taxation. Issues to be examined include, but are not limited to, the ability of a company to have a significant digital presence in the economy of another country without being liable to taxation due to the lack of nexus under current international rules, the attribution of value created from the generation of marketable location relevant data through the use of digital products and services, the characterization of income derived from new business models, the application of related source rules, and how to ensure the effective collection of VAT/GST with respect to the cross-border supply of digital goods and services."

See also **World Tax Advisor – 28 March 2014** and **United States Tax Alert – 26 March 2014.**

Switzerland –Tax Authorities Update Guidelines for Taxation of Principal Companies

The Swiss Federal Tax Administration has provided the cantonal tax authorities with revised guidance on how to apply rules that affect the taxation of principal companies, which will impact both existing and new principal company rulings. The taxation of Swiss principal companies is based on a 2001 circular letter. Provided the requirements in the circular letter are met, the Swiss principal can allocate a fixed percentage of trading profits abroad (an international tax allocation), which renders those profits exempt from the Swiss tax base for direct federal tax purposes. The new guidelines are expected to become effective for companies with existing principal company rulings as from tax year 2016; they already are effective for companies seeking to obtain a new principal company ruling.

See also **Switzerland Tax Alert – 22 February 2014** and **World Tax Advisor – 28 March 2014.**

Vietnam – Foreign Currency Restrictions Tightened

The State Bank of Vietnam issued a circular on 26 December 2013 that contains new restrictions to reinforce guidance on the use of foreign currency in Vietnam. Under the circular, residents and nonresidents may not conduct transactions in foreign currency within Vietnam or use foreign currency in advertising, quotes, contract prices or similar uses within Vietnam unless specifically allowed under previous guidance. The new rules apply as from 10 February 2014.

See also **World Tax Advisor – 10 January 2014.**

Example disclosures

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

There are no example disclosures for this final edition.

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

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

Quick reference guide — Applicable income tax rates

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

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2014	2015	Date the combined national/ local rate enacted	Notes
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 has proposed a reduction in the corporate tax rate from 30% to 28.5% as from 1 July 2015.
Belgium	33.99%	33.99%	N/A	Reduced rates may be available for companies with taxable income that does not exceed EUR 322,500.
Brazil	34%	34%	N/A	The corporate income tax base rate is 15%. The additional surtax (10%) and social contribution (9%, 15% for financial institutions) yields an effective tax rate of 34%.
Canada	25%–31%	25%–31%	14 Dec 2007	Phased-in decreases of the federal income tax rate were enacted in 2007. The last of the phased-in tax rate decreases came into force in 2012. Provincial rates vary, ranging generally from 10% to 16%.
Chile	20% (21%)*	20% (22.5%)*	27 Sep 2012	* On 1 April 2014, the new government presented a tax reform bill to Congress that would result in a gradual increase in the First Category Tax rate from 20% to 25% over four years. Income earned in 2014 would be subject to a rate of 21% and income earned in 2015 would be subject to a rate of 22.5%. The government hopes to obtain legislative approval and enact the changes in 2014, in which case the 21% rate would apply retroactively to income earned in 2014.
China	25%	25%	16 Mar 2007 26 Dec 2007	Companies that were entitled to the 15% lower rate under the pre-2008 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 are subject to a 20% tax rate and a 15% rate applies to enterprises that qualify as new and high-tech enterprises or companies set up in certain geographical locations.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2014	2015	Date the combined national/ local rate enacted	Notes
France	33.33% – 38%	33.33% – 34.43%	30 Dec 2013 (See **Note 1**)	For taxable income derived in a fiscal year closed on or after 31 December 2013 and before or on 30 December 2015, an additional surcharge of 10.7% (based on the income tax due at the standard 33.33% tax rate) is applicable for companies with revenue exceeding EUR 250 million (see **Note 1** for details). As a result of the surcharge, the effective tax rate applicable to large profitable companies is either 36.9% or 38%. One of the surcharges is due to expire on 30 December 2015, so the maximum rate for 2015 is changed to 34.43%. A rate of 36.9% applies to large profitable companies with basic corporate tax liability lesser than Euro 763,000 and a rate of 38% applies to large profitable companies with basic corporate tax liability exceeding Euro 763,000. These rates do not include the impact of the CVAE, an annual local business tax that 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 that is considered an income tax and effectively creates a dual tax rate regime in France under U.S. GAAP (see **Note 2** for details). Small and medium-sized companies may be subject to a lower tax rate in certain cases.
Germany	30%–33%	30%–33%	17 Aug 2007	The corporate rate is 15%. The municipal trade tax rate typically ranges between 14% and 17%. In addition, a 5.5% solidarity surcharge is levied on corporate income tax. The effective corporate tax rate (including the solidarity surcharge and trade tax) typically ranges between 30% and 33%.
Hong Kong	16.5%	16.5%	N/A	Profits tax is levied at a rate of 16.5% (15% for unincorporated businesses) where the person is carrying on a trade, profession or business in Hong Kong and the relevant income is a profit arising in or derived from Hong Kong.
India	30.9% or 32.45% or 33.99%	30.9% or 32.45% or 33.99%	10 May 2013	The effective rate for domestic companies is 30.9% (where taxable income is less than or equal to INR 10 million), 32.45% (where taxable income exceeds INR 10 million, but is less than or equal to INR 100 million), and 33.99% (where taxable income exceeds INR 100 million). If an entity's annual income tax liability, as a percentage of book profits, is less than 18.5%, the Minimum Alternative Tax (MAT) applies at 18.5% of book profits. The effective MAT rate is 19.06% (where income is less than or equal to INR 10 million) and 20.01% (where income exceeds INR 10 million, but is less than or equal to INR 100 million) and 20.96% (where taxable income exceeds INR 100 million). The excess of MAT paid over the annual tax liability may be credited against the regular tax liability for the subsequent 10 years. These effective rates may increase if the earnings are distributed (see **Note 3** for details).
Ireland	12.5% or 25%	12.5% or 25%	N/A	The standard corporate tax rate on trading income is 12.5% and on nontrading income, 25%. The 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 occurring on or after 6 December 2012.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2014	2015	Date the combined national/ local rate enacted	Notes
Italy	27.5%	27.5%	28 Dec 2007	IRAP, the regional tax on productive activities, is levied within a range of up to 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 (see **Note 4** for details). An additional 8.5% tax is levied on banks, other financial institutions, and insurance companies for FY 2013.
Japan	37.0%–38.0% or 38.4%-39.4%	34.6%–35.6% or 36.0%-37.1%	20 Mar 2014	The national corporate tax rate for fiscal years beginning on or after 1 April 2012 is 25.5%. In addition, a temporary 10% surtax on the national corporation tax rate is effective for two consecutive years starting with the first fiscal year beginning on or after 1 April 2012. For a calendar year taxpayer, a fiscal year 1 January 2015, the 10% surtax generally is no longer applicable. Japanese corporations and foreign corporations that are carrying on a business through a permanent establishment in Japan also are subject to a local inhabitants tax and a local enterprise tax. Inhabitants and enterprise tax rates vary depending on certain factors. The local enterprise tax generally is levied on taxable income at a rate between 7.19% and 10.073%, depending on the amount of capital and location of the corporation. The inhabitants tax generally is levied on taxable income at a rate of either 17.3% or 20.7% of the national corporate tax rate depending on the location of the corporation. The local enterprise tax is deductible for national corporation tax purposes generally when it is paid. The top ETR ranges are for corporations with stated capital of more than JPY 100m while the bottom ETR ranges are for corporation with stated capital of JPY100m or less. The inhabitant tax rates will be reduced for fiscal years beginning on or after 1 October 2014, but the effective combined rate will not change because the reduction will coincide with the introduction of a new local corporate tax.
Luxembourg	~29.22%	~29.22%	28 Dec 2012	This rate applies to the municipality of Luxembourg City. Rates for residents of other municipalities may vary.
Malta	35%	35%	N/A	N/A
Mexico	30%	30%	11 Dec 2013	The 30% tax rate remains in effect. A special regime applies for maquiladoras. The Business Flat Tax (IETU) that was introduced in 2007 was abolished as from 1 January 2014.
Netherlands	25%	25%	N/A	Tax changes enacted on 1 July 2009 introduced a 20% tax rate applicable to income below EUR 200,000, effective retroactively to 1 January 2009.
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.

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

Note 1: The 2014 Finance law was enacted on 30 December 2013, increasing the rate of the additional surcharge of 5% applicable for companies with revenue exceeding EUR 250 million from 5% to 10.7%. The additional surcharge applies to all fiscal years closed on or after 31 December 2013 and before or on 30 December 2015.

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

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

Note 4: Law No. 148, enacted on 16 September 2011, 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 Developments archive

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

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

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

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

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

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

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Financial Reporting for Taxes 2014 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 19-23, 2014 in Orlando and December 8-12, 2014 in Las Vegas. Course offerings are designed for corporate tax and accounting professionals.

Contact us

For more information contact:

Robert Tache
Partner, Deloitte Tax LLP
+1 305 372 3230
rtache@deloitte.com

Connie Lee
Director, Deloitte Tax LLP
+1 415 783 4839
colee@deloitte.com

Tiffany P Lee
Senior, Deloitte Tax LLP
+1 408 704 2614
tiffalee@deloitte.com