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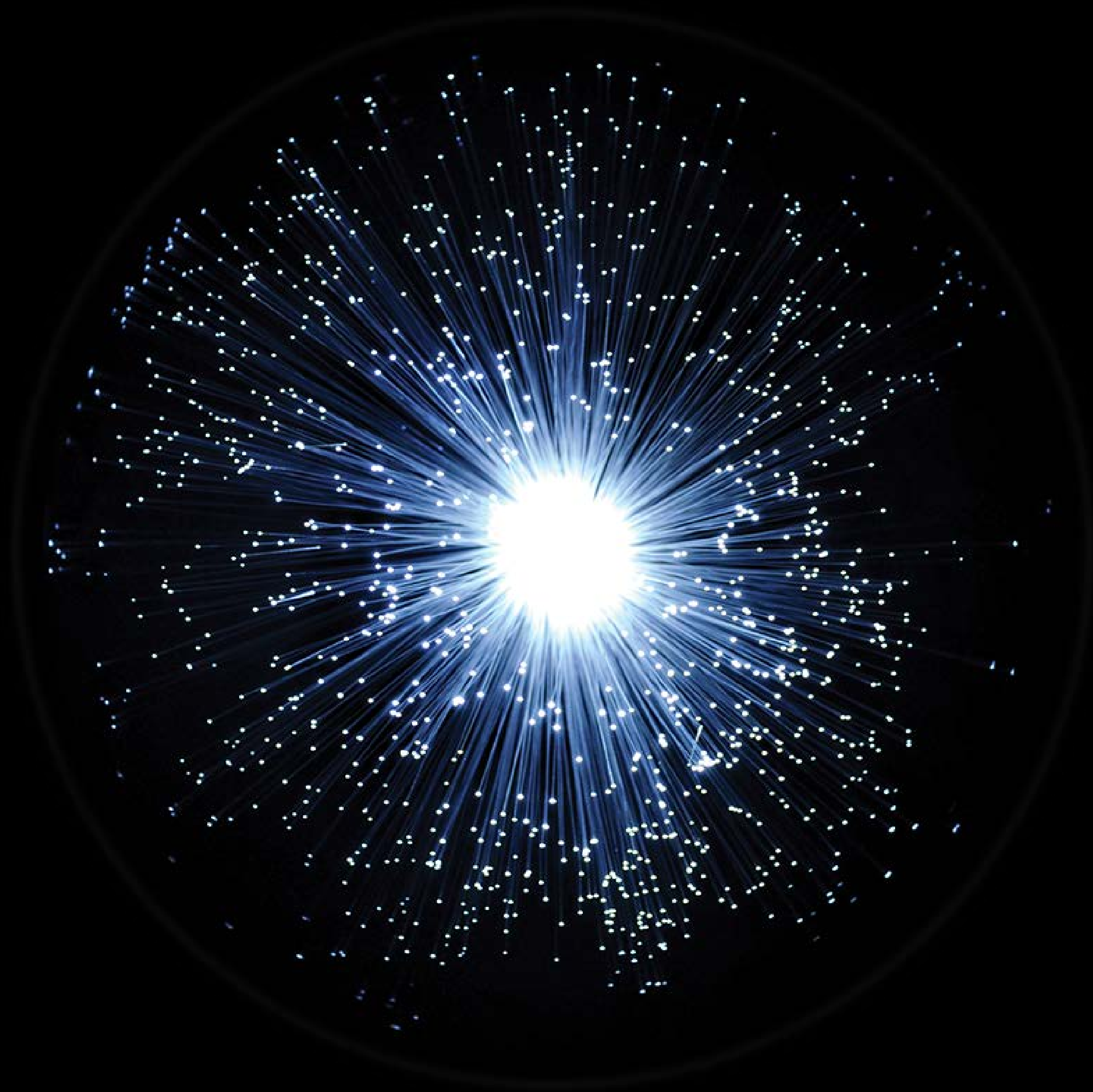

Global Tax Developments Quarterly

Accounting for Income Taxes

Summary of recent international tax developments that may have implications on accounting for income taxes under US GAAP

1 July – 30 September 2016
1 November 2016
Issue 2016-3

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Introduction

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Unless otherwise indicated, the content in this document is based on information available as of 30 September 2016. 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 US GAAP guidance

Under US 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 guidance as to what constitutes "enactment" under US 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).

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Enacted Tax Law Changes: 1 July to 30 September 2016

The following section includes a brief summary of major international income tax law changes enacted during the period 1 July 2016 to 30 September 2016.

Spain

Spain

Legislation Modifying Advance Payment of Corporate Income Tax Enacted

Date of Enactment: 30 September 2016
Effective Date: 1 January 2016

Legislation published in Spain's official gazette on 30 September 2016 includes changes to the requirement for certain companies to make advance payments of corporate income tax. The new rules, which are applicable only to companies whose turnover exceeds EUR 10 million during the previous 12-month period, include (i) an increased rate to calculate the advance payment of corporate income tax; and (ii) a minimum advance payment to be calculated on the basis of a different formula.

The rules are effective for fiscal years beginning on or after 1 January 2016 and apply to prepayments due in October 2016 and thereafter.

See also Spain Tax Alert – 6 October 2016.

Enacted Tax Law Changes That Are Now Effective: 1 July to 30 September 2016

The following section includes a brief summary of major international income tax law changes enacted before 1 July 2016, but are first effective in the period 1 July 2016 to 30 September 2016.

Hungary

Poland

Hungary

Tax Law Effective

A tax bill passed by the Hungarian parliament on 7 June 2016 and published in the official gazette on 15 June includes changes to the intellectual property (IP) regime that are in line with the recommendations under action 5 of the OECD's Base Erosion and Profit Shifting (BEPS) project (Countering Harmful Tax Practices More Effectively). The modified nexus approach is adopted to limit the beneficial tax treatment of intangible assets and royalty income, and will substantially reduce the scope and extent of benefits available under the IP regime.

The new rules apply as from 1 July 2016, although transition rules provide a limited window of opportunity for companies to qualify under the current regime and maintain benefits for an additional five years. IP acquired or developed after 30 June 2016 falls within the scope of the new rules.

See also World Tax Advisor – 10 June 2016.

Poland

General Anti-Abuse Rule Effective

Amendments to the Polish Tax Ordinance Act that became effective on 15 July 2016 include the introduction of a general anti-avoidance rule (GAAR). Under the new rules, in the case of "tax avoidance" situations, the Polish tax authorities generally will have the power to disregard the form of a transaction or action and determine the tax consequences in a way that eliminates the effects of the tax benefits obtained. The GAAR applies only to transactions or

actions from which the tax benefit (or the sum of the tax benefits) obtained by a person after 15 July 2016 exceeds PLN 100,000 in a settlement period (e.g., an annual basis for corporate income tax purposes). The GAAR may have a significant impact on future activities of entities subject to Polish taxation, and it may apply to certain prior activities that result in tax benefits after 15 July 2016.

See also World Tax Advisor – 19 August 2016.

Enacted Tax Law Changes That Are Effective As From 1 October 2016

The following section includes a brief summary of major international income tax law changes enacted before 1 July 2016, but effective as from 1 October 2016.

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 October 2016 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 30 September 2016, 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.

Belgium

Brazil

Canada

France

Germany

Mexico

Netherlands

Norway

Singapore

Taiwan

Turkey

Belgium – Patent Income Deduction Abolished and Innovation Income Deduction Planned

The Belgian government is preparing for the introduction of a new "innovation income deduction" (IID) to replace the patent income deduction (PID) that was abolished as from 1 July 2016. The PID was abolished to bring Belgium in line with the recommendations of the OECD in its report on BEPS action 5 (Countering Harmful Tax Practices) and related discussions at the EU level. A conditional transition rule will allow taxpayers to claim the "old" PID regime until 30 June 2021 with respect to certain qualifying intellectual property (IP) rights.

The planned IID would be compliant with the "modified nexus approach" agreed upon within the OECD and the EU Code of Conduct group. Once enacted, the IID, in principle, would apply retroactively as from 1 July 2016.

See also World Tax Advisor – 9 September 2016.

Brazil – Consultation on Proposed Mutual Agreement Procedure Rules Launched

Brazil's tax authorities and the Ministry of Finance jointly released a public consultation document on 18 August 2016 that aims to provide guidance on the operation of the mutual agreement procedure (MAP) in the context of Brazil's 32 existing tax treaties, and to implement the OECD recommendations under action 14 of the BEPS project ("Making Dispute Resolution Mechanisms More Effective").

The consultation document provides guidance on the requirements and criteria for Brazilian taxpayers to invoke the MAP in a relevant tax treaty to resolve treaty-related disputes. In certain instances, the deadline for submitting a MAP request to the Brazilian tax authorities would be five years from the date the taxpayer considers that the relevant actions result, or would result, in taxation not in accordance with the treaty.

See also World Tax Advisor – 9 September 2016.

Canada – Draft International Tax Legislation Released

On 16 September 2016, Canada's Department of Finance released draft legislation that may require taxpayers to amend tax returns filed in prior years or evaluate whether to file certain elections before the end of the year. The most important international tax proposals relate to "stub period" foreign accrual property income and the upstream loan rules. Other international tax proposals in the legislative package included proposed changes to the shareholder benefit rules to facilitate foreign affiliate spinoff transactions and changes to the rules known as the foreign affiliate dumping rules.

On 21 October 2016, the Minister of Finance tabled a Notice of Ways and Means Motion containing tax measures from the federal government's 2016 budget that had been tabled on 22 March 2016 and released as draft legislation on 29 July 2016. The international tax measures include back-to-back loan proposals, amendments to the rules relating to non-arm's length sales of shares by nonresidents and the introduction of country-by-country (CbC) reporting.

See also Deloitte Canada Alert.

France – 2017 Budget Released

The 2017 budget bill released by the French government on 28 September 2016 contains no major changes to the tax system. The main corporate income tax proposals are a progressive decrease in the corporate tax rate, increase in the tax credit rate of the "CICE," and changes to the requirements to make advance payments of corporate income tax.

See also World Tax Advisor – 14 October 2016.

France – Public CbC Reporting Requirement

The "Sapin 2" bill, a bill designed to promote transparency, is being discussed by Parliament. The bill includes provisions related to CbC reporting and transfer pricing documentation obligations. Under the bill, CbC reports would be made available to the public as of 1 January 2018 and the threshold for preparing simplified transfer pricing documentation would be reduced to EUR 50 million from EUR 400 million.

Germany – Draft Bill Modifying Change-in-Ownership Rules Proposed

Germany's Ministry of Finance issued a first version of a draft law that would provide an additional opportunity for taxpayers to obtain relief from the general change-in-ownership rules by introducing a new net operating loss (NOL) carryforward category for "business continuation losses". Under the proposed rule, the general change-in-ownership rules would not be applicable where the business operations of the loss corporation are continued and unchanged from the time of incorporation or at least during the three fiscal years before the change-in-ownership. If these conditions are fulfilled and the taxpayer files an application, the regular NOL carryforward would be transformed into a business continuation NOL carryforward.

See also World Tax Advisor – 9 September 2016.

Mexico – New Procedures for Advance Pricing Agreements Proposed

Mexico's Tax Administration Service (SAT) has proposed implementing a new procedure that should expedite the conclusion of advance pricing agreements (APAs) for maquiladoras. The SAT is proposing to classify entities based on how factors of production are used (work force or operating assets) and by determining an annual profit margin based on a method that would apply depending on the classification of the applicant entity.

See also World Tax Advisor – 19 August 2016.

Mexico – 2017 Tax Package Approved

The 2017 tax package, approved by the House of Representatives on 18 and 20 October 2016 and by the Senate on 27 October, includes proposed changes to the income tax law and federal fiscal code. The bill underwent a number of additions and modifications during its discussion in the House of Representatives. The revised bill now will be returned to the president for publication in the near future, with the measures generally applying as from 1 January 2017.

The measures include changes to the depreciation rate that applies to certain types of machinery and equipment, the reintroduction of a research and technology development tax incentive, and changes to the rules governing the deductibility of payments made for the subcontracting of services. Except for an increase in the fees for transfer pricing ruling requests, there are no proposals related to the implementation of BEPS recommendations.

See also World Tax Advisor – 23 September 2016.

Netherlands – Changes to Interest Expense Deduction Limitations Proposed

On 20 September 2016, the Dutch government released proposed legislative changes to the rules limiting the deduction of interest expense. The proposals generally would expand the scope of the related party financing rules and close certain loopholes in the acquisition financing rules. Proposed changes to the definition of related party would apply for book years starting on or after 1 January 2017. The earnings stripping rule in the EU anti-tax avoidance directive is expected to be implemented into Dutch tax law not earlier than 1 January 2019. Changes were also announced with respect to the Dutch dividend withholding tax obligations of cooperatives, with changes expected to come into effect as from 1 January 2018.

See also World Tax Advisor – 23 September 2016.

Norway – 2017 Budget Announced

Norway's budget proposal for fiscal year 2017, announced on 6 October 2016, includes a proposed reduction in the corporate tax rate and the introduction of a "financial activities tax". The 5% financial activities tax (which would be

deductible in computing the corporate income tax due) could have an impact on both Norwegian and foreign companies, which is a 5% tax based on compensation paid to employees.

The general corporate tax rate is proposed to be reduced from 25% to 24% as from fiscal years ending during calendar year 2017. The rate for entities subject to the financial activities tax would remain at 25%.

See also Norway Tax Alert – 6 October 2016.

Singapore – Joining of Framework to Implement BEPS Measures Announced

The government announced on 16 June 2016 that Singapore is joining the inclusive framework for the global implementation of the BEPS project as proposed by the OECD and endorsed by the G20 in February 2016. By joining this framework, Singapore will work with other participating jurisdictions to ensure the consistent implementation of BEPS-related measures.

See also World Tax Advisor – 22 July 2016.

Taiwan – Controlled Foreign Corporation, Place of Effective Management Rules Introduced

On 12 July 2016, Taiwan's Legislative Yuan approved anti-avoidance rules proposed by the Executive Yuan in April 2016 that would introduce controlled foreign corporation rules and a "place of effective management" (POEM) test for the determination of a corporation's tax residence. In a separate development, on 21 July, the Executive Yuan approved draft amendments to the Income Basic Tax Act that include rules relating to CFCs owned or controlled by individuals.

See also World Tax Advisor – 19 August 2016.

Turkey – Law on Withholding Tax on e-Business Transactions Published

A law published in Turkey's official gazette on 7 September 2016 (and effective as from that date) introduces a new withholding tax obligation that encompasses payments made through e-business and other online activities. The rules are incorporated in the existing Tax Procedures Code, the Income Tax Law and the Corporate Tax Law, in the relevant provisions governing the withholding tax obligations of resident and nonresident taxpayers.

The Council of Ministers is expected to issue the relevant decree (or decrees) in the near future to announce the applicable withholding tax rates.

See also World Tax Advisor – 14 October 2016.

Did You Know

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

Australia

Austria

Brazil

Chile

China

France

Gibraltar

India

Indonesia

Ireland

Italy

Malaysia

New Zealand

OECD

Switzerland

United States

Australia – Alerts on Offshore Permanent Establishment and Debt Capital Arrangements Issued

The Australian Taxation Office (ATO) issued two "taxpayer alerts" on 10 August 2016 that summarize tax issues the ATO has under risk assessment. One of the alerts concerns arrangements where expenses are attributed to an offshore permanent establishment (PE) of a subsidiary of an Australian income tax-consolidated group that has entered into transactions with another member of the group. The other alert deals with funding arrangements where the ATO has concerns that some taxpayers are incorrectly adopting a treatment under the thin capitalization rules that leads to claims for higher debt deductions.

See also World Tax Advisor – 19 August 2016.

Australia – Alerts Targeting Certain Restructurings and Cross-border Related Party Loans Released

The ATO released two taxpayer alerts on 15 September 2016 that identify tax issues that the ATO currently has under risk assessment. One alert deals with certain arrangements entered into by taxpayers to avoid the application of the Multinational Anti-Avoidance Law (MAAL), while the other relates to cross-border related party loans.

The ATO views certain arrangements involving the replacement of a foreign entity by a partnership that comprises a new incorporated Australian resident company and a newly incorporated foreign company as lacking a commercial basis and considers that no changes have been made to the underlying functions of the parties involved. The ATO is of the view that such structures are likely to be "artificial and contrived," ineffective in avoiding the MAAL's application and likely to result in closer scrutiny from the ATO.

In the alert relating to cross-border related party loans, the ATO targets arrangements involving the funding of an overseas entity or operations by an Australian entity, where the funds are subsequently loaned back with interest to the Australian group in a manner that generates Australian tax deductions while not generating Australian assessable income.

See also World Tax Advisor – 14 October 2016.

Austria – Law Implementing EU Directive on Automatic Exchange of Tax Rulings Enacted

The Austrian law implementing the amended EU mutual assistance directive on the automatic exchange of advance tax rulings was enacted on 1 August 2016.

The December 2015 amendment to the EU mutual assistance directive on administrative cooperation includes a requirement for EU member states to exchange information automatically on advance cross-border tax rulings and advance pricing arrangements as from 1 January 2017, and to transpose the new provisions into their national law by 31 December 2016.

See also World Tax Advisor – 22 July 2016.

Brazil– Definition of "Substantial Economic Activities" Clarified

Brazil's tax authorities published a normative ruling on 14 September 2016, which clarifies the definition of the term "substantial economic activities" for purposes of determining whether a jurisdiction should be deemed to have a privileged tax regime and, therefore, be included on Brazil's "grey list" of jurisdictions. A public consultation document on the definition of substantial economic activities had been issued on 30 May 2016. NR 1,658/16 also amends the list of black and grey jurisdictions for Brazilian tax purposes.

See also Brazil Tax Alert – 15 September 2016.

Chile – Guidance on New Tax Regime Issued

On 14 July 2016, the Chilean tax authorities issued a public ruling containing extensive guidance on the new dual income tax regimes that will apply as from 1 January 2017. The new ruling revokes rulings issued in 2015 and reflects changes introduced in a February 2016 law designed to simplify and clarify the 2014 tax reform law, including the provisions relating to the dual income tax regimes. Some types of taxpayers are restricted to one of the two tax regimes, but taxpayers eligible for either regime must opt into their preferred regime before 31 December 2016.

See also Chile Tax Alert – 21 July 2016.

Chile – Definition of "Institutional Investor" Clarified

Chile's Superintendence of Securities and Insurance issued a regulation on 27 July 2016 that clarifies the definition of "institutional investor" for purposes of the rules governing regulated investment funds.

Previously, the concept of institutional investor was not clearly defined in the law, and institutional investor status was granted almost exclusively only to Chilean entities. The regulation, which applies as from the date of issuance, will allow qualifying foreign investors, foreign funds and collective investment vehicles to benefit from institutional investor status.

See also Chile Tax Alert – 28 July 2016.

China – Transfer Pricing Rules Issued

On 29 June 2016, China's State Administration of Taxation (SAT) issued rules that introduce new transfer pricing reporting and documentation requirements. The rules, which generally are in alignment with the three-tiered framework for transfer pricing documentation found in the final report on action 13 of the OECD BEPS project, are designed to improve the reporting of related party transactions and contemporaneous documentation. Bulletin 42 applies retroactively as from 1 January 2016.

See also World Tax Advisor – 22 July 2016.

France – Validity of Dividend Surtax Referred to CJEU, Ruled Unconstitutional by France's Constitutional Court

France's Administrative Supreme Court referred a case to the Court of Justice of the European Union (CJEU) on 27 June 2016, requesting a preliminary ruling on whether the 3% surtax on dividend distributions is in line with the EU parent-subsidiary directive.

France's constitutional court issued a decision on 30 September 2016, concluding that the exemption from the 3% surtax on distributions made within a tax-consolidated group does not comply with the equality principle in the French constitution and, therefore, is unconstitutional. The constitutionality of the provision was referred to the constitutional court by the administrative supreme court on 27 June 2016.

The 3% surtax is levied on French entities subject to corporate income tax, including French permanent establishments (PEs) of foreign companies. The surtax is levied at the level of the distributing company and is calculated based on the gross amount of the dividend, with the tax due at the time of the distribution. The surtax is levied on most dividend distributions (including deemed dividends). French tax law does not provide a mechanism to avoid a double (or multiple) levying of the surtax where dividends are distributed up a chain of companies.

See also World Tax Advisor – 9 September 2016 and France Tax Alert – 5 October 2016.

Gibraltar – European Commission State Aid Investigation of Tax Rulings Extended

The European Commission announced on 7 October 2016 that it is extending the scope of its state aid investigation of rulings issued by the Gibraltar tax authorities, which began with a review of the tax ruling procedure, to include a formal investigation of whether the tax ruling system and/or the specific rulings reviewed violate the EU state aid rules.

See also World Tax Advisor – 14 October 2016.

India – Foreign Direct Investment Policy Liberalized for Financial Services

On 9 September 2016, the Indian government further eased restrictions on foreign direct investment (FDI) in the financial services sector. The new FDI policy, which applies as from 9 September 2016, eliminates the previous list of 18 financial service activities in which up to 100% foreign investment was permitted under the "automatic route" (i.e. where government approval is not required). FDI now is permitted under the automatic route for any financial services activities (other than those for which special rules exist), provided the activities fall under the supervision of a financial services regulator in India (e.g. the Securities and Exchange Board of India (SEBI), Reserve Bank of India, Pension Fund Regulatory and Development Authority, etc.). Foreign investment in financial services activities that are unregulated in India (or where only part of the activities are regulated, or where there is doubt regarding the regulatory oversight) must be approved by the government.

The revised FDI policy also has replaced the minimum capitalization requirements with the minimum capitalization standards prescribed by the relevant regulator.

See also World Tax Advisor – 14 October 2016.

Indonesia – Tax Amnesty Introduced

A tax amnesty that provides Indonesian corporate and individual tax residents an opportunity to obtain tax relief for previously unreported net assets was approved by the Indonesian parliament on 28 June 2016, with implementing regulations issued shortly thereafter.

Under the tax amnesty, taxpayers can report their undisclosed assets from fiscal years ending on or before 31 December 2015 and pay a special tariff on the net assets, rather than the unpaid taxes and penalties that otherwise would apply. The amnesty is available for the nine-month period from 1 July 2016 to 31 March 2017, with the tariff rate based on the type of assets and when they are reported to the Indonesian tax office.

See also World Tax Advisor – 22 July 2016.

Ireland – Negative European Commission Decision to be Appealed

The European Commission has determined that a taxpayer must repay Ireland up to EUR 13 billion in "state aid" that it allegedly received over the past decade. According to the Commission, the advance transfer pricing arrangements provided by the Irish Revenue Commissioners to the taxpayer regarding the allocation of profits to Irish branches of companies that were not managed and controlled in Ireland (i.e. non-Irish tax resident) constitute state aid, which is incompatible with the EU treaty. This decision is likely to be the subject of a lengthy appeals process in the courts.

See also article on tax@hand.

Italy – "White List" Updated

An updated version of the "white list" of jurisdictions that allow an effective exchange of information with Italy was issued through a ministerial decree dated 9 August 2016 and published in the official gazette on 22 August 2016. Investors resident in white-listed jurisdictions may be eligible for various tax benefits in Italy.

The date from which the updated white list applies is unclear – since the decree does not provide any specific date for its entry into force, it arguably is applicable from the date of publication in the official gazette.

See also World Tax Advisor – 9 September 2016.

Malaysia – Group Relief for Companies Clarified

Malaysia's Inland Revenue Board issued a public ruling on 22 August 2016 to explain and clarify the provisions of the Income Tax Act 1967 relating to the tax treatment of group relief for companies that are resident and incorporated in Malaysia.

See also World Tax Advisor – 14 October 2016.

New Zealand – Discussion Document on Hybrid Mismatch Arrangements Released

On 6 September 2016, the New Zealand government announced the release of a discussion document that contains proposals for addressing hybrid mismatch arrangements. The document proposes that New Zealand should adopt the OECD recommendations on hybrid mismatch arrangements, as proposed under action 2 of the BEPS action plan, and seeks input on how the OECD recommendations could be implemented. Recommendations seek to prevent the misalignment of domestic rules resulting in unintended tax advantages, which would be primarily achieved through the use of "linking rules" that change the usual tax treatment of cross-border transactions to ensure that there is no hybrid mismatch in such cases.

The document considers 12 specific OECD recommendations on BEPS action 2, and proposes a number of changes to New Zealand's tax law to implement them.

See also World Tax Advisor – 23 September 2016.

OECD – Discussion Draft Issued on Revised Guidance on Profit Splits and Attribution of Profits to Permanent Establishments

On 4 July 2016, the OECD released discussion drafts in respect of revised guidance on the use of the profit split method for transfer pricing and the attribution of profits to a permanent establishment (PE).

The draft on profit splits follows the work previously undertaken by the G20/OECD in relation to actions 8-10 of the G20/OECD BEPS action plan, which seek to align transfer pricing outcomes with value creation. The draft on the attribution of profits to PEs follows the work previously undertaken by the G20/OECD in relation to preventing the artificial avoidance of PE status (action 7 of the G20/OECD BEPS action plan). The documents do not, at this stage, reflect a consensus position of the governments involved, but are designed to provide substantive proposals for public review and comment.

See also OECD Tax Alert – 8 July 2016 and OECD Tax Alert – 8 July 2016.

Switzerland – Federal Tax Holiday Rules Revised

On 3 June 2016, Switzerland's Federal Council adopted an ordinance that amends the rules for granting federal tax holidays. The main changes, which apply as from 1 July 2016, include (i) the introduction of a Swiss franc (CHF) cap per new job created and per job preserved; (ii) changes to the economic development areas that qualify for a federal tax holiday, to take into account regional planning policies; and (iii) increased transparency of the federal tax relief granted.

See also World Tax Advisor – 23 September 2016.

United States – Notice Introducing New Foreign Tax Credit Splitter Arrangements Issued

On 15 September 2016, the U.S. Department of the Treasury and the Internal Revenue Service issued Notice 2016-52, announcing their intent to issue regulations under section 909 of the Internal Revenue Code (IRC) that will identify two new foreign tax credit splitter arrangements relating to section 902 corporations that pay foreign income taxes pursuant to foreign-initiated adjustments. Final regulations under section 909 were previously issued on 9 February 2015.

In general, the future regulations contemplated by the notice will provide that a foreign tax credit splitter arrangement arises when, as a result of a "covered transaction," a section 902 corporation pays "covered taxes" during a tax year. The regulations will also provide that a foreign tax credit splitter arrangement results when a payor that is a section 902 corporation pays covered taxes during a tax year and the payer (or a predecessor of the payer) has made a "covered distribution."

See also United States Tax Alert – 19 September 2016.

United States – Regulations Addressing Treatment of Certain Interests in Corporations as Stock or Indebtedness Issued

On 13 October 2016, Treasury and the IRS released final and temporary regulations under section 385 of the IRC that (i) establish threshold documentation requirements that ordinarily must be satisfied for certain related-party interests in a corporation to be treated as indebtedness for U.S. federal income tax purposes; and (ii) treat as stock certain related-party

interests that otherwise would be treated as indebtedness for U.S. federal income tax purposes.

The 385 regulations follow the issuance of, and are significantly narrower in scope than, proposed regulations issued on 4 April 2016 under section 385 that would have (i) authorized the IRS to treat certain related-party interests as part stock and part debt for federal tax purposes; (ii) established contemporaneous documentation requirements that must be satisfied for certain related-party debt to be respected for federal tax purposes; and (iii) treated certain related-party debt as stock for all purposes of the IRC when issued in connection with certain distributions and acquisitions.

See also United States Tax Alert – 14 October 2016.

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 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 for 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 jurisdictions.

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.) 2016–2017		Date the combined national/ local rate enacted	Notes
Australia	30%	30%	N/A	The corporate tax rate for eligible small businesses with aggregated turnover of <AUD 2 million is 28.5% for income years starting on or after 1 July 2015.
Brazil	34%	34%	N/A	The corporate income tax base rate is 15%. The additional surtax (10%) and social contribution (9%, 20% for financial institutions) yield an effective tax rate of 34% or 45% for financial institutions.
Canada	26%–31%	26%–31%	N/A	Rates shown are general corporate income tax rates on income not eligible for special incentives. Provincial and territorial rates vary, ranging generally from 11% to 16% and are in addition to the federal rate of 15%. Rates shown are effective as from 10 April 2016.
Chile	24%	25% or 25.5%	29 Sep 2014	The 2014 tax reform includes a gradual increase in the First Category Income Tax (FCIT) rate from 20% to 25% or 27% between 2014 and 2018. The rate is 21% for 2014, 22.5% for 2015, and 24% for 2016. The rate is 25% for 2017, unless the taxpayer selects the semi-integrated regime, in which case the FCIT rate is 25.5% in 2017 and 27% in 2018.
China	25%	25%	16 Mar 2007 26 Dec 2007	Entities qualifying as small-scale taxpayers are subject to a 20% tax rate, and entities qualifying as new and high-tech enterprises are subject to a 15% tax rate. A 15% rate also applies to entities incorporated in the

				western region that operate in certain industries.
France	33.33% – 34.43%	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 on or before 30 December 2016, 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) and an additional surcharge of 3.3% applies to companies with a basic corporate tax liability exceeding EUR 763,000. As a result of the surcharges, the effective tax rate applicable to large profitable companies is 38% for fiscal years closed on or before 30 December 2016. The 10.7% surcharge was not extended by the 2016 Finance Law, so the applicable rate for large companies is reduced to 34.43% for fiscal years closed on or after 31 December 2016 (see Note 1 for details). These rates do not include the impact of the annual local business tax (CVAE) that is considered an income tax under US 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 US 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%. 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 33.06% or 34.61%	30.9% or 33.06% or 34.61%	6 August 2014 14 May 2015	For taxable years beginning on 1 April 2015, the effective rate for domestic companies is 30.9% (where taxable income is less than or equal to INR 10 million), 33.06% (where taxable income exceeds INR 10 million, but is less than or equal to INR 100 million) and 34.61% (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 a rate of 18.5% of book profits. For taxable years beginning 1 April 2015, the effective MAT rate is 19.06% (where income is less than or equal to INR 10 million) and 20.39% (where income exceeds INR 10 million, but is less than or equal to INR 100 million) and 21.34% (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 (see Note 3). These effective rates may increase if the earnings are distributed (see Note 4 for details). For taxable years beginning on 1 April 2016, a lower corporate income tax rate of 25% may apply in the case of certain newly established domestic companies engaged in a manufacturing business, subject to fulfilling certain conditions. Accordingly, the effective rate for such companies would be 25.75% (where taxable income is less than or equal to INR 10 million), 27.55% (where taxable income exceeds INR 10 million, but is less than or equal to INR 100 million) and 28.84% (where taxable income exceeds INR 100 million). A new lower tax rate of 29% will be applicable for taxable year 2016-17 for domestic companies that have earned a gross turnover of INR 50 million or less in taxable year 2014-15. The effective rate for such companies would be 29.87% (where taxable income is less than or equal to INR 10 million) and 31.96% (where taxable income exceeds INR 10 million).
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%.
Italy	31.4%	31.4%	28 Dec 2007	The corporate income tax rate is 27.5% (see Note 5 for details). IRAP, the regional tax on productive activities, is levied within a range

				of up to 0.92% around the basic 3.9% IRAP rate (4.65% for banks and 5.9% for insurance companies). The corporate income tax rate will be reduced to 24% starting from 2017, although the applicable rate for banks and other financial entities will remain 27.5%.
Japan	32.1%–33.1% or 34.3%–35.4%	29.97% – 30.86% or 33.8% – 34.81%	31 Mar 2015	The national corporate tax rate is reduced from 23.9% to 23.4% for fiscal years beginning on or after 1 April 2016 and will be further reduced to 23.2% for fiscal years beginning on or after 1 April 2018. The tax rate applicable to the income factor of the factor-based enterprise tax for large companies with more than JPY 100 million of stated capital also will be reduced. Thus, the effective corporate income tax rates for 2017 will be lower than those for 2016. Japanese corporations and foreign corporations carrying on a business through a permanent establishment in Japan also are subject to a local inhabitants tax, a local enterprise tax and a local corporate tax. Inhabitants and enterprise tax rates vary depending on certain factors. The local enterprise tax, including the special local corporate tax, generally is levied on taxable income at a rate between 6% and 10.1%, depending on the amount of capital and the location of the corporation. The inhabitants tax generally is levied on taxable income at a rate of 12.9% or 16.3% of the national corporate tax rate, depending on the location of the corporation. The local enterprise tax is deductible for national corporation tax purposes when it is paid. The local corporate tax generally is levied on taxable income at a rate of 4.4% of the national corporate tax rate. The top effective tax rate ranges are for corporations with stated capital exceeding JPY 100 million and the bottom effective tax rate ranges are for corporations with stated capital of JPY100 million or less.
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%	30%	11 Dec 2013	A special regime applies for maquiladoras.
Netherlands	25%	25%	N/A	A 20% tax rate applies to income below EUR 200,000.
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. 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. 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 also may be exempt from the 2% federal tax. Companies providing educational or medical services and agricultural goods producers are subject to a 0% profits tax rate if certain criteria are fulfilled. Residents of the Skolkovo Innovation Centre are entitled to a 10-year profits tax exemption.
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	20%	20% and 19%	17 Jul 2013 and 18 Nov 2015	A 20% rate was effective from 1 April 2015, reducing to 19% as from 1 April 2017. As a result of the mid-year change, a blended tax rate of 19.25% applies for taxpayers with a 31 December 2017 year-end.

Note 1: The 2014 French finance law was enacted on 30 December 2013, increasing the rate of the additional surcharge applicable for companies with income 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 2016. The 2016 Finance Law confirms that the 10.7% surtax on large companies is abolished, which should reduce the maximum effective corporate income tax rate applicable to large companies from 38% to 34.43% for fiscal years closed on or after 31 December 2016.

Note 2: The government enacted a 3% surtax on 17 August 2012 that is levied on dividends and certain other distributions paid on or after that date by domestic and foreign entities subject to corporate income tax in France (including PEs of foreign entities). The 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 related accounting for income taxes implications). France's Administrative Supreme Court referred a case to the Court of Justice of the European Union on 27 June 2016, requesting a preliminary ruling on whether the 3% surtax on dividend distributions is in line with the EU parent-subsidiary directive.

France's constitutional court issued a decision on 30 September 2016, concluding that the exemption from the 3% surtax on distributions made within a tax-consolidated group does not comply with the equality principle in the French constitution and, therefore, is unconstitutional. The constitutionality of the provision was referred to the constitutional court by the administrative supreme court on 27 June 2016.

Note 3: On 24 September 2015 and as further provided in instructions issued on 23 December 2015, the Indian government announced its decision to amend the MAT provisions on a retroactive basis, with effect from 1 April 2001, to provide relief from the MAT to foreign companies that are residents of a country that has concluded a tax treaty with India and that do not have a PE (as defined under the treaty) in India. Relief from the MAT also will be extended to foreign companies that are residents of nontreaty countries and that are not required to register under the relevant provision of the Indian company law (foreign companies without an office or PE in India are not required to register under the company law).

Note 4: An Indian entity is subject to an additional tax of approximately 17.304% when earnings are either distributed as a dividend or upon 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 dividends or upon liquidation of the company. As from 1 October 2014, the dividend is to be grossed up and the tax rate applied on the grossed-up amount of the dividend. The total effective tax rate on earnings would be 42.59%/44.38%/45.67%, respectively. Such dividend income is exempt in the hands of the recipient. However, as from 1 April 2016, where the recipient of the dividend is an Indian individual, Hindu undivided family or a firm, and the dividend received from Indian companies exceeds INR 1 million, a tax of 10% is payable on the amount exceeding INR 1 million.

Note 5: Law No. 148, enacted on 16 September 2011, introduced a temporary increase of the "Robin Hood" tax from 6.5% to 10.5%, effective for fiscal years 2011-2013. On 9 February 2015, Italy's Constitutional Court declared the Robin Hood tax unconstitutional and repealed the surcharge as from 12 February 2015 (the day after the decision was published in the official gazette). The Robin Hood tax was levied on the oil, gas and energy producers and trading companies in addition to the regular corporate income tax.

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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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.

Financial Reporting for Taxes 2016 Training — Corporate tax and accounting professionals continue to face significant challenges in financial reporting for income taxes. Deloitte's Financial Reporting for Taxes Training seminars can help you stay informed with comprehensive and specialized courses set for December 5-9 in Las Vegas, Nevada. Course descriptions, pricing, registration, and additional information can be found here. Early registration discounts are available.

Contact Us

Robert Tache
Partner, Deloitte Tax LLP
Phone: +1 305 372 3230
E-mail: rtache@deloitte.com

Gabriela G. Todoroff
Manager, Deloitte Tax LLP
Phone: +1 305 808 2441
E-mail: gtodoroff@deloitte.com