



Assessing Potential Income Tax Accounting Implications of the UK's Written Notification to Leave the EU

On March 29, 2017, United Kingdom (UK) Prime Minister Theresa May provided written notification to the European Council of the UK's intention to withdraw from the European Union (EU) under Article 50 of the Lisbon Treaty. Written notification marks the opening of withdrawal negotiations between the UK and the EU, with withdrawal itself scheduled to take effect the earlier of either (1) the date a withdrawal agreement enters into force or (2) two years after the UK's notification under Article 50 (unless the negotiations are extended). However, because there is no precedent for the departure of an EU-member state from the EU, other significant aspects of the Article 50 process are less clear, including:

- Whether and, if so, how a notification of intention to withdraw from the EU could be revoked.
- The precise steps (at both the EU and the individual-member-state level) to be followed before withdrawal of the UK from the EU would take effect.
- What the outcome of the negotiations will be in terms of the prospective agreements and relationship between the UK and EU.
- What transitional provisions or transitional periods might be agreed to.

In the meantime, EU laws will continue to apply to UK entities exactly as they do today. Along with the many other aspects of European law that would presumably cease to apply to the UK upon its withdrawal from the EU, unless other agreements are reached, various tax

exemptions and reliefs related to intra-Europe undertakings would presumably also no longer apply to dealings between UK entities and entities domiciled in EU-member states.

ASC 740¹ requires entities to measure deferred tax assets and liabilities by using enacted tax rates and provisions of the enacted tax law.² It also requires entities to recognize, as of the date of enactment, the effect on deferred taxes of a change in tax law or rates³ and a change in tax status that results from a change in tax law.⁴ If a foreign private issuer uses IFRSs, IAS 12⁵ requires it to measure deferred taxes by using the tax rates and tax laws that have been enacted or substantively enacted.

We believe that, given the level of uncertainty and unknowns about the Article 50 process, the UK's notification under Article 50 would *not*, in itself, result in recognition of potential income tax effects of the UK withdrawal in the period of notification.

This accounting conclusion has been discussed with the SEC staff, and we understand that the staff will not object to an SEC registrant's reporting under U.S. GAAP, or a foreign private issuer's reporting under IFRSs:

- Disclosing the uncertainties and potential income tax accounting effects in the reporting period in which the UK submits its written notice of withdrawal under Article 50. The disclosure should include, at a minimum:
 - A description of the UK withdrawal from the EU.
 - The nature of the entity's activities that could be affected by the UK withdrawal.
 - The potential income tax accounting effects of the UK withdrawal on an entity's financial statements.
- Accounting for the income tax effects of the UK withdrawal as of the earlier of (1) the date of enacted (or substantively enacted for foreign private issuers reporting under IFRSs) changes in the tax laws throughout the negotiation period between the UK and individual EU member states/EU or (2) the date on which the UK actually withdraws from the EU.

For a discussion of financial reporting considerations related to the UK's decision to depart the EU, see Deloitte's June 24, 2016 (updated March 31, 2017), [Financial Reporting Alert](#) (16-1).

Questions regarding the potential income tax accounting implications of Brexit can be addressed to [Matt Himmelman](#), partner, National Office Accounting Services; or [Patrice Mano](#), partner, Washington National Tax.

¹ FASB Accounting Standards Codification Topic 740, *Income Taxes*.

² ASC 740-10-05-7 and ASC 740-10-30-2(a).

³ ASC 740-10-25-47.

⁴ ASC 740-10-25-33.

⁵ Paragraph 47 of IAS 12, *Income Taxes*.

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