International Tax

World Tax Advisor

23 October 2015

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Update on potential introduction of VAT in GCC countries

The United Arab Emirates (UAE) government's decision to eliminate long-standing fuel subsidies as from 1 August 2015 has highlighted the need for long-term fiscal sustainability in Gulf Cooperation Council (GCC) countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE) and has reignited interest in the debate surrounding tax reform for these countries, including the potential introduction of value added tax (VAT). Certain relevant considerations are discussed below, along with an update on the potential introduction of VAT in GCC countries.

Balancing the national budget

Reducing costs (e.g. eliminating subsidies) is just one ("bottom-line") approach to balancing a national budget. In the UAE, the impact of lowering the fuel subsidy – recently valued by the International Monetary Fund at almost USD 7 billion – will help reduce the fiscal "break-even" oil price (the price at which a barrel of oil needs to be sold to maintain a balanced budget, given committed expenditures), but a significant gap still will remain between current and estimated crude oil pricing and the fiscal breakeven point.

Another approach to balancing a national budget is to grow the “top line” (i.e. increase revenue). If pumping more oil or injecting cash are untenable long-term options, then taxation offers a credible alternative. Introducing or increasing current levels of taxation potentially conflicts with the “tax-free” branding typically used to encourage investment in the Gulf. However, when faced with increasingly pressing fiscal realities, it seems that governments in the region are running out of alternatives. Aside from these internal pressures, the international finance community has long advocated a diversification of government income away from hydrocarbon revenues.

Direct versus indirect tax

Tax comes in many forms. There are “direct” taxes that are levied on profits and income (e.g. corporate income tax and personal income tax) or on economic rents (e.g. mineral taxes or property taxes), and there are “indirect” taxes that are levied on consumption (e.g. VAT and excise taxes). There has been significant commentary on the relative merits of one form of tax over another, yet there is one clear trend: general consumption taxes, such as VAT, have been accounting for an increasingly larger share of the total tax revenue in many jurisdictions.

VAT is a popular fiscal tool for a variety of reasons. It is considered to be efficient, as well as less expensive to operate, less open to fraud and less likely to distort investment decisions by businesses than any form of direct tax. This latter point is significant; governments do not want to generate new revenue at the expense of investment by the private sector. The fact that most of the cost of a VAT ultimately falls on consumers, rather than on businesses, helps balance these potentially competing requirements.

Although VAT is regressive in the sense that it affects those with lower incomes more (in relative terms) than those with higher incomes (while those with higher incomes are affected more in absolute terms), a government may address the regressive aspects of VAT through targeted social welfare spending or by removing the tax from certain goods. Additionally, since VAT is a tax on consumption, a reduction in personal consumption reduces tax costs for an individual. Accordingly, consumption taxes discourage excess consumption and may enable governments to achieve other goals, such as reduced carbon dioxide emissions and other green initiatives, long-term price inflation control, etc.

All of the GCC countries already impose corporate taxes to some extent. Compared to a VAT, the introduction of a corporate income tax regime or the expansion of an existing regime (by broadening the corporate income tax base and/or increasing rates) is more likely to discourage businesses considering investment in the region, and to negatively impact GDP growth as a result. However, many multinationals generating profits in the UAE already may be paying corporate income tax on those earnings to other jurisdictions; thus, a low-rate broad-based domestic corporate income tax in the UAE actually may not have as negative an impact on investment sentiment as might initially have been thought. Perhaps more importantly, the UAE has never been bound by regional considerations when contemplating a domestic corporate income tax.

The UAE prompted a wave of speculation regarding corporate income tax reform as a result of the publication of its 2014 federal budget that included statements that were interpreted as indicating an imminent expansion of the corporate income tax base. However, corporate income tax presents a challenge to the “tax-free” branding that the UAE has cultivated. Additionally, the six individual Emirates that make up the UAE may find that an expanded corporate income tax is not in line with either the long-term local tax exemptions that have been promised to businesses established in free zones, or the finely-tuned tax-free economic planning strategies that have been developed over many years. An expanded corporate income tax in the UAE is not impossible, but the route to implementing such a tax would appear to be more treacherous and uncertain than the road to VAT.

In short, when faced with a need to raise additional government revenue, implementing a VAT would be a rational government response. However, introducing VAT does not necessarily mean that a government would not need to introduce or expand any other taxes. In fact, it could be argued that introducing a VAT at this point might well make it easier and more acceptable for governments to introduce a full suite of taxes in the future.

Economic impact of VAT

Where a broad-based VAT (i.e. one with very few exceptions to the general rule of taxation) is implemented at a low rate (i.e. around 5%) there usually is a relatively minor negative impact on GDP growth and employment. In the long term, the impact may be mitigated through increased government spending and investment. Inflationary impacts also generally are relatively minor and typically are limited to the period immediately after implementation.

It is likely that only a limited number of differences would exist between any VAT regimes implemented in GCC countries. Differences in the standard rate of VAT would be highly unlikely (since obvious rate differences encourage “rate shopping” by consumers), although certain goods and services might be relieved from the tax for certain social or practical reasons. In short, it would be expected that GCC countries would introduce any VAT at a low rate with very few exceptions to the general rule of taxation and, as a consequence, no major sectorial discrepancies would be expected.

Unilateral or multilateral approach to implementation

Concerns have been raised in the past that a move by a single GCC country to implement a VAT would necessarily disadvantage that country. Until recently, these concerns led GCC member states to aim for simultaneous implementation of VAT, as opposed to a unilateral approach.

However, many differences may exist between governments in the GCC: they have to deal with different demographics; they are not all exposed to the vagaries of global oil pricing to the same extent (i.e. some countries have diversified their economies away from hydrocarbons more than others); their tax administrations have different levels of maturity and expertise; and they may want to pursue alternative fiscal strategies to that of taxation. These factors are not conducive to simultaneous implementation, and this is the reason for the decade-long debate on VAT in the region.

Significantly, Kuwait’s minister of finance was quoted in May 2015 as saying that, while the GCC members were likely to sign an “agreement” on VAT containing “common principles,” each country would introduce its own VAT law reflecting those common principles. This seems to suggest that the GCC has accepted that individual countries may wish to, and should be able to, proceed with unilateral VAT implementation, provided common issues of interest (most likely those relating to the taxation of cross-border trade, rates and exceptions from the general rule of taxation) are properly safeguarded.

The fact that the UAE's undersecretary of the ministry of finance was reported in July 2015 as having said that "the draft of the corporate tax law and the VAT law has been discussed with the local and federal governments," and that the laws will be finished "very soon, within the third quarter of this year," suggests that the UAE is moving meaningfully toward a decision on VAT implementation.

All of the governments of the GCC should be fully aware that the success of VAT implementation will depend on the ability of businesses (those ultimately responsible for collecting VAT from their customers) to administer the VAT. Businesses also prefer certainty on taxes, when making investment decisions. Given these factors, any move to implement VAT in the GCC is expected to be announced well in advance and combined with an extensive public communications program. While a 12-month announcement-to-implementation timeframe is possible, an 18-month to two-year plan appears more likely.

Steps for businesses to prepare for VAT

The structure of a VAT puts businesses in charge of charging and collecting VAT, and remitting it to the government at certain times. For businesses unfamiliar with VAT, implementation may require a significant change to business operations, and likely will require steps, including the following:

- Understanding the likely impact of VAT on the demand for goods and services, and competitor responses;
- Understanding VAT registration obligations and the process of applying for a VAT registration number;
- Ensuring that the relevant books and records are maintained in the appropriate manner by the business;
- Revising terms of business with customers to ensure that VAT becomes a cost to customers, not to suppliers;
- Ensuring that the accounts payable function documents VAT paid, and that it is recovered as quickly as possible;
- Ensuring that the accounts receivable function understands when VAT should and should not be charged, and that it is accurately accounted for;
- Revising enterprise resource planning (ERP) systems to ensure that they can address the charging and recovery of VAT;
- Implementing manual VAT accounting processes, if no central ERP system is used;
- Changing invoicing templates to ensure that new fields relevant for VAT accounting are included; and
- Ensuring the business is structured in such a manner to avoid unnecessary cash-flow or absolute VAT costs arising, particularly on intercompany transactions.

Preparation is important because the nature of VAT requires tax liabilities to be self-assessed and paid by businesses, and any errors typically are subject to severe penalties. Any type of tax fraud usually is subject to significant civil and/or criminal penalties, and the same approach would be expected in GCC countries.

Comments

It appears increasingly likely that there will be a unilateral or multilateral move to implement VAT in the GCC in the relatively near term. While no government has committed to implementing VAT, there are indications that the status quo is likely to change as a result of persistently low oil prices and the correspondingly substantial fiscal break-even deficit faced by most GCC countries, coupled with the need to find sufficient revenue to fund ambitious economic growth plans in the long term. The decision by the UAE to slash fuel subsidies is likely to drive the decade-long GCC tax debate to a meaningful conclusion within the next six months.

Businesses should start to assess the likely impact of VAT on their business, although they also should be aware that governments are likely provide to ample notice prior to implementation, to ensure that the tax can be properly administered from the outset. Understanding current readiness to adapt a business to a taxable environment is key, and this should allow the business to identify areas to be given priority in the (undoubtedly hectic) build-up to implementation.

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India:
Government issues clarification on minimum alternate tax

On 24 September 2015, the Indian government announced its decision to amend the minimum alternate tax (MAT) provisions in the tax law retroactively, with effect as 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 permanent establishment (PE) (as defined under the treaty) in India. The 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).

After the Indian government announced on 1 September 2015 that it would adopt the recommendations of the Shah Committee to clarify that the MAT provisions will not apply to foreign institutional investors (FIIs) or foreign portfolio investors (FPIs) for the period before 1 April 2015, the expectations of the foreign investor community had grown that similar relief also could be extended more broadly to foreign companies, as they stand on the same footing as FIIs/FPIs (i.e. similar to FIIs/FPIs, foreign companies that do not have an office or PE in India are not required to be registered under the relevant provisions of the company law and are not required to prepare their financial statements as prescribed under the Indian company law). Although the Shah Committee's terms of reference restricted its recommendations to FIIs/FPIs (foreign investors registered with the Securities Exchange Board of India that are permitted to purchase listed shares and convertible debentures issued by Indian companies), its findings suggested that its recommendations also could be applied to foreign companies in general, and that relief could be granted to them as well.

Background

India introduced the MAT to facilitate the taxation of "zero-tax companies" – companies that were paying marginal or no tax due to tax concessions and incentives, despite the fact that such companies reported high book profits. The MAT was intended to levy a minimum tax on such companies by deeming a certain percentage of their book profits to be their taxable income. The MAT is imposed at a rate of 18.5% (plus the applicable surcharge and cess) on the adjusted book profits of a company whose income tax liability is less than 18.5% of its book profits.

Whether the MAT applies to foreign companies has been the subject of considerable recent controversy in India, due to conflicting rulings of the Indian courts. The controversy shifted after the Indian tax authorities issued tax notices to FIIs/FPIs to levy and collect the MAT on the basis of the Authority for Advance Rulings (AAR) 2012 decision in the case of *Castleton Investments Ltd.* (for prior coverage, see *World Tax Advisor*, 14 September 2012). As discussed further below, in *Castleton*, the AAR departed from certain previous advance rulings and held that the MAT was applicable to foreign companies, even if they do not have a PE or place of business in India. The appeal in the *Castleton* case, which was pending before the Supreme Court, has now been dismissed by the Supreme Court in light of the clarifications issued by the Indian government regarding the applicability of the MAT provisions to foreign companies.
URL: http://newsletters.usdbriefs.com/2012/Tax/WTA/120914_2.html

To allay the concerns of the foreign investor community, and to clarify the relevant issues, the finance minister proposed to rationalize the MAT provisions and, accordingly, amended the relevant provisions through Finance Act 2015 (for prior coverage, see *World Tax Advisor*, 12 June 2015. The amendment clarifies that the MAT provisions will not apply to foreign companies (including FIIs/FPIs) in respect of capital gains, interest, royalties or fees for technical services if the tax payable on such income under the regular provisions of the Indian tax law is less than the rate prescribed for the MAT; however, this amendment was effective as from 1 April 2015, which created uncertainty as to whether the MAT would apply to foreign companies (including FIIs/FPIs) for the period before 1 April 2015. The amendment also failed to clarify whether the MAT provisions would apply to foreign companies that have an office or PE in India.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/150612_6.html

Key rulings

As mentioned above, there have been conflicting rulings from the Indian courts on the issue of the applicability of the MAT to foreign companies. As early as 1998, the AAR ruled (on Petition No. 14 of 1997) that the MAT was applicable to a foreign company; however, in another case from the same year (*Niko Resources Ltd.*), it ruled that the MAT was not applicable to a foreign company.

In the 2010 case of *The Timken Company*, the AAR distinguished its ruling on Petition No. 14 of 1997, on the grounds that the applicant in that case was carrying on business in India through a PE (for prior coverage, see *World Tax Advisor*, 3 September 2010). The AAR ruled that the MAT provisions were not applicable to Timken, since the company did not have a physical presence in India. The AAR took a similar view in the case of *Praxair Pacific Limited*, in which it relied on the *Timken* ruling (for prior coverage, see *World Tax Advisor*, 20 August 2010).
URL: http://newsletters.usdbriefs.com/2010/Tax/WTA/100903_5.html
URL: http://newsletters.usdbriefs.com/2010/Tax/WTA/100820_5.html

The AAR's position changed with the *Castleton* case, in which the AAR determined that the MAT applies to foreign companies, even if they do not have a PE or place of business in India. This was a clear departure from the AAR's conclusions in *Timken* and certain other cases. Based on the *Castleton* ruling, the Indian tax authorities began issuing tax notices to levy the MAT on FIIs/FPIs.

If the MAT were to apply to foreign companies, they would be liable for tax at a rate of 18.5% of their book profits, which effectively could render certain tax concessions under the Indian tax law meaningless (where the applicable tax rate is less than the 18.5% MAT rate, namely (1) the long-term capital gains exemption, and (2) the concessional tax rate of 15% applicable to short-term capital gains realized on the sale of Indian securities through a recognized stock exchange and on which securities transaction tax has been paid). Additionally, if the MAT provisions were applied to foreign companies regardless of exemptions or benefits potentially available under India's tax treaties, this effectively would render certain provisions of the treaties meaningless.

Committee's report

According to the findings of the Shah Committee (whose final report was submitted to the Indian government on 25 August 2015), the MAT provisions will not apply to foreign companies if they are not required to register under the Indian company law and, therefore, are not required to prepare their financial statements as prescribed under the Indian company law. FIIs/FPIs ordinarily do not have an office or PE in India, so they are not required to register under the Indian company law or prepare financial statements as prescribed under the Indian company law. As a result, the MAT provisions under the Indian tax law are not applicable to FIIs/FPIs.

The Shah Committee's report relied on the axiom that, if it is impossible to compute tax liability, the provisions that would impose tax cannot apply. Since there is no guidance available under the MAT provisions regarding the segregation of domestic and global accounts in the case of foreign companies without a PE or an office in India, it is impossible to compute their MAT liability and, therefore, the MAT provisions cannot be applied to these foreign companies. Accordingly, the Committee recommended that the government amend the income tax act to clarify that the MAT does not apply to FIIs/FPIs.

The Shah Committee's report also clarified that beneficial tax treaty provisions will override the MAT provisions. The committee concluded that the AAR's contrary interpretation in the *Castleton* ruling, based on the overriding clause contained in the MAT provisions, was incorrect.

Comments

The government's latest clarification on the applicability of MAT to foreign companies excludes those foreign companies that have an office or PE in India. The Shah Committee clearly indicated that its report did not express any view on whether a foreign company with an office or PE in India is covered by the MAT provisions, since this issue is squarely covered by the advance rulings in *The Timken Company* and *Praxair Pacific*. Thus, it is clear that the MAT will apply to foreign companies that have an office or PE in India. Foreign companies that do not have an office or PE in India, including FIIs/FPIs, will be exempt from the MAT. To give effect to its decision in relation to foreign companies, the government will carry out an amendment to the MAT provisions that will apply retroactively as from 1 April 2001.

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Indonesia:
Tax holiday rules expanded and extended

Indonesia's Ministry of Finance (MOF) issued a regulation (PMK-159), which is effective as from 16 August 2015, that contains a long-awaited revision of the rules governing a tax holiday; the Indonesian Investment Coordinating Board (BKPM) issued a regulation (Regulation 13) setting out the procedure to apply for a tax holiday. PMK-159, which expands the availability of a tax holiday to corporate taxpayers that operate in one of nine specified sectors ("pioneer industries"), aims to increase foreign investment in the country and spur economic growth. PMK-159 replaces a regulation issued in 2011 (PMK-130) that applied to fewer sectors and granted a tax holiday for a shorter period of time (for prior coverage, see *World Tax Advisor*, 7 October 2011).
URL: http://newsletters.usdbriefs.com/2011/Tax/WTA/111007_3.html

The nine sectors that are considered pioneer industries for purposes of PMK-159 are as follows: (1) upstream metals; (2) crude oil refineries; (3) basic organic chemicals; (4) industrial machinery; (5) agriculture, forestry and fishery products; (6) telecommunications, information and communications; (7) marine transportation; (8) main processing industries in the special economic zones; and (9) economic infrastructure (non-government cooperation scheme).

PMK-159 grants the following tax incentives to qualifying taxpayers in the nine sectors:

- A 10% to 100% reduction in corporate income tax liability for a taxpayer that makes a qualifying investment of at least IDR 1 trillion; and
- Up to a 50% reduction in corporate income tax liability for a taxpayer that makes a qualifying investment of at least IDR 500 billion but less than IDR 1 trillion (specific to the telecommunications, information and communication sectors).

The tax holiday period will run from five to 15 years from the date the company begins commercial operations. An extension of the period may be granted by the MOF based on the strategic value and competitiveness of the industry, but the maximum tax holiday period may not exceed 20 years.

Prerequisites and procedure for application

A taxpayer must satisfy the following prerequisites to qualify for the tax holiday:

- Be a new taxpayer;
- Hold a principal license (business license) under one the nine specified sectors;
- Intend to make the required investment (see above);
- Submit a letter to the tax authorities that states that, if approved, the taxpayer will deposit at least 10% of its total planned investment amount in an Indonesian bank (statement letter);
- Comply with the debt-to-equity ratio, as prescribed by the MOF; and
- Have Indonesian legal status that was approved on or after 15 August 2011 (the date the now-revoked PMK-130 became effective).

An application for a tax holiday must be submitted to the BKPM, along with a copy of the company's tax identification number card, its principal license (and details of the investment) and the statement letter. A tax clearance certificate issued by the Directorate General of Taxation (DGT) to the Indonesian shareholders or to nonresident shareholders that have a permanent establishment in Indonesia also must be submitted (unless the applicant is owned directly by a state-owned enterprise or is listed on the Indonesian stock exchange).

Once an application is received, the BKPM will forward the application and its recommendations to the MOF for further review by a verification committee. Once a tax holiday is approved, the incentives will apply only to the income generated by the company; other income (such as dividends, interest, royalties, rental income, capital gains, etc.) will remain subject to corporate income tax in accordance with the prevailing tax rules. Taxpayers must maintain separate bookkeeping for each income stream.

A taxpayer whose tax holiday application is rejected still may be eligible for an income tax incentive for investing in certain sectors and/or regions; available incentives include a reduction in taxable income, accelerated depreciation, a reduced withholding tax rate on dividends paid to nonresidents and an extension of the tax loss carryforward period (for prior coverage, see *World Tax Advisor*, 12 June 2015).
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/150612_7.html

A taxpayer that is granted a tax holiday is prohibited from engaging in the following activities:

- Importing or purchasing second-hand capital goods;
- Conducting business activities not in accordance with the investment plan and not covered by pioneer industry status;
- Transferring assets and/or company ownership, except for replacing assets with other more productive assets, or transferring the ownership of assets to taxpayers that already have received a tax clearance;

- Relocating the investment to another province in Indonesia or overseas, from the beginning of the tax holiday period until five years after the end of the tax holiday period; and
- Changing accounting methods to shift the profit or loss from tax holiday periods to non-tax holiday periods, or vice versa, from the beginning of the tax holiday period until five years after the end of the tax holiday period.

Revocation of a tax holiday

The Indonesian authorities can revoke a tax holiday if the taxpayer:

- Fails to comply with its investment plan at the time commercial production commences (i.e. it fails to invest the amount specified in the plan);
- Deposits less than 10% of the planned investment in an Indonesian bank (or withdraws the deposit before the investment is realized);
- Fails to submit required reports to the DGT;
- Fails to apply for an advance pricing agreement, if the taxpayer is engaged in exports and is conducting transactions with related parties; or
- Misuses the tax holiday incentive for tax avoidance or evasion purposes.

Comments

PMK-159 is expected to encourage more foreign investment in the nine pioneer industry sectors and to support overall economic growth in Indonesia.

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Indonesia:
New protocol signed to tax treaty with the Netherlands

On 30 July 2015, Indonesia and the Netherlands signed a protocol to amend the 2002 tax treaty and accompanying protocol. The new protocol, which is not yet in force, will make changes to the applicable withholding tax rates on dividends and interest, clarify the term “beneficial owner” and revise the exchange of information (EOI) provisions in the treaty.

The most important changes made in the protocol are as follows:

Dividends: The withholding tax rate on dividends will be:

- 5% (reduced from 10% under the current tax treaty) where the dividends are paid to a company (other than a partnership) that holds directly at least 25% of the capital of the distributing company;

- 10% where the dividends are paid to a qualifying pension fund whose income generally is exempt from tax in the contracting state under whose statutory provisions it is recognized and controlled; and
- 15% in all other cases.

Interest: Interest paid on a loan made for a period of more than two years or in connection with a sale of industrial, commercial or scientific equipment on credit will be subject to a 5% withholding tax rate (such interest is exempt under the current treaty). The withholding tax rate on all other interest will be 10%.

Beneficial owner: The current treaty does not define or otherwise describe the term beneficial owner. The protocol will define the term in accordance with the commentary to the OECD model treaty.

Exchange of information: The protocol will revise the EOI article in the treaty, in line with article 26 of the most recent OECD model treaty. A full EOI will be allowed only between the authorities of each contracting state that are involved in the administration and collection of the taxes under that country's tax law, and the article includes a provision on assistance in the collection of taxes.

Comments and effective date

With the amendments set forth in the protocol, the Netherlands tax treaty will remain one of Indonesia's most favorable tax treaties. The protocol will provide more certainty regarding the application of the treaty, but it remains to be seen how the Indonesian tax authorities will implement the new definition of beneficial owner in light of the existing local substance requirements.

The protocol will enter into force on the first day of the second month following the exchange of ratification instruments by both countries.

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Peru:
Super deduction granted for scientific research and development expenses

The Peruvian government enacted a law (Law 30309) on 12 March 2015, and the applicable regulations (Supreme Decree 188-2015-EF) on 12 July 2015, which will grant a four-year tax super deduction to companies that incur scientific research, technological and innovation development (R&D&i) expenses on projects that commence on or after 1 January 2016. Law 30309, which is designed to encourage more Peruvian companies to undertake R&D&i, will allow an additional 50% or 75% deduction for such expenses, in conjunction with the existing 100% deduction for project expenses, thus allowing a total deduction of 175% of the expenses incurred, if certain conditions are satisfied. The tax benefits under Law 30309 will remain in effect until 31 December 2019.

There is less investment in R&D&i in Peru than in most countries in the Latin American region (for example, Peru ranks below Chile and Colombia, with whom it has been creating strategic alliances that require rules to attract potential investors). The Peruvian government has begun to implement measures to rectify this disparity. A law enacted in 2013 amended the Income Tax Law to grant a deduction for such expenses regardless of whether the projects are related to a taxpayer's core business. However, the 2013 law only provided for a full deduction of the expenses incurred, so that these expenses effectively are treated the same as any other expenses, with no additional incentive to attract companies to invest in R&D&i projects.

Law 30309 grants a super deduction, allowing companies that invest in R&D&i to deduct up to 175% of their project expenses when calculating their corporate income tax liability.

Features of the incentive

To qualify for the super deduction, the taxpayer must carry out R&D&i projects and be certified by the National Council for Science, Technology and Technological Innovation (Concytec), a government agency that has been entrusted with this task. Concytec has 30 business days to issue a decision as to whether a taxpayer qualifies; if no response is issued within that time frame, certification will be deemed to have been denied.

Law 30309 defines qualifying projects, as follows:

- **Scientific research:** Original, planned studies for the purpose of obtaining new scientific or technological knowledge, which may be basic or applied; for example, where a company carries out a project in which it seeks to find varieties and species of *lepidium meyenii* (maca) that have the best physical and chemical properties.
- **Technological development:** The application of the results of research or any other type of scientific knowledge for a particular plan or design to produce new or substantially improved materials, products, methods or processes before commercial production or use commences; for example, where a company develops a formulation based on maca and other components that have a synergistic effect that performs more than 50% better than existing performance and then the company uses the results of the research.
- **Technological innovation:** The interaction between market opportunities and the company's base knowledge and abilities, entailing the creation, development, use and dissemination of new products, processes or services and significant technological changes in them; for example, where a company tests, validates, packages and prepares the final formulation of a maca-based nutritional beverage, and this process results in a marketable product.

Under Law 30309, a 50% super deduction, in addition to a deduction for the actual expenses incurred (which includes depreciation of assets according to income tax rules and amortization of limited life intangible assets) will be granted if the project is implemented through a nonresident R&D&i center, and a 75% super deduction will be granted if the project is implemented directly by the taxpayer or through a Peruvian R&D&i center.

To claim the additional 50% deduction, the nonresident R&D&i center will have to meet the following requirements:

- Have equipment, infrastructure, information systems and all other assets necessary to carry out R&D&i activities;
- Employ researchers who have published in specialized journals that are recorded in an internationally indexed data base and who have registered with Concytec); and
- Have a taxpayer identification number.

To claim the additional 75% deduction, a taxpayer or resident R&D&i center will have to meet the following requirements:

- Have equipment, infrastructure, information systems and all other assets necessary to carry on R&D&i activities;
- Employ researchers or specialists that possess the requisite knowledge, which must be supported by documentation contained in the Concytec registry; and
- Have experience in the development and execution of these types of projects.

If the taxpayer will be implementing the project directly, it will have to be certified by Concytec; otherwise, the taxpayer will have to implement the project via an authorized research center that meets the above requirements. To facilitate the registration of nonresident R&D&i centers, Concytec will post the registration application form on its website.

The 50% and 75% super deductions may not exceed an annual limit (per company) of 1,335 tax units (approximately USD 1.6 million in 2015). However, the government also will regulate the maximum amount of expenses a company may deduct annually, based on the size of the company.

Comments

Although the super deductions are significant, the government should consider granting additional incentives to promote more R&D&i projects in Peru; examples of such incentives include accelerated depreciation of assets acquired exclusively for such projects, granting Peruvian companies an early tax deduction for interest paid to resident or nonresident entities that finance R&D&i projects and/or granting a withholding tax exemption for income derived from services provided by nonresidents with respect to such projects, as it is likely that many Peruvian companies will work collaboratively with foreign research centers or need to hire nonresident specialists.

Guidelines will be published by Concytec in the upcoming months to further clarify Law 30309.

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Puerto Rico:
More changes made to tax rules

The governor of Puerto Rico enacted a law on 30 September 2015 (Act 159 of 2015), which generally applies as from 1 October 2015, to introduce more amendments to the 2011 Internal Revenue Code (2011 PR Code) and the provisions in the tax reform enacted in May 2015 (for prior coverage of the reform, see the Puerto Rico tax alert, 12 June 2015). Relevant amendments include the following:
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-puertorico-12-june-2015.pdf

Dividend distributions and deemed dividends

Dividends and deemed distributions made to residents and nonresidents between 1 October 2015 and 31 December 2015 may be subject to a special withholding tax rate of 8%. The special rate applies in lieu of any other tax imposed by the 2011 PR Code, including the alternative minimum tax (AMT) (although this provision is not applicable in certain cases) and the alternative basic tax. An election to benefit from the reduced tax rate, and payment of the 8% tax, must be made on or before 31 December 2015.

Other tax measures

- Entities subject to the provisions of the Puerto Rico Bank Act or the National Bank Act may request a waiver from the Secretary of the Treasury (Secretary) to exclude all expenses incurred or paid to related persons from the 20% AMT and the 51% disallowance for income tax purposes that otherwise would apply to such expenses.
- The authority of the Secretary to enter into closing agreements is limited; Act 159 of 2015 provides that closing agreements no longer may grant a reduced tax rate, allow or apply a deduction or credit not allowed by the 2011 PR Code, classify an amount as an overpayment or apply an overpayment (unless the tax previously has been paid), waive interest or surcharges, adjust the basis of the assets in a sale or waive the requirement to file a return (unless the return is part of the closing agreement).
- Supplemental information reporting requirements apply to merchants required to collect and deposit the sales and use tax (SUT) that have exempt sales, and to merchants with "auto-consumption" of inventory. (The SUT will continue to apply until 31 March 2016; the new value added tax (VAT) will apply after that date.)
- Certain definitions relevant for purposes of the SUT are modified, including the following:
    - The definitions of "designated professional services," "taxable services" and "services rendered to other merchants" exclude certain services, including certain services related to freight and certain subcontracted services; and
    - The definitions of the same terms include services provided by a nonresident person to a person located in Puerto Rico, regardless of where the services are rendered, if the services are directly or indirectly related to the Puerto Rico operations.
- Certain definitions relevant for purposes of the VAT (applicable as from 1 April 2016) are modified, as well as the lists of excluded services and exempt transactions that are not subject to VAT.

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Switzerland:
Treaty application should be confirmed with all relevant levels of tax authorities

A recent case involving an investor that acquired Swiss real estate via a Luxembourg real estate holding company illustrates that it may be prudent to approach both the Swiss federal and the cantonal (or communal) tax authorities to obtain confirmation that benefits will be available under an applicable tax treaty.

The Switzerland-Luxembourg tax treaty does not contain the paragraph of the capital gains article of the OECD model treaty (paragraph 4 of article 13) that would allow the contracting state in which property is located (in this case, Switzerland) to tax capital gains on the sale of shares of a real estate company. (Under article 13(4), capital gains derived by a resident of one contracting state from the sale of shares deriving more than 50% of their value, directly or indirectly, from immovable property situated in the other contracting state may be taxed in that other state.) Without this article, if the treaty applies, Luxembourg has the sole right to tax capital gains derived by a Luxembourg resident from the sale of shares in a Luxembourg company holding Swiss real estate.

In the case, the investor requested a ruling from the Swiss Federal Tax Administration (FTA) on another issue relating to the tax treaty with Luxembourg, i.e. whether the treaty requirements for a zero withholding tax rate on dividends (including minimum participation and holding period requirements) had been fulfilled. The FTA confirmed that the investor fulfilled these requirements and that the substance requirements for the application of the treaty also were met. The FTA ruling did not specifically address the taxation of capital gains.

With respect to capital gains, it is important to note that the competence to assess income taxes in Switzerland, even federal income taxes, lies with the cantonal tax authorities and with the communal authorities in certain instances involving real estate capital gains tax. Different tax authorities may reach different conclusions in assessing the tax consequences of a particular transaction.

In the case, the cantonal tax authorities took the position that the conclusions in the withholding tax ruling granted by the FTA were not binding for cantonal tax purposes. The cantonal authorities concluded that the Luxembourg company that held the real estate did not meet the substance requirements under the treaty and, therefore, the treaty did not apply and the capital gains were subject to taxation in Switzerland. On appeal, the cantonal court upheld this decision.

It should be noted that the FTA generally has tightened its unofficial practice in relation to substance requirements, perhaps in response to international tax developments; in particular, those relating to the OECD base erosion and profit shifting (BEPS) initiative. Although there are no official guidelines or formal substance requirements under Swiss domestic law, recent practice indicates that, in addition to the unofficial 30% minimum equity requirement for foreign holding companies claiming treaty benefits (which the FTA considers to be a key indicator of beneficial ownership and evaluates as part of the overall circumstances relating to a claim for treaty benefits), the FTA will require the holding company to have an actual nexus with the country in which it is located. The FTA also is placing more emphasis on operational substance and the existence of some economic rationale for choosing the holding jurisdiction. The FTA's practice must be carefully considered when implementing cross-border holding structures.

The case demonstrates that it is important to review holding company structures to consider whether the applicable substance requirements are met and, particularly in the case of real estate investments, to assess whether an additional ruling from the cantonal tax authorities may be needed on the taxation of capital gains relating to real estate.

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Taiwan:
MOF responds to release of BEPS final reports

On 5 October 2015, the OECD published 13 final reports and an explanatory statement outlining consensus actions under the base erosion and profit shifting (BEPS) project (for prior coverage, see *World Tax Advisor*, 9 October 2015). These reports include and consolidate the first seven reports presented to, and welcomed, by the G20 leaders in 2014. There will be more policy developments in 2016 and 2017, but in the meantime, the Taiwan ministry of finance (MOF) already is considering how, and to what extent, it will implement the OECD's minimum standards and best practices. Thus far, MOF officials have expressed their reaction to BEPS actions 1, 6 and 13, as summarized below.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151009_1.html

BEPS action 1 on the tax challenges of the digital economy: Internal discussions carried out by the MOF on this topic have solicited comments from industry professionals and academics. To strike a balance between tax collection and easing the customs clearance procedure burden on taxpayers, the MOF will retain the existing rule that imports of goods and services with a value of up to TWD 3,000 are exempt from import VAT. Where the de minimis rule does not apply, VAT is levied on imports and a reverse charge applies where a Taiwan business entity purchases services from abroad. As it is unlikely that Taiwan resident individuals would be unlikely to comply with the reverse charge rules, the MOF is evaluating the feasibility of compulsory registration for nonresidents selling services to individuals.

From an income tax perspective, the MOF is evaluating the possibility of treating foreign entities engaging in e-commerce activities in Taiwan as having a fixed place of business in the country even if they do not have a physical presence in Taiwan, and requiring such foreign entities to appoint tax agents in Taiwan to file income tax returns. Options presented to the MOF to strengthen the collection of income tax include expanding the responsibilities of withholding agents and possibly imposing a “bandwidth tax” on the number of bytes used. However, the MOF is continuing to receive public feedback on these options and the proposals have not been fully evaluated.

BEPS action 6 on the prevention of tax treaty abuse: Taiwan uses the substance-over-form doctrine and, therefore, the tax authorities have intensified their focus on economic substance even though a residence certificate and a beneficial owner letter generally are sufficient to claim benefits under an applicable tax treaty. The Taiwan tax authorities recently have started requesting additional information to support business substance and are particularly interested in investment holding companies located in certain jurisdictions (such as the Netherlands). This practice will continue.

BEPS action 13 on transfer pricing documentation and country-by-country (CbC) reporting *(for prior coverage, see the tax@hand article, 17 October 2015)***:** The MOF has expressed its intention to amend the transfer pricing rules to require taxpayers to submit a “master file” containing standardized information in accordance with the OECD’s recommendations, as well as the mandatory “local file.” The MOF also may revise the safe harbor rules to take account of the CbC reporting requirements.
URL: http://www.taxathand.com/article/UK/2015/BEPS-Action-13--Transfer-pricing-documentation-and-CbC-reporting-

Action 13 signals a reset of tax administration and compliance for both governments and taxpayers, and implementation will present challenges and opportunities. Businesses in Taiwan should continue to monitor changes in laws in response to this worldwide initiative.

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In brief

Brazil: Following the issuance of a proposed package of austerity measures on 17 September 2015, the Brazilian government published Provisional Measure (PM) 694/2015 on 30 September, confirming the proposed changes to interest on net equity payments, capital gains and the financial transaction tax (for prior coverage, see *World Tax Advisor*, 25 September 2015). The new PM also suspends certain research and development incentives for calendar year 2016.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/150925_3.html

European Union: The European Commission has launched a public consultation to help identify the key measures for inclusion in the re-launch of the proposal for a common consolidated corporate tax base (CCCTB). The Commission says that the aim of the strategy is to kick-start negotiations in the Council that have stalled largely because of the scale of the original proposal 2011. For this reason, a new proposal for a CCCTB would consist of a step-by-step approach. First, the Commission will propose a common tax base without consolidation. Once the common base is secured, consolidation – meaning that EU member states would be allowed to tax their share of the base at their own corporate tax rate – would be introduced. Comments are invited on this and on the criteria that could determine which companies should be subject to a mandatory CCCTB. The Commission also asks whether in the short term it would be useful to agree common rules for implementing BEPS-related aspects of the common tax base. The consultation also will look at ideas on how to address the "debt bias" and the type of rules that would best foster R&D. The deadline is 8 January 2016.

Italy: The government adopted a legislative decree on 5 August 2015 that modifies the anti-abuse rules, as provided by the tax reform delegation law (and in line with the European Commission recommendation on aggressive tax planning) (for prior coverage, see *World Tax Advisor*, 13 March 2015). The decree repeals the domestic anti-abuse provision, which was relevant only for income tax purposes and applied only to specific listed transactions, and introduces a general anti-abuse rule that applies for both direct and indirect tax purposes and is not limited to specific listed transactions. The decree entered into force on 2 September 2015, but will apply retroactively to arrangements already in place that were not challenged by the tax authorities by 30 September 2015 (and for which the statute of limitations has not expired).
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/150313_5.html

Ukraine: The tax authorities published guidance on 21 April 2015 that clarifies certain aspects of the exchange of information (EOI) procedure with foreign tax authorities. Ukraine's domestic rules prohibit an unscheduled tax audit of businesses with annual turnover under UAH 20 million. According to the guidance, an EOI with foreign tax authorities takes place only under the terms of an applicable tax treaty or exchange of information agreement (TIEA), neither of which contains any exceptions with respect to tax audits. Since the provisions of international agreements prevail over domestic law, the existing ban on tax audits will not affect an EOI request of a foreign tax authority. Ukraine has EOI relationships with more than 70 jurisdictions through articles in tax treaties, and has initiated TIEAs with Antigua and Barbuda, Belize and the Cayman Islands. Ukraine also is a party to the OECD mutual assistance treaty and has commenced negotiations with the US for a FATCA agreement.

United States: On 13 October 2015, the US Treasury Department released the official text of the intergovernmental agreement (IGA) that the US signed with Algeria to implement the Foreign Account Tax Compliance Act (FATCA). The US-Algeria IGA is based on the nonreciprocal "model 1B" IGA (with no tax information exchange agreement or tax treaty); thus, financial institutions in Algeria will be required to report tax information about US account holders to the government of Algeria, which will, in turn, relay that information to the US Internal Revenue Service. The agreement includes the timelines (for withholding, opening new accounts, completing due diligence, first participating foreign financial institution reporting and FATCA registration) and other guidance regarding the implementation of FATCA.

BEPS corner

In each issue that provides updates on developments in the OECD's base erosion and profit shifting (BEPS) initiative, *World Tax Advisor* includes a "BEPS corner" covering these developments.

European Union: The European Commission has launched a public consultation on topics including the implementation of BEPS-related aspects of the common tax base. See "In brief" in this issue.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151023_ib.html

OECD: As part of the 2015 output, the OECD has published a report on action 2 in relation to neutralizing the effects of hybrid mismatch arrangements, which proposes domestic and treaty changes and sets out recommendations for countries. See the OECD tax alert, 16 October 2015.
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-oecd-16-october-2015.pdf

OECD: The G20 finance ministers endorsed the final BEPS package during a meeting on 8 October in Lima, Peru. The ministers renewed a commitment for "rapid, widespread and consistent implementation of the BEPS measures" and reiterated the need for the OECD to prepare an inclusive monitoring framework by early-2016 in which all countries will participate on an equal footing. The next discussion of the BEPS measures will take place at the G20 meeting on 15-16 November in Antalya, Turkey.

OECD: On 13 October 2015, the OECD launched the automatic exchange of information (AEOI) portal, a webpage designed to provide a comprehensive overview of the OECD's progress in implementing the common reporting standard (CRS). The portal content includes a historical timeline and background on information exchange, guidance and materials, details on the international framework for CRS exchange relationships, information on and assistance with implementation and an explanation on the commitment and monitoring process. The AEOI portal is expected to be a central repository for CRS-related information and guidance, and, as jurisdictions continue to release guidance, the portal will be a valuable source for current publications and relevant materials that should be consulted on a regular basis. The AEOI portal can be accessed online.
URL: http://www.oecd.org/tax/automatic-exchange/

OECD: The OECD has published a final report on BEPS action 13 in relation to transfer pricing documentation and country-by-country (CbC) reporting to tax authorities. The final report consolidates the three reports previously issued by the G20/OECD: (i) the agreement of a three-tier global standard for transfer pricing documentation (released in September 2014); (ii) implementation guidance in relation to the CbC report (released in February 2015); and (iii) the CbC reporting implementation package (released in June 2015). The final report includes model legislation for countries to adopt CbC reporting in their domestic legislation and model competent authority agreements that can be used by the tax authorities to facilitate implementation of the exchange of CbC reports. The final report also contains a template for CbC reporting of revenue, profits, taxes paid and certain measures of economic activity, as well as revised standards for transfer pricing documentation incorporating a master file and a

local file. See the tax@hand article, 17 October 2015. For prior coverage, see the OECD global transfer pricing alert, 6 October 2015 focusing on transfer pricing aspects of the BEPS reports and *World Tax Advisor*, 9 October 2015 providing an overall perspective on the reports.
URL: http://www.taxathand.com/article/UK/2015/BEPS-Action-13--Transfer-pricing-documentation-and-CbC-reporting-
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-transfer-pricing-alert-15-016-6-october-2015.pdf
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151009_1.html

OECD: The OECD has published a final report on BEPS action 14 in relation to making dispute resolution mechanisms more effective. It addresses the obstacles that prevent the resolution of treaty-related disputes under the mutual agreement procedure (MAP) in article 25 of the OECD model tax treaty. The final report includes minimum standard requirements that are to be adopted by all OECD/G20 countries (and other countries that commit to them) and a framework for peer monitoring of their implementation and practice. There are also a number of supporting "best practice" recommendations included in the final report that support the effective operation of the MAP. Several countries have committed to moving forward with the introduction of mandatory binding arbitration for resolution of treaty disputes. See the tax@hand article, 16 October 2015. For prior coverage, see the United States tax alert, 6 October 2015 focusing on several key non-transfer pricing BEPS reports and *World Tax Advisor*, 9 October 2015 providing an overall perspective on the reports.
URL: http://www.taxathand.com/article/UK/2015/BEPS-action-14--Make-dispute-resolution-mechanisms-more-effective
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-unitedstates-6-october-2015.pdf
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151009_1.html

Taiwan: The Ministry of Finance has formed task forces to analyze the BEPS project. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151023_8.html

United Kingdom: The UK has published draft statutory instruments for comment that will bring into effect the country-by-country reporting provisions of BEPS action 13. The UK has chosen to adopt the definitions in action 13 to ensure it is in line with the globally agreed approach. The consultation closes on 16 November 2015.

Tax treaty round up

At the end of each month, *World Tax Advisor* provides an update on recent tax treaty developments, with a focus on items that directly affect the withholding tax rates of the key jurisdictions covered by the Deloitte International Tax Source (DITS). Additional coverage may include stated negotiating priorities and other important tax treaty trends.

Unless otherwise noted, the developments discussed below are not yet in force.

Austria-Chile: The 2012 treaty entered into force on 9 September 2015 and will apply as from 1 January 2016. When in effect, the treaty provides for a 15% rate on dividends. A 5% rate will apply on interest derived from bank and insurance company loans, bonds or securities that are regularly and substantially traded on a recognized securities market; or a sale on credit paid by the purchaser of machinery and equipment to a recipient that is the seller of the machinery and equipment; otherwise, the rate will be 15%. A 5% rate will apply to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate will be 10%.

Cameroon: The multilateral mutual assistance convention and 2010 protocol entered into force in respect of Cameroon on 1 October 2015 and generally will apply from 1 January 2016.

Canada-Spain: The 2014 protocol to the treaty will enter into force on 12 December 2015 and will apply for withholding tax purposes in Spain as from the entry into force date, and for other taxes, as from 1 January 2016. In all other cases, the protocol will apply as from 12 December 2015. In Canada, the protocol will apply for withholding tax purposes as from 12 December 2015, and as from 1 January 2016 for all other taxes. When in effect, a 0% rate will apply where dividends are paid to a qualifying pension fund or retirement plan that holds the shares on which the dividends are paid as an investment and does not own directly or indirectly more than 5% of the capital or 5% of the voting stock of the payer company, and the class of shares of the company on which the dividends are paid is regularly traded on an approved stock exchange. A 5% rate will apply where dividends are paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate will be 15%. Interest (other than certain contingent interest) will be exempt from withholding tax where it is paid in respect of a loan on arm's length terms; otherwise, the rate will be 10%. The withholding tax rate on royalties will not be affected by the protocol.

Cyprus-South Africa: The 2015 protocol to the 1997 tax treaty entered into force on 18 September 2015 and applies as from 1 April 2012, the date of the introduction in South Africa of taxation of dividends at the shareholder level. The protocol provides for a 5% withholding tax on dividends paid to a company that holds at least 10% of the capital of the payer company; otherwise, the rate is 10%.

Indonesia-Netherlands: See the article in this issue.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151023_4.html

Luxembourg-Brunei: When in effect, the treaty signed on 14 July 2015 provides for a 0% withholding tax rate on dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate will be 10%. The 0% rate also will apply to dividends paid to the government (including government institutions) of the other contracting state. The withholding tax rate on interest and royalties will be 10%.

Netherlands-Curacao: The 2013 tax agreement enters into force on 1 December 2015 and will apply as from 1 January 2016. When in effect, the agreement provides for a 0% withholding tax on dividends paid to a pension fund or paid to a company whose capital is wholly or partially divided into shares and that holds directly at least 10% of the capital of the payer company, provided certain additional requirements are fulfilled; otherwise, the rate generally will be 15%. However, under a transition rule that will apply until 31 December 2019, dividends paid by a Netherlands company to a Curacao company that do not qualify for the 0% withholding tax rate may qualify for a 5% rate if the recipient holds at least 25% of the paid-up capital of the payer company. Interest and royalties will be taxable only in the state of residence of the recipient.

Saudi Arabia-Tajikistan: The 2014 treaty entered into force on 1 June 2015 and generally will apply as from 1 January 2016. When in effect, the treaty provides for a 5% withholding tax rate where dividends are paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate will be 10%. The rate on interest and royalties will be 8%.

Saudi Arabia-Morocco: When in effect, the treaty signed on 14 April 2015 provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate will be 10%. The rate on interest and royalties will be 10%.

Seychelles: The multilateral mutual assistance convention and 2010 protocol entered into force in respect of Seychelles on 1 October 2015 and generally will apply as from 1 January 2016.

Switzerland-Luxembourg: See the article in this issue.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151023_7.html

United States: Intergovernmental agreements to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA) were signed between the US and Montserrat (on 8 September 2015), Cambodia (on 14 September 2015) and Algeria (on 13 October 2015; for additional coverage, see "In brief" in this issue).
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/151023_ib.html

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Ireland
Budget 2016 includes introduction of knowledge development box and CbC reporting

On 13 October 2015, Ireland's minister for finance presented the budget for 2016. The budget has a strong emphasis on the indigenous domestic sector, supporting entrepreneurs, assisting employees with their after-tax salaries and creating further incentives for innovation. The commitment to innovation includes the announcement of the knowledge development box. The minister also announced that country-by-country reporting, based on the OECD's BEPS project, will be introduced.
Issue date: 13 October 2015
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-ireland-13-october-2015.pdf?elqTrack=true

Luxembourg

2016 draft budget includes measure to repeal IP regime

The Luxembourg finance minister presented the country's 2016 state budget draft law to parliament on 14 October 2015, which includes a number of proposals affecting companies and individuals. There are proposals to abolish the minimum corporate income tax, revise the net worth tax, repeal the intellectual property box regime, provide a step up in basis for certain assets and introduce a tax amnesty.

Issue date: 16 October 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-luxembourg-16-october-2015.pdf?elqTrack=true

OECD

BEPS action 2: Neutralizing the effects of hybrid mismatch arrangements

One of the 13 reports issued by the OECD on 5 October 2015 as part of the BEPS project is a report relating to neutralizing the effects of hybrid mismatch arrangements (action 2), which proposes domestic and treaty changes and sets out recommendations for countries. The proposals contained within the final report are broadly in line with the interim report released in September 2014. The recommendations are designed to neutralize mismatches by targeting the following types of arrangements: those with deduction/no inclusion (D/NI) outcomes, double deduction (D/D) outcomes and indirect deduction/no inclusion (indirect D/NI) outcomes.

Issue date: 16 October 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-oecd-16-october-2015.pdf?elqTrack=true

BEPS final report updates scope of work for guidance on profit splits

As part of the deliverables issued on 5 October 2015, the OECD issued a short summary of the status of the ongoing work on the use of profit splits, in advance of additional guidance to be included in the OECD's *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*.

Issue date: 15 October 2015

URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-transfer-pricing-alert-15-017-16-october-2015.pdf?elqTrack=true