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Barbados budget includes tax increases, repeal of national social responsibility levy

Barbados' prime minister delivered her first economic statement and budgetary proposals on 11 June 2018, addressing the country's economic situation that has included numerous financial downgrades, 10 years of significant fiscal deficits and widely criticized levels of debt. The budget's proposed economic, tax and social reforms seek to raise BBD 300 million in the fiscal year ended 31 March 2019 and reduce the deficit by BBD 182 million.

The tax measures that are proposed as part of the efforts to generate revenue and revitalize the economy would:

- Increase the corporate and individual income tax rates;
- Impose value added tax (VAT) on online transactions of Barbadian residents;
- Introduce a tax amnesty; and
- Abolish the national social responsibility levy.

The proposed measures are expected to be enacted by 1 July 2018.

Tax rates

The budget would increase tax rates for both corporations and individuals:

- The corporation tax rate would be increased from 25% to 30% as from 1 October 2018. This increase not only would affect domestic companies but also would have an impact on qualifying insurance companies and regular business companies conducting international business. These companies, which normally are taxed at the standard rate and claim a credit of up to 93%, would see their effective tax rate increase from 1.75% to 2.10%.
- As from 1 July 2018, a new income tax band of 40% for taxable income exceeding BBD 75,000 would be introduced for individuals. Currently, gross assessable income up to BBD 25,000 is not subject to tax by virtue of a basic personal allowance, with rates of 16% and 33.5% applying to higher amounts of taxable income.
- National insurance (NIS) rates would be increased from 10.1% to 11.1% for employees and from 11.25% to 12.75% for employers, also as from 1 July 2018.

VAT on online transactions

Online transactions of Barbadian residents for the purchase of goods and services used in or delivered to Barbados would be subject to VAT as from 1 October 2018. The proposal does not provide details on how the VAT would be administered, *e.g.* whether online retailers would be required to register for VAT, or whether the VAT would be collected by the financial institutions that facilitate the online transactions or the company that delivers the goods. Moreover, it is unclear whether the VAT exemption or zero-rating that applies to certain goods also would apply to online transactions.

Tourism sector

The budget includes measures that would affect Barbados' tourism sector:

- Effective 1 October 2018, an airline travel and tourism development fee would be levied on passengers in addition to the departure tax. The fees would be USD 35 and USD 70 for passengers traveling within CARICOM and outside of CARICOM, respectively.
- As from 1 January 2020, VAT charged for hotel accommodation would be doubled, increasing from 7.5% to 15%, with the delayed effective date giving the sector time to prepare.
- In addition, a 2.5% product levy would be imposed on all direct tourism services and a 10% levy would be imposed for shared accommodation.

Tax amnesty

A tax amnesty would be introduced that would apply to all taxpayers and all taxes in Barbados. Taxpayers would be required to apply for the amnesty, and applications would need to be made between 1 July and 31 December 2018. The amnesty would:

- Waive all taxes, penalties and interest owed to the Barbados Revenue Authority (BRA) for tax years 1968 to 2000; and
- Waive all interest and penalties on unpaid taxes for tax years 2000 to 2017, where a delinquent taxpayer makes the outstanding tax payment or agrees to a payment plan with the BRA during the amnesty period. However, all interest and penalties would become due where the taxpayer does not comply with the agreed payment plan for six consecutive months or more than nine months in a 24-month period.

Interest and penalties would remain payable on taxes due and owing for the 2018 tax year and subsequent years, although the law would be revised to change the interest from a compound interest calculation to simple interest.

Repeal of NSRL

Implemented on 1 September 2016 to generate funds to address rising social costs in Barbados, the NSRL is a levy (currently 10%) on the customs value of all goods imported into the island (except goods used for manufacturing and agriculture and in the tourism sector) and on all locally produced goods. To encourage lower prices of goods with the aim of improving the Barbados economy, the budget would abolish the NSRL as from 1 July 2018. The Fair Trading Commission would be would be tasked with verifying that the prices charged by producers and retailers are reduced.

Comments

Notably, the prime minister acknowledged in her budget speech that Barbados needs to address the recommendations of the OECD under the BEPS project, specifically with respect to the operation of the country's preferential tax regimes, but she does not anticipate that they will be addressed before 1 October 2018 to give a special task force time to make legislative recommendations (for prior coverage, see *World Tax Advisor*, 10 November 2017).
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/171110_4.html

The increase in income tax rates and NIS contributions would need to be monitored carefully to ensure that the additional tax burden does not demotivate employees or decrease their productivity.

Although the proposal to impose VAT on online transactions would broaden the tax base, the revenue generation impact of the proposal is difficult to quantify due to the absence of statistical data on domestic and cross-border e-commerce. It also should be noted that the proposed tax, compounded by the existing commission on foreign exchange transactions, could have a dampening effect on imports, which in turn could reduce the demand for foreign exchange.

The repeal of the NSRL is expected to cost the government approximately BBD 145 million. However, it is hoped that the Barbados economy would see a reduction in prices of goods, provided producers and retailers properly reduce the cost of items to reflect the repeal of the NSRL and for the associated VAT.

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India:
New online reporting facility for foreign investment

A circular issued by the Reserve Bank of India (RBI) on 7 June 2018 outlines a new system for reporting foreign investment in India, the "single master form" or SMF. The SMF will provide an integrated facility for reporting total foreign investment in Indian entities, including companies, limited liability partnerships, real estate investment trusts, infrastructure investment trusts, alternative investment funds, etc. The RBI initially released proposals for a new integrated online reporting facility in April 2018.

Prior to implementing the SMF, the RBI is to provide an online interface enabling Indian entities with existing foreign investment to submit information on that investment via an entity master form (EMF). There will be a 15-day window for filing the EMF that opens on 28 June 2018 and closes on 12 July 2018. Indian entities that fail to file an EMF no longer will be able to receive foreign investment (including indirect foreign investment) after 12 July 2018 and will be considered noncompliant with the Foreign Exchange Management Act 1999 and associated regulations, potentially resulting in monetary penalties.

Comment

Integration of the reporting for various types of foreign investment in India into a single form is a welcome step that should simplify compliance for Indian entities and improve the consistency and accuracy of reported data on foreign investment. Indian entities with foreign investment should ensure that they file an EMF before 12 July 2018 to avoid potentially adverse consequences.

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Kazakhstan:
New rules for taxing income of foreigners

Under the new tax code that applies from 1 January 2018, the Kazakh-source income of nonresident individuals from their activities in Kazakhstan is subject to tax, regardless of the number of days an individual spends in the country, except where the income is exempt under the provisions of a relevant tax treaty. The rules could present tax and reporting obligations for employees of nonresident companies that do business in Kazakhstan (for prior coverage, see *World Tax Advisor*, 9 March 2018).
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180309_ib.html

Prior to 1 January 2018, Kazakh-source employment income of a foreign individual generally was exempt from tax, provided the individual was employed by a nonresident that did not have a Kazakh permanent establishment and the individual spent less than 183 days in a 12-month period in Kazakhstan. Any day spent in Kazakhstan counted towards the 183-day threshold, including days of arrival and departure.

Under the new tax code, the income of such a foreign individual that is attributable to work performed in Kazakhstan is taxable, unless an exemption under a relevant tax treaty applies. This appears to be the case even where the individual spends only one day per year in the country (*e.g.* on a short business trip). Even where a treaty exemption applies, the new rules require the foreign individual to:

- Register with the Kazakh tax authorities; and
- Annually report his/her Kazakh-source income to the tax authorities on an individual tax return by 31 March of the following year and pay any tax due on the return (at a rate of 20%) by 10 April of the following year.

To claim a treaty exemption, the foreign individual must obtain a certified translation of a tax residence certificate with an "apostil" from his/her country of residence to support the exemption claimed on the return and provide the certificate to the tax authorities with the return. (If the certificate cannot be provided with the return, the tax must be paid, and a refund can be claimed when the certificate is submitted.)

The new rules potentially create challenges for foreign companies doing business in Kazakhstan, not only due to the possibility of increased tax costs for their employees but also the need for each employee that performs activities in Kazakhstan for any length of time to register with the Kazakhstan tax authorities and satisfy other compliance obligations. These difficulties could negatively affect the investment climate in the country, and the increased workload of the Kazakh tax authorities and new compliance obligations of the foreign individuals may not generate additional tax revenue if relevant tax treaty provisions are applied correctly.

For these reasons, it may be preferable for the government to reinstate the previous exemption for income of foreign individuals with limited stays in Kazakhstan. It is possible that the tax authorities could opt to shift the administrative responsibility for tax obligations from the individual to the Kazakh recipient of the foreign entities' services. This, however, could increase the overall costs of doing business in Kazakhstan for all parties (*i.e.* the nonresident service provider and its employees, which must deal with individual registrations and obtain/submit tax residence certificates, and the Kazakh service recipient that would need to research tax treaty exemptions, track the length of stay of the foreign individual, file tax reports and fulfill other responsibilities as a tax agent.

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Malta:
New VAT grouping regime in effect

Regulations that implement VAT grouping in Malta were published on 22 May 2018 and apply as from 1 June 2018.

VAT grouping is a tool used to prevent the cascading of irrecoverable VAT on charges made between members of the group. In Malta, the option to set up a VAT group is available where at least one of the applicants is licensed/recognized by the Malta Financial Services Authority (MFSA) or the Malta Gaming Authority (MGA). A key benefit of VAT grouping is that supplies between group members are disregarded for VAT purposes, thereby enabling operators to outsource internally (potentially also from establishments outside of Malta, *e.g.* an overseas head office) without incurring irrecoverable VAT.

Eligibility criteria

Two or more persons (defined as legal persons and excluding individuals) that are established in Malta for VAT purposes are eligible to apply to the Commissioner for Revenue to be registered as a single taxable person (*i.e.* a "VAT group"), subject to the fulfillment of the following conditions:

- At least one of the applicants must be a taxable person licensed or recognized by the MFSA or the MGA in terms of the specified legislation;
- Each applicant must be connected to the other persons by financial, economic and organizational links; and
- At the time of application, all applicants must be up-to-date with their VAT and income tax filings, and must have settled all related liabilities.

Persons forming part of a VAT group may not join another VAT group, and persons connected by financial, economic and organizational links may only form part of the same VAT group.

A financial link will be deemed to exist where the same person(s) (a legal person or an individual) hold(s), directly or indirectly, more than 90% of any two or more of the following:

- Voting rights or equivalent interests;
- Entitlement to profits available for distribution; or
- Entitlement to surplus assets available for distribution upon a winding up or an equivalent event.

An economic link will be deemed to exist where:

- The activity of each of the applicants is of the same nature or falls within the same industry;
- The activities of the applicants are complementary or interdependent; or
- One member of the VAT group carries out activities that are wholly or substantially to the benefit of any one or more of the other members.

An organizational link will be deemed to exist where the applicants have a shared management structure, wholly or in part.

Principal effects

A VAT group is allocated a single VAT identification number, and any pre-existing individual VAT identification numbers of the members are de-activated. The members of the VAT group are expected to nominate a group reporting entity to act as a representative and to exercise all rights and perform all obligations of the VAT group. Nevertheless, each member of the VAT group will be jointly and severally liable for the payment of VAT due and payable by the group reporting entity, including any related interest and administrative penalties.

Any supply of goods or services made by one member of a VAT group to another member of the VAT group generally is disregarded for VAT purposes, thereby enabling members to outsource functions internally within the VAT group without triggering adverse VAT cash-flow implications, as well as potentially irrecoverable VAT costs. It is interesting to note that overseas entities having an establishment (*e.g.* a branch) in Malta for VAT purposes are, in principle, eligible to join a VAT group.

Supplies made by any of the members of the VAT group to persons outside the group are deemed to be carried out by the group reporting entity. In turn, the VAT classification of these supplies affects the input VAT recoverability position of the group reporting entity and, therefore, the VAT group as a whole.

Comments

Groups with operations in the regulated financial services, insurance and gaming sectors should assess their eligibility to apply VAT grouping, as well as the potential VAT benefits and other consequences of registering as a VAT group.

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OECD:
MLI to first enter into force on 1 July 2018

The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) will enter into force on 1 July 2018 for the first five jurisdictions that deposited their ratification instruments with the OECD. These countries are: Austria, the Isle of Man, Jersey, Poland and Slovenia (for prior coverage, see *World Tax Advisor*, 23 March 2018).
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180323_tr.html#OECD

The MLI, first released on 24 November 2016, was developed by the OECD with around 100 other countries to modify existing tax treaties with a view to implementing the BEPS action 6 minimum standard globally in a consistent manner and within a reasonable timeframe. Among other BEPS actions, the MLI introduces changes to the definition of a permanent establishment (action 7), and rules on hybrid mismatches (action 2) and dispute resolution (action 14). To date, 78 jurisdictions have signed the MLI, which will affect more than 1,200 tax treaties.

According to the terms of the convention, the individual signatories have to ratify the MLI in line with their domestic rules and deposit their ratification instruments with the OECD, and at least five jurisdictions must deposit their ratification instruments before the MLI first enters into force. Following a period of three months after the date of deposit by the fifth state, the MLI will enter into force for those first five jurisdictions at the start of the subsequent calendar month. Five jurisdictions deposited their instruments by 22 March 2018 – Austria (22 September 2017), the Isle of Man (19 October 2017), Jersey (15 December 2017), Poland (23 January 2018) and Slovenia (22 March 2018), so the MLI will enter into force for those jurisdictions on 1 July 2018. For other jurisdictions, the convention will enter into force three months after the jurisdictions deposit their instruments of ratification with the OECD. Serbia became the sixth jurisdiction to deposit its instrument of ratification on 5 June 2018, and the MLI will enter into force for Serbia on 1 October 2018.

The MLI will enter into effect for withholding taxes on the first calendar year after the MLI enters into force (*i.e.* 1 January 2019). With respect to other taxes, the MLI will enter into effect six months after the MLI enters into force for both ratifying jurisdictions.

In addition, the following countries have taken steps to ratify the MLI:

- **Australia:** A bill was introduced to parliament on 28 March 2018 that would amend domestic legislation to give force of law to the MLI.
- **Canada:** A motion was introduced in the House of Commons on 28 May 2018 formalizing the government's intent to introduce legislation that would enact the MLI into Canadian law.
- **Czech Republic:** The interim government has approved the MLI and it is scheduled for a parliamentary vote in August 2018.
- **France:** The Senate approved the MLI on 19 April 2018; the proposal is now before the National Assembly.
- **Lithuania:** Parliament approved a draft bill to ratify the MLI on 14 June 2018; the bill still must be signed by the president, which is expected imminently.

- **Luxembourg:** On 15 June 2018, the Council of Ministers approved the MLI for ratification. The draft law ratifying the MLI still must be approved by parliament, and it currently is unclear when this will take place.
- **Malta:** The government ratified the MLI under domestic law on 28 April 2018, but has not yet deposited its instruments of ratification with the OECD.
- **New Zealand:** The law giving effect to the MLI came into force on 14 June 2018, following ratification by the government on 14 May 2018. However, New Zealand has not yet deposited its instruments of ratification with the OECD.
- **Sweden:** The parliament approved ratification of the MLI on 16 May 2018. However, the instruments of ratification have not been deposited with the OECD.
- **UK:** The MLI was ratified on 23 May 2018, but has not deposited its instruments of ratification with the OECD.
- **Uruguay:** A bill to ratify the MLI was submitted to parliament on 4 June 2018.

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Slovakia:
MOF issues guidance on digital PE rules

The Slovakian Ministry of Finance issued guidance on 28 March 2018 that addresses the rules on permanent establishments (PEs) on digital platforms that became effective on 1 January 2018. The legislation was introduced in response to the new forms of business carried out in Slovakia via digital platforms without the physical presence of an operator, and is based on action 7 of the OECD BEPS project. The guidance includes additional clarifications on when a PE is created and the penalties for failure to register in Slovakia, as well as the obligations of Slovak persons using a digital platform.

Under the rules, nonresident operators that regularly facilitate the conclusion of contracts for providing transportation and accommodation services via a digital platform can result in the nonresident being deemed to be carrying on activities through a fixed place of business in Slovakia and, therefore creating a PE (regardless of whether Slovakia has concluded a tax treaty with the home country of the nonresident).

Foreign operators of digital platforms are required to register as taxpayers in Slovakia and pay Slovak tax on the PE’s income at a rate of 21%. Otherwise, the Slovak resident that uses the platform will be required to deduct a 35% tax from the payment made to the foreign operator of the digital platform until the PE is registered (the rate of withholding is reduced to 19% where a treaty applies between Slovakia and the foreign operator’s country of residence). According to the new guidance, Slovak taxpayers that provide transportation or accommodation services will not have to withhold tax if the PE is registered.

The rules do not apply to transportation and accommodation services facilitated before 1 January 2018, even if the relevant payment was made in 2018.

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In brief

Argentina: A resolution published on 14 May 2018 and applicable from 27 June 2018 clarifies the procedures for payment of VAT on the supply of digital services by nonresident entities to private consumers in Argentina (for prior coverage, see *World Tax Advisor*, 11 May 2018). The resolution also includes a list of nonresident digital service providers for whom Argentine-resident intermediaries, such as credit or debit card issuers or banks facilitating or administering the payment to the foreign provider, are required to account for the VAT payable by collecting the VAT

from the customers and remitting it to the tax authorities. The list will be updated at least monthly and will be posted on the tax authorities' website.
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180511_2.html

Belgium: On 11 June 2018, a draft law that would amend the major reform of the corporate tax regime enacted in December 2017 was presented to the House of Representatives (for prior coverage, see *World Tax Advisor*, 12 January 2018). The draft law aims to "fine-tune" the reform that will become effective in three phases (for tax years 2019, 2020 and 2021, starting on or after 1 January 2018, 2019 and 2020, respectively). The amendments would affect areas including the following: the calculation of the notional interest deduction (tax year 2019); the regimes that will be introduced for the transfer of tax losses within a qualifying group and for controlled foreign companies (tax year 2020); and the rule that will be introduced to limit the deduction of certain interest based on the taxpayer's EBITDA (tax year 2020). The explanatory memorandum to the draft law confirms the Belgian Constitutional Court's decision to abolish the fairness tax as from tax year 2019 (and retroactively in cases involving violations of the EU parent-subsidiary directive; for prior coverage, see *World Tax Advisor*, 9 March 2018).
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180112_1.html
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180309_2.html

Brazil: A law enacted on 30 May 2018 introduces a restriction on the offset of federal tax credits against the advance payment of corporate income tax and the corporate tax on net profits by entities that have elected to be taxed under the annual actual income tax regime. The new law, which applies immediately, provides that the monthly advance payments must be settled in cash rather than using federal tax credits and payments.

Colombia: A draft decree published by the Finance Ministry on 31 May 2018 provides additional information on the obligation for credit and debit card issuers and other payment processors to withhold and account for VAT on payments for electronic or digital services supplied by foreign providers to private consumers in Colombia as from 1 June 2018. The draft states that VAT should be withheld at the standard rate of 19% on the full amount of the payment. Since the decree still is in draft form, the provisions may be amended before a final decree is published.

A ruling by the National Tax Administration (DIAN) dated 10 April 2018 but made public in May 2018 clarifies various aspects of the controlled foreign company (CFC) regime introduced as part of the tax reforms that became effective on 1 January 2017 (for prior coverage, see *World Tax Advisor*, 27 January 2017). The ruling was issued to address the most common taxpayer questions received by the DIAN since the introduction of the CFC regime, including questions on who is required to apply the regime, how the control test applies where there is a chain of ownership of foreign companies, the definition of passive income subject to the regime, the exchange rate to be used and whether resident taxpayers are entitled to a foreign tax credit under the CFC rules.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170127_1.html

Denmark: On 1 June 2018, the parliament adopted legislation that would treat nonresidents that invest in Danish companies through shares or debt as having a permanent establishment in Denmark only where the investment is made in connection with a trade or business of the investor (*i.e.* not where the investment is considered to be passive). The legislation was published in the official gazette of 9 June 2018 and will apply as from 1 July 2018.

Egypt: A ministerial decree issued on 22 May 2018 and effective from that date revises the transfer pricing rules. The profit split and transactional net margin methods are added to the methods that may be used to determine an arm's length price (the other three OECD methods are the comparable uncontrolled price, resale price and cost-plus methods). In addition, the hierarchy of methods is abolished, so taxpayers have the right to choose the most appropriate method based on the nature and circumstances of the transaction, provided supporting documentation is produced. The decree also specifies that when determining whether a taxpayer has complied with the arm's length principle in related party transactions, the tax authorities will look only at commercial and financial transactions relating to the supply of goods and services, the allocation of shared costs, and interest and royalty payments; raw materials and capital equipment are no longer considered by the authorities.

European Union: On 1 July 2018, Austria will assume the presidency of the council of the EU, taking over from Bulgaria. The presidency role rotates among the EU member states every six months. As president, Austria will chair meetings of the council, determine its agendas, establish a work program and facilitate dialogue at council meetings and with other EU institutions.

In an opinion issued on 7 June 2018, Advocate General (AG) Kokott of the Court of Justice of the European Union (CJEU) stated that telecommunications and broadband termination payments should be subject to VAT. The case involves a Portuguese telecom company that ties its customers to minimum contract periods for telephone and broadband deals. If a customer terminates a contract early, the company stops providing services, but it pursues the customer for the remaining monthly payments. According to AG Kokott, the additional payments do not fall outside the scope of VAT as "compensation." That is, simply because the customer defaults part way through the monthly payment arrangement under the contract, if the provider still receives the payment, the VAT analysis should not be different; the monthly payments the provider pursues from the customer for early termination of a contract should be considered further payment for services. The Portuguese tax authorities, therefore, should be able to assess VAT on the company.

On 12 June 2018, the CJEU ruled that Danish legislation permitting a resident company to deduct the losses of a resident permanent establishment (PE) from its taxable income, but not losses of a nonresident PE situated in another EU member state (unless the company has opted into the international joint taxation scheme), violates EU law (for prior coverage, see *World Tax Advisor*, 9 March 2018). The court followed AG Sánchez-Bordona's opinion of 17 January 2018 and held that where the PE has exhausted the possibilities for utilizing final losses in its home country, Denmark is required to allow Danish companies to deduct those losses when calculating their taxable income. As the case relates to the income year 2009, it should be possible to request for cases to be reopened for income year 2009 and subsequent years.
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180309_ib.html#EU

Italy: The director of the tax authorities issued instructions on 13 June 2018 regarding the appointment of a qualified intermediary to provide services on behalf of a taxpayer subject to the new VAT e-invoicing obligation (for prior coverage, see *World Tax Advisor*, 11 May 2018). Intermediaries will be permitted to provide a broad array of services, although the supplier will continue to be ultimately responsible for compliance with the e-invoicing requirements. E-invoicing requirements will apply as from 1 July 2018 for companies engaged in the sale of petrol fuel and supplies in the public sector relating to subcontractors, and will broadly apply to all transactions (business-to-consumer (B2C) and business-to-business (B2B) transactions) as from 1 January 2019.
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180511_ib.html#Italy

Luxembourg: The draft bill that would implement the EU Anti-Tax Avoidance Directive (ATAD I) into domestic law, as well as some unrelated measures, was published on 20 June 2018. The bill contains proposed measures in the following areas addressed under the ATAD I: controlled foreign companies, interest expense deductibility, hybrid mismatches, exit taxation and general anti-abuse rule. In addition, the bill includes measures to repeal a domestic rule that allows a bondholder to convert a loan into shares in a tax-neutral manner, and amend an existing rule to allow the Luxembourg tax authorities to require a Luxembourg taxpayer with a permanent establishment (PE) in a foreign country to produce confirmation from the tax authorities in the country of the PE that the PE exists. Notably, the bill does not cover the hybrid mismatch provisions of the 2017 ATAD II. The Luxembourg parliament now will debate, possibly amend and ultimately vote on the proposed measures. If enacted, the measures would apply as from fiscal years starting on or after 1 January 2019, except for the proposed exit taxation rules, which would apply as from fiscal years starting on or after 1 January 2020.

Malaysia: Following the reduction of the goods and services tax (GST) rate on 1 June 2018 from 6% to 0% and announcements on the replacement of the current GST with a sales and services tax regime (for prior coverage, see *World Tax Advisor*, 8 June 2018), the government has published new price control and anti-profiteering regulations effective as from 6 June 2018 to replace the previous regulations that applied from 1 January 2017. The new regulations apply to all goods and services (the previous regulations applied only to certain classes of goods). Under the new regulations, profit is determined to be unreasonably high if the mark-up percentage or margin percentage for goods and services sold/supplied or offered for sale/supply on any date exceeds a certain baseline. Businesses having unreasonably high profit (*i.e.* those failing to comply with the formulas under the new regulations) will be subject to criminal penalties, including significant monetary fines and possible imprisonment.
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180608_4.html

Malta: Following the in-depth investigation into the Maltese tonnage tax regime by the European Commission and its decision conditionally approving the regime on 19 December 2017 (for prior coverage, see *World Tax Advisor*, 23 February 2018), changes to the tonnage tax regime came into force on 1 May 2018. Under the tonnage tax regime, a shipping company is taxed on certain income (core revenue from shipping activities, certain ancillary revenue closely connected to shipping activities and revenue from towage and dredging) on the basis of a ship's net tonnage, rather

than on the actual profits of the company. The new rules implement the commitments that Malta made to ensure compliance of the regime with EU law, and repeal and replace the previous rules. The changes affect the eligibility of vessels for the tonnage tax regime and the circumstances under which activities may be considered as ancillary to shipping activities and eligible for the purposes of the tonnage tax regime, among other things.
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180223_ib.html#Malta

Qatar: On 23 May 2018, the cabinet adopted the necessary measures to issue a draft law that would aim to attract non-Qatari capital to the country and promote economic development. Once the draft legislation is approved by Emiri decree and is in effect, it will replace existing legislation regulating foreign investment in the country. The text of the draft law is not yet publicly available but is reported to permit non-Qatari investors to invest in up to 100% of the capital of Qatari companies operating in all economic sectors and 49% of the share capital of Qatari companies listed on the Qatar stock exchange (or possibly more, subject to obtaining certain approvals).

Switzerland: On 7 June 2018, the Senate passed the revised corporate tax reform 17 (STR 17) bill following the recommendations of its Ways and Means Committee (for prior coverage, see *World Tax Advisor*, 22 September 2017). If the bill is approved by the House of Representatives in fall 2018 and there is no referendum, some elements of the reform could become effective as soon as the first quarter of 2019, with most measures in effect as from 1 January 2021. Among other things, the STR 17 would abolish all special tax regimes and replace them with different measures.
URL: http://newsletters.usdbriefs.com/2017/Tax/WTA/170922_1.html

The Federal Council has set a date of 1 January 2021 for the revised withholding tax law to enter into force. The revised law was proposed in response to a decision issued by the federal supreme court in 2010 in which the court held that certain aspects of Switzerland's individual withholding tax system (*i.e.* the rules that deny EU resident taxpayers the ability to claim the same deductions that are available to Swiss residents) violate the Bilateral Agreement on the Free Movement of Persons between Switzerland and the EU. Under the revised law, nonresidents will be able to request to file a tax return to claim allowable deductions if certain requirements are met; residents subject to withholding who do not earn more than CHF 120,000 per year will be able to request to file a tax return; and nonresidents will need to renew their request before 31 March of each year, whereas a request made by a resident taxpayer will be irrevocable.

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.
URL: http://www.dits.deloitte.com?id=us:em:na:wta:eng:tax

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

Austria-Russia: When in effect, the protocol to the 2000 treaty signed on 5 June 2018 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 15%. The withholding tax rates on interest and royalties will not be affected by the protocol.

Belgium-Poland: The 2014 protocol to the 2001 treaty entered into force on 2 May 2018 and will apply as from 1 January 2019. When in effect, the protocol provides for a 0% withholding tax rate on dividends paid to a company that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least 24 months, and on dividends paid to qualified pension funds; otherwise, the rate will be 10%. An exemption will be provided for interest paid to qualified pension funds. The withholding tax rate on royalties will not be affected by the protocol.

Cyprus-Andorra: When in effect, the treaty signed on 18 May 2018 provides for a 0% withholding tax rate on dividends, interest and royalties.

Cyprus-Luxembourg: The 2017 treaty entered into force on 21 May 2018 and will apply as from 1 January 2019 for withholding tax purposes. When in effect, the treaty 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 5%. Interest and royalties will be taxable only in the state of residence of the recipient.

Finland-Hong Kong: When in effect, the agreement signed on 24 May 2018 provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) that controls directly at least 10% of the voting power in the payer company; otherwise, the rate will be 10%. The rate on interest will be 0% and the rate on royalties will be 3%.

Finland-Portugal: In a press release dated 13 June 2018, the Finnish government announced its intention to give Portugal notice of the termination of the existing 1970 tax treaty as from 1 January 2019. The government stated that the treaty is not consistent with Finland's current tax treaty policy as it, for example, restricts Finland's right to tax private pensions received in Portugal from Finland. A new treaty signed in 2016 was approved by Finland's parliament and president in December 2016 but has not yet been submitted to the Portuguese parliament for consideration.

Indonesia-Belarus: The 2013 treaty entered into force on 9 May 2018 and will apply as from 1 January 2019. When in effect, the treaty provides for a 10% withholding tax rate on dividends, interest and royalties.

Kenya-Singapore: When in effect, the treaty signed on 12 June 2018 provides for a 5% withholding tax rate on dividends. A 10% rate will apply on interest and royalties.

Latvia-Vietnam: When in effect, the treaty signed on 19 October 2017 provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) that holds directly at least 70% of the capital of the payer company; otherwise, the rate will be 10%. The rate on interest and royalties will be 10%. A 7.5% rate will apply to fees for technical services.

Malta-Ethiopia: When in effect, the treaty signed on 12 April 2018 provides that where dividends are paid by a Malta company to an Ethiopian resident, the Maltese tax on the dividends may not exceed the amount chargeable on the profits out of which the dividends are paid. A 5% withholding tax rate will apply to dividends paid by an Ethiopian company to a Malta resident. A 5% rate will apply to interest and royalties.

Mauritius-Cape Verde: When in effect, the treaty signed on 13 April 2017 provides for a 5% withholding tax rate on dividends paid to a recipient that holds directly less than 25% of the capital of the payer company; otherwise, the rate will be 0%. The rate on interest will be 10% and the rate on royalties will be 7.5%.

Mauritius-Ghana: When in effect, the treaty signed on 11 March 2017 provides for a 7% withholding tax rate on dividends and interest. An 8% rate will apply to royalties and a 10% rate to fees for technical services.

Mexico-Jamaica: The 2016 treaty entered into force on 24 February 2018 and will apply as from 1 January 2019. When in effect, the treaty provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) that holds directly or indirectly at least 25% of the capital of the payer company; otherwise, the rate will be 10%. A 10% rate will apply to interest, royalties and technical fees.

Netherlands-Algeria: When in effect, the treaty signed on 9 May 2018 provides for a 0% withholding tax rate on dividends paid to a qualifying pension fund and a 5% rate on dividends paid to a company that holds directly or indirectly at least 10% of the capital of the payer company; otherwise, the rate will be 15%. A 0% rate will apply to interest paid to a bank, financial institution or qualifying pension fund, or paid in connection with the sale on credit of any industrial, commercial or scientific equipment; otherwise, the rate will be 8%. A 15% rate will apply to royalties paid for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematographic films, or films, tapes and other means of image or sound reproduction; otherwise, the rate will be 5%.

OECD: The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) will enter into force for the first five jurisdictions to ratify the agreement (Austria, the Isle of Man, Jersey, Poland and Slovenia) on 1 July 2018, and for Serbia, which became the sixth jurisdiction to deposit its instrument of ratification on 5 June 2018, on 1 October 2018. See the article in this issue.
URL: http://newsletters.usdbriefs.com/2018/Tax/WTA/180622_5.html

Liberia, Paraguay and Grenada signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (as amended) on 11 June, 29 May and 18 May 2018, respectively. The convention provides for the exchange of information on request, spontaneous exchanges, automatic exchanges, tax examinations abroad, simultaneous tax examinations and assistance in tax collection. A total of 122 jurisdictions now are participating in the convention.

Russia-Sweden: When in effect, the protocol to the 1993 treaty signed on 24 May 2018 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 (other than where the payer company is an investment fund) and that has invested at least EUR 80,000 or its equivalent in any other currency at the time the dividends are distributed; otherwise, the rate will be 15%. The withholding tax rates on interest and royalties will not be affected by the protocol.

United Kingdom-Uzbekistan: The 2018 protocol to the 1993 treaty entered into force on 1 June 2018 and will apply as from 1 August 2018 for withholding tax purposes. When in effect, the protocol provides for a 5% withholding tax rate on dividends paid to a company that controls, directly or indirectly, at least 10% of the voting power of the payer company; a 15% rate will apply to dividends paid out of income (including gains) derived from immovable property by an investment vehicle that distributes most of the income annually and whose income from the immovable property is tax exempt; otherwise, the rate will be 10%. The withholding tax rates on interest and royalties will not be affected by the protocol.

United Nations: On 17 May 2018, the United Nations Department of Economic and Social Affairs released the latest version of the UN model treaty and its commentaries, the first update since 2012. A new article provides for source taxation of fees paid to nonresidents for technical services; such fees are defined as "any payment in consideration for any service of a managerial, technical or consultancy nature" (with certain exceptions). Most of the other revisions mirror changes made in 2017 to the more-commonly-used OECD model treaty, which arose out of the OECD BEPS project. These include the addition of a treaty abuse article containing model paragraphs to support principal purpose test and/or limitation on benefits-based approaches.

Global tax alerts

Ireland
Details on monitoring compliance with transfer pricing rules released
On 28 May 2018, the Irish tax authorities released a tax and duty manual that contains information regarding their approach to monitoring compliance with domestic transfer pricing law.
Issue date: 7 June 2018
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-18-017-7-june-2018.pdf

United States
IRS issues new APA template
On 11 May 2018, the Internal Revenue Service issued an updated advance pricing agreement (APA) template for taxpayers to use to prepare a proposed draft APA to include in their APA requests.
Issue date: 13 June 2018
URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-18-018-13-june-2018.pdf

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