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French Finance Law now in effect

The French parliament adopted both the Finance Law for 2014 and the amended Finance Law for 2013 (hereinafter, the "Finance Law") on 19 December 2013, subject to a final review by the Constitutional Court. On 29 December, the court invalidated several provisions, including some that were designed to strengthen France's anti-tax evasion rules, such as a new definition of abuse of law; mandatory compensation for certain cross-border transfers of functions and risks; a requirement to disclose tax schemes; and significantly increased penalty rates for noncompliance with the transfer pricing rules. However, the Constitutional Court upheld the constitutionality of the anti-hybrid provision and the temporary tax on high remuneration.

The French president signed the laws without the invalidated measures, and the laws were published in the official gazette of 31 December 2013. The following summarizes the main measures in the Finance Law that may affect large companies.

Corporation tax

Increase in exceptional surcharge rate – For fiscal years (FYs) ending on or after 31 December 2013, the rate of the exceptional surtax to the corporate income tax, which was introduced in 2011, more than doubles, from 5% to 10.7%. The maximum effective corporate income tax rate, therefore, is 38% for FYs ended on 31 December 2013 and 2014 (notwithstanding the surtax on dividends).

It should be noted that the surtax is temporary and will be applicable only until FYs ended on or before 30 December 2015, and it applies only to taxpayers whose turnover exceeds EUR 250 million, on a standalone or a tax group basis.

Limit on deductibility of interest paid to related entities – The anti-hybrid rules represent one of France's first concrete steps to give effect to the OECD BEPS initiative.

Under the rules, interest paid on a loan granted by an affiliated French company or a nonresident company is no longer tax deductible in the hands of the French borrower if the interest is not subject to a tax in the hands of the lending company that is equal to at least 25% of the tax that would have been due under the standard French tax rules.

If the lender is not "domiciled or established" in France, the taxation of interest it receives must be equal to at least 25% of the corporate tax liability that would have been due in France had the company been domiciled or established in France. Since the Finance Law refers only to a broad definition of "income tax" without any further clarification, the basis for calculation of the minimum 25% taxation rate is the standard corporate income tax rate plus additional surtaxes, which results in a minimum taxation rate of 9.5% (i.e. ¼ of 38%), and not merely the standard corporate income tax rate, which would lead to a minimum tax rate of 8.33% (i.e. ¼ of 33.3%).

The burden of proof of this minimum taxation is on the French borrower, which, upon request from the tax authorities, would need to show that the interest it intends to treat as a tax-deductible expense is subject to such minimum taxation at the level of the lending company. Companies should ensure that they have adequate documentation prepared.

If the lender is a French partnership or UCITS (collective investment fund – "*OPCVM*" in French), or a similar body established under foreign law within the EU or in a country that has concluded a tax information exchange agreement with France (and that is not included on the black list of countries), the limit on the deductibility of interest will apply only when a relationship of dependence exists *both* between the transparent entity and the borrower, and between this transparent entity and its partners. In such a case, the minimum taxation will be assessed at the level of the partners.

Furthermore, the minimum taxation should relate only to taxation of the interest that flows into the lending company, and not to the overall tax burden of the lending company. Although official administrative comments have not yet been issued, the Ministry of Finance has pointed out that minimum taxation should be assessed only in respect of interest flows.

Finally, although this still must be confirmed by official administrative guidance, disallowed interest should not be recharacterized as a deemed dividend (similar to the position taken by the French tax authorities for other existing limitations on the deductibility of interest).

The restriction on interest deductions is applicable to fiscal years ending on or after 25 September 2013, so it impacts fiscal year 2013.

Exceptional tax on high remuneration – A temporary tax is levied at a rate of 50% on the portion of the total compensation (generally, but not exclusively, salary or income of a self-employed individual) paid by a company to employees and directors that exceeds EUR 1 million per year per individual. The types of remuneration and benefits falling within the scope of the new tax are broad and include, for example, bonuses (regardless of when the bonus is paid, if it is attributable to 2013 or 2014), as well as stock option and free share grants.

The remuneration to be taken into account is the sum of the gross amounts that may be deductible from taxable income, regardless of the year in which they are effectively paid, before application of any existing deduction limitation rules (such as the rules disallowing a deduction for deemed excess salaries).

This new tax applies to remuneration paid or attributed in 2013 and 2014 (on an annual basis), but is capped each year at 5% of the company's turnover in the relevant year. Notably, the Finance Law for 2014 does not provide a definition of the "turnover" to be taken into account; however, in similar cases, income such as dividends traditionally is excluded from computation of turnover.

This tax may be deducted for corporate income tax purposes, but not for the computation of the 10.7% exceptional surtax.

For remuneration paid or attributed in 2013, the tax must be paid no later than 30 April 2014.

Distributions by French "REITs" (SIICs) – SIICs (*Sociétés d'Investissements Immobiliers Cotées*) are French real estate listed entities fulfilling certain conditions that have elected for tax exemption, subject to distribution requirements. The temporary exemption that was granted in respect of the 3% surtax on dividends has been made permanent for distributions made out of exempt income, in line with the SIICs' distribution obligations. These distribution obligations have been increased to 95% of rental income and 60% of capital gains (the requirement that 100% of dividends from SIIC subsidiaries should be distributed remains unchanged).

In addition, the branch tax exemption applicable to French branches of EU resident companies now is subject to the condition that the taxable result of the French branch does not benefit from a specific exemption in the country where the head office is established. This is intended to cover French branches of European real estate investment companies that benefit from the SIIC tax exemption regime (e.g. UK REITs), but the new measure is drafted in broad terms and may apply to all French branches of EU head offices, regardless of their business. The domestic branch tax rate is 30%, subject to provisions in applicable tax treaties.

This provision applies to FYs ending on or after 31 December 2013.

Tax audits

Reporting requirement: Analytical and consolidated accounts – French companies must provide, upon request, contemporaneous transfer pricing documentation during a tax audit if they fit in one of the following categories:

- Companies with turnover or gross assets above EUR 400 million;
- Companies owning 50% or more (of the share capital or voting rights) of subsidiaries meeting either threshold;
- Companies that are 50% or more owned, directly or indirectly, by an entity meeting either threshold; or
- Companies belonging to a French consolidated tax group that includes one or more companies meeting either threshold.

As from 2014, companies subject to the contemporaneous transfer pricing documentation requirement also must annually provide the tax authorities with simplified transfer pricing documentation within six months after submission of the tax return for the relevant assessment year. The documentation provided should include general information on associated companies (e.g. description of the activities and strategy of the group, the legal and operational structure, functions and risks, a list of intangible assets) and specific information on the French company and/or branch (e.g. description of the activities and business strategy, information on transactions with associated companies, comparable analysis). Changes compared to prior years in the business environment, functional analysis and/or transfer pricing policy also should be documented.

A new measure broadens the scope of the disclosure requirements for companies subject to a tax audit to include analytical accounting documentation. It applies to the following companies:

- Companies that have revenue in excess of EUR 152.4 million (for companies whose main purpose is to sell goods or supplies, or provide housing) or EUR 76 million (for other companies);
- Companies that own 50% or more (of the share capital or voting rights) of subsidiaries meeting either threshold;
- Companies that are 50% or more owned, directly or indirectly, by an entity meeting either threshold; or
- Companies that already are subject to the contemporaneous transfer pricing documentation requirement.

This measure will allow the French tax authorities to have access to a wider range of information to ensure consistency of a company's transfer pricing policy with the arm's length principle. Hence, information on profit margins per division or territory should be monitored and reviewed to anticipate potential discrepancies with the documented transfer pricing policy.

In addition, companies drawing up consolidated accounts must disclose them upon request from the French tax authorities in the context of a tax audit.

The penalty for failure to disclose the required information is EUR 1,500 (as the new penalty regime included in the Finance Law was invalidated by the Constitutional Court).

This new obligation should apply to tax audits starting on or after the entry into force of the 2014 Finance Law (i.e. 1 January 2014), so it covers any fiscal year that is not barred by the statute of limitations.

Disclosure requirement for rulings issued by foreign tax authorities – As from 1 January 2014, when taxpayers must disclose information due to the contemporaneous transfer pricing documentation requirement, they must include any decisions made by foreign tax authorities. According to a strict reading of the Finance Law, the documents to be disclosed include "*rulings*" obtained abroad by group companies.

Even before the Finance Law, France's transfer pricing legislation included an obligation to disclose rulings obtained abroad, to the extent they had an impact on the taxable income of the French entity subject to the transfer pricing documentation requirement. The new legislation broadens the scope of this obligation; however, it remains unclear whether a French entity would be required to obtain information from all group entities if such information is not shared, or if the information does not have any impact on the transfer pricing policy applying to transactions with the French entity.

Penalties for failure to comply with this disclosure requirement should be the same as those already provided for failure to provide transfer pricing documentation, that is, 5% of adjusted profits, with a minimum EUR 10,000 fine.

Deferral under MAP eliminated in case of a transfer pricing adjustment – Where a transfer pricing adjustment results in profits that were deemed transferred abroad being clawed back into the French adjusted taxable income, taxpayers may request the implementation of a mutual agreement procedure (MAP), either under an applicable tax treaty or under the EU Arbitration Convention, in order to eliminate the resulting double taxation. Previously, collection and payment of amounts adjusted due to a transfer pricing examination could be deferred until the MAP was completed, so that time spent by the competent authorities during the MAP would not lead to any incremental financial charge for the taxpayer suffering the double taxation.

According to the 2014 Finance Law, a MAP opened from 1 January 2014 will no longer create a deferral of tax assessment and collection.

While a company still should be able to benefit from the existing "standard" tax payment deferral applicable to litigation procedures, this would require the company to file a comprehensive application in advance with the tax authorities, setting out the technical grounds for challenging the adjustment and making a formal deferral request. Guarantees must be provided to the French treasury, thus triggering additional costs (such as bank fees).

Conclusion

It is still too early to predict what steps the French government will take with respect to the measures invalidated by the Constitutional Court (in particular, the penalty provisions). Many of the measures in the Finance Law (both those that were invalidated and those that passed constitutional muster), and that were prompted by the OECD BEPS project, are designed to target situations the French tax authorities consider to be "abnormal" (e.g. strategies that exploit gaps and mismatches in tax rules) or to enhance data collection and access to taxpayer information by the authorities. What does seem clear is that the government's objectives are to increase transparency to enable it to close existing loopholes and to put an end to identified behavior that is not regarded as abusive, but nevertheless is considered inappropriate.

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Argentina: List of cooperative countries issued

The Argentine tax authorities issued a list of countries that are considered "cooperative" for tax transparency purposes on 6 January 2014. Any country or jurisdiction not included on the published list of cooperative countries will be deemed to be a noncooperative country and will be subject to all tax provisions that apply to low or no tax jurisdictions. The new list replaces the previous "black list" of jurisdictions (that also applied under Argentina's controlled foreign company rules), which was terminated under a decree issued in May 2013; that decree directed the tax authorities to create a new list of jurisdictions that are deemed to be cooperative.

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

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

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China:
New guidance issued on tax treatment of cross-border "special reorganizations"

China's State Administration of Taxation (SAT) issued guidance on 12 December 2013 (Bulletin 72) that addresses the tax treatment of "special reorganizations" carried out by a nonresident entity. Two types of share transfers are affected:

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

Under China's merger and acquisition tax rules (as set out in Circular 59), a reorganization can be considered an ordinary reorganization or a special reorganization. An ordinary reorganization is taxed under the normal enterprise income tax rules governing the transfer of assets, i.e. any taxable gain or loss is recognized at the time of the transaction. By contrast, a special reorganization is a tax-free transaction under which gain or loss on the transfer of shares or assets is deferred, provided certain conditions are satisfied. To apply for special reorganization treatment, the transaction must be reported (along with documentation) to the competent tax authorities for review.

Bulletin 72 aims to clarify and streamline the review procedure for reorganizations qualifying for special tax treatment. The bulletin generally applies as from the date of issuance, although it also applies to transactions entered into before 12 December where the tax treatment of the transaction has not yet been finalized.

Bulletin 72 provides as follows:

- A nonresident enterprise that seeks to apply the special tax treatment to a share transfer must report the transfer to the relevant tax authorities within 30 days of the effective date of the relevant contract or agreement or the completed change in business registration of the PRC enterprise, whichever is later. (Previously, the reporting deadline for a nonresident enterprise transferor was not clearly set in the regulations).
- Where special reorganization treatment is applied in a foreign-to-foreign transfer and the transferor and transferee enterprises are tax residents of different jurisdictions and, following the transaction, the undistributed profits of the transferred enterprise are distributed to the transferee, any preferential dividend withholding tax rate under an applicable tax treaty will not apply to the subsequent distribution of the undistributed profits. Information relating to the undistributed profits of the transferred enterprise at the time of the transfer must be provided to the competent tax authorities when the transaction is reported.
- The requirement that approval of the provincial tax authorities be obtained for special reorganization tax treatment is abolished. However, the responsible lower-level tax authorities must review all reported transfers and issue a decision on eligibility for special reorganization tax treatment to the relevant provincial tax authorities, generally within 30 business days of the completion of the reporting requirement. In a foreign-to-domestic share transfer, the provincial tax authorities in charge of the transferee enterprise must report on eligibility for special reorganization tax treatment to the relevant provincial tax authorities of the transferred enterprise within 30 days of receiving the report of the lower-level tax authorities of the transferee enterprise. The SAT also has asked all provincial tax authorities to annually report the information in respect of share transfers by nonresident enterprises

(i.e. the number of ordinary/special reorganizations, the amount of tax collected under ordinary reorganizations) that they have handled to the SAT.

- The transfer of the shares of a Chinese resident enterprise as a result of a split or merger of a foreign enterprise is covered by the "foreign-to-foreign transfer" article in Circular 59, Article 7(1). For example, a transfer of the shares of a Chinese resident company resulting from a merger of its nonresident parent company with the parent's wholly-owned nonresident subsidiary (i.e. a downstream merger) still is considered a foreign-to-foreign transfer, and special reorganization treatment may be applied if certain conditions are satisfied.

The SAT's efforts to clarify and internally streamline the review procedure for special reorganization tax treatment are welcome, although for taxpayers seeking advance confirmation that a share transfer would qualify for special treatment, Bulletin 72 is expected to have little impact. Cases that are in progress are expected to be delayed, as the relevant authorities consider the specific requirements of Bulletin 72.

Taxpayers that are proposing to undertake, or that have undertaken transfers without making the required reporting now must do so, or the transfer will not be eligible for special reorganization tax treatment.

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Greece: Changes made to thin cap and withholding tax rules

The Greek parliament approved a law on 31 December 2013 that amends the Income Tax Code and makes changes to the thin capitalization and withholding tax rules. In addition, the Ministry of Finance issued two circulars on 2 and 3 January 2014, respectively, that contain guidance on the filing of withholding tax returns and the payment of withholding tax on dividends, interest and royalties for payments made as from 1 January 2014.

Thin capitalization – The law clarifies that the thin capitalization rules apply to all types of loans, including bank loans, intragroup loans and third-party loans. The rules do not apply to loans provided to special purpose entities, provided the loans are used for the execution of public works or the provision of public services in specific circumstances. In addition, the following changes are made to the thin cap rules:

- The deductible percentage of net interest expense is increased from 25% to 30% of EBITDA (earnings before interest, tax, depreciation and amortization);
- The net interest expense that may be fully deducted as a business expense is increased from EUR 1 million to EUR 3 million annually, and the same limit applies to entities in a group; and
- Nondeductible net interest expense may be carried forward indefinitely.

During the period from 1 January 2014 to 31 December 2016, however, the amount of net interest expense that may be deducted is limited to a percentage of EBITDA, as follows:

- 60% as from 1 January 2014;
- 50% as from 1 January 2015; and
- 40% as from 1 January 2016.

The net interest expense that is fully deductible annually until 31 December 2015 is capped at EUR 5 million.

Withholding tax –

- The statutory withholding tax rates for payments to residents and nonresidents (subject to the provisions of applicable EU directives and tax treaties) are 10% on dividends, 15% on interest and 20% on royalties.
- The 20% withholding tax on fees for technical, management, consulting and similar services is a final tax for nonresident recipients (i.e. individuals and legal entities without a permanent establishment in Greece). Clarifications are expected on which "similar services" are covered.
- Interest payments made to credit institutions, including default interest and interest accruing on intrabank deposits, are exempt from withholding tax.
- The conditions to qualify for the exemption from withholding tax on intragroup interest and royalty payments under the EU interest and royalties directive are amended to capture downstream payments between direct affiliated entities and payments between sister companies. The minimum participation threshold for the exemption to apply is increased from 10% to 25%.
- The tax exemption provided to corporate nonresident investors in respect of interest income from government bonds is abolished, as is the provision that allowed corporate bonds issued in Greece to enjoy the same tax treatment as bonds issued by the government.

The new withholding tax compliance circulars confirm that the following persons must file a withholding tax return and pay any tax due:

- A Greek tax resident legal entity, or an individual acting in the capacity of an entrepreneur;
- The government and government entities; and
- A Greek permanent establishment of a foreign entity.

A withholding tax return generally must be filed electronically (although a hard copy must be filed in certain instances) three days before the end of the second month following the month the payment was made. The term "payment" for these purposes includes an amount credited in the tax books of the payer, as well as an actual payment, and the guidance defines special cases where a "payment" of a dividend (or similar distribution) will be deemed to take place and when the return is due in these cases.

Withholding tax due must be paid through the banking system, and payment must take place by the last day of the second month following the month in which the dividends, interest or royalties are paid. Thus, although the return must be filed by the third day before the end of the second month following the payment, the tax due can be remitted before the end of the second month following the payment.

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Italy:
Scope of advance tax ruling procedure expanded to cover existence of PE

A law decree issued by the Italian government on 23 December 2013 expands the scope of the advance tax ruling procedure to allow nonresident entities operating in Italy to request a ruling from the tax authorities on whether the nonresident's activities create a permanent establishment (PE) in Italy under Italian domestic law or tax treaty provisions. The expanded ruling process is part of a package of measures aimed at encouraging foreign investment in Italy. The decree, which is effective as from the date of issuance, still must be converted into law by parliament (this must take place within 60 days from the date of issuance).

According to the decree, the initial application must contain a description of the nonresident's activities to be carried out in Italy. Based on this information and discussions with the nonresident (and its Italian tax advisors), the Italian tax authorities will determine whether a PE will be created.

If the tax ruling is granted, it will be binding on both the Italian tax authorities and the nonresident for five fiscal years, provided the relevant facts and circumstances do not change.

The decree may provide an option for multinational groups interested in carrying on limited business activities in Italy that should not give rise to a PE to obtain certainty on their Italian tax exposure.

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Romania:
Participation exemption regime introduced

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

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

These changes should make Romania a more attractive destination for holding companies, especially for companies holding shares in certain tax treaty countries (e.g. the US, since the Romania-US treaty does not have a limitation on benefits clause).

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Sweden:
Tax rate on nonresidents lowered

The rate of the special income tax for nonresidents is reduced from 25% to 20% as from 1 January 2014.

Generally, an individual is considered to be a tax resident of Sweden if the individual has a “real home” in Sweden. An individual without a real home in Sweden, but who stays in Sweden permanently, also is considered a tax resident. An individual who spends less than six consecutive months in Sweden, who does not have a real home in Sweden and who does not have substantial connections to Sweden is, generally, considered a nonresident for Swedish tax purposes.

A nonresident individual working in Sweden is taxed under a special regime, the Special Income Tax Act (SINK). The SINK tax is a final withholding tax on gross income; no deductions are allowed and no annual income tax return is required. The SINK rate now is reduced from 25% to 20%. In certain instances, a nonresident individual can elect to be taxed as a tax resident in lieu of being taxed under the SINK regime. Since the Swedish parliament granted additional tax credits for tax residents for 2014, a reduced SINK rate was deemed necessary to avoid confusion in the tax system and to avoid creating an incentive for nonresidents to opt to be taxed as residents, which would have increased the administrative burden on the Swedish Tax Agency.

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United Kingdom:
Protocols to treaties with India and Netherlands enter into force

The protocol to the UK treaty with India entered into force on 27 December 2013, and the protocol to the UK treaty with the Netherlands will enter into force on 31 January 2014.

The 2012 protocol to the UK-India treaty applies as follows:

- In both states, for withholding taxes, in respect of amounts paid on or after 27 December 2013;
- In India, for all other taxes, in respect of taxes levied for fiscal years beginning on or after 27 December 2013; and
- In the UK:
    - In respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January 2014;
    - In respect of corporation tax, for any financial year beginning on or after 1 April 2014; and
    - In respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April 2014.

Areas in which the protocol amends the treaty include recognition of partnerships under the treaty, reduction of the dividend withholding tax rates to 15% for dividends paid from a real estate investment trust and 10% in all other cases and the addition of a limitation of benefits article. The provisions on enforcement and information exchange also have been strengthened.

The 2013 protocol amending the UK-Netherlands treaty introduces a new business profits article along the lines of the OECD model treaty. It will have effect in the UK in respect of corporation tax, for any financial year beginning on or after 1 April 2014, and in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April 2014. The protocol is effective in the Netherlands for taxable years and periods beginning on or after 1 January 2015.

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In brief

Argentina – The tax authorities have created an additional income tax withholding system applicable to "definitive consumption" export transactions by local exporters in cases where the physical destination of the exported goods differs from the countries/jurisdictions where the foreign residents, to which the exports have been invoiced, are resident. In such cases, the Argentine customs agency will act as the withholding agent. The general rate applicable to the taxable base (as defined for customs duties) will be 0.5%, while the rate for transactions with entities located in noncooperative countries will be 2%. Additionally, a special procedure will apply to VAT refund claims filed by taxpayers subject to this regime, which may delay the refund. The regulations became effective for exports made as from 7 January 2014.

Brazil – A decree published on 28 December 2013 increases the IOF (tax on financial transactions) rate on foreign exchange transactions carried out by debit or credit card administrators in respect of cash withdrawals of their customers, as well as on acquisitions of travelers checks and prepaid international cards, from 0.38% to 6.38%.

China – Amendments to the company law that become effective on 1 March 2014 aim to simplify the process and relax the requirements for setting up a company in China. The amended rules abolish the requirement for investors to contribute specific amounts of registered capital (in the form of cash) by certain deadlines. The requirement that investors subscribe for a statutorily required minimum registered capital (even for companies that do not require such capital) is eliminated, as is the requirement that investors hire accountants to verify capital contributions. Additional changes or clarifications to relevant laws and regulations are expected to ensure that the rules applying to foreign-invested enterprises are aligned with the rules applying to other companies.

European Union – Advocate General Jääskinen of the Court of Justice of the European Union has opined that overseas territories of EU member states are third countries, so that the benefits of the free movement of capital apply. Several EU member states have overseas territories that are not included within the EU and questions have arisen as to whether such overseas territories should be treated as third countries, or simply as part of the member state. This is relevant because there are no EU rights in relation to a state's internal affairs, but treaty freedoms may apply to third countries.

France – Several VAT rate changes took effect on 1 January 2014. These include an increase in the standard rate from 19.6% to 20% and an increase in the "intermediate" rate from 7% to 10%. The lower reduced rate of 5.5% remains unchanged. Several changes are made to the scope of the reduced rates, and a domestic reverse charge regime is introduced for subcontractors in the construction industry.

Panama – The government passed a law on 30 December 2013 that would have replaced the territorial basis of taxation with a worldwide system (although the territorial system would have continued to apply to entities operating in free trade areas, entities operating under the multinational headquarters regime, entities regulated by the Panamanian Banking Superintendence and certain other entities). However, on 31 December, the government announced that it would repeal the law due to the impact on the Panamanian legal framework, and on 8 January 2014, it passed a new law that repealed the legislation retroactively as from the date it came into effect; therefore the territorial (and not the worldwide) system of taxation will continue to apply in Panama to operations conducted in 2013.

United Kingdom – In response to changes in underlying EU law, the UK tax authorities have confirmed that the UK has altered the thresholds for reporting arrivals and delivery terms information on Intrastat returns. As from 1 January 2014, the exemption threshold for arrivals increased from GBP 600,000 to GBP 1,200,000 and the delivery terms threshold increased from GBP 16 million to GBP 24 million (businesses are required to supply additional information relating to delivery terms on Intrastat declarations if their turnover exceeds this threshold). The exemption threshold for dispatches (EU exports) remains unchanged, at GBP 250,000.

United States – The US Department of the Treasury has published temporary regulations that provide guidance on the annual passive foreign investment company (PFIC) information reporting requirement. These rules are effective for tax years ending on or after 31 December 2013, and are set to expire on 31 December 2016 (unless replaced by final regulations). The main impact of the temporary regulations is that US taxpayers that previously had no filing requirement now will be required to file an annual report to disclose their direct (and, in some cases, their indirect) ownership of a PFIC investment. A separate form must be filed for each PFIC owned for tax years ending on or after 31 December 2013. There are some exceptions to the reporting requirement, including a de minimis exception for PFIC holdings below certain threshold amounts that vary depending on the taxpayer's filing status and whether the stock is owned directly or indirectly.

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

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

Argentina-Spain – The 2013 treaty to replace the 1992 treaty that was terminated by Argentina as from 1 January 2013 entered into force on 23 December 2013. The treaty applies retroactively as from 1 January 2013. The dividends article of the new treaty is unchanged from the previous treaty, i.e. a 10% withholding tax applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. The withholding tax on interest is 12% (12.5% in the old treaty). The rate on royalties remains unchanged: 3% for the use of, or the right to use, news; 5% for the use of, or the right to use, a copyright of literary, theatrical, musical or artistic works; 10% for the use of, or the right to use, a patent, design or model, plan, secret formula or process, software, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, as well as for technical assistance, and on services (including independent activities of certain professionals); and 15% in all other cases.

Belgium-China – The 2009 treaty to replace the existing treaty dating from 1985 (and amended by a 1996 protocol) entered into force on 4 January 2014 and will apply as from 1 January 2015. When in effect, the treaty provides for a 5% withholding tax rate on dividends paid to a company (other than a partnership) that, prior to the time of payment, has held directly at least 25% of the capital of the distributing company for an uninterrupted period of at least 12 months; otherwise, the rate will be 10%. The general withholding tax rate on interest will remain at 10%. Royalties will be subject to a 7% rate.

Cyprus-Lithuania – When in effect, the treaty signed on 21 June 2013 provides for a 0% withholding tax on dividends where the beneficial owner is 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 will be taxable only in the state of residence of the recipient. The rate on royalties will be 5%.

Czech Republic-Ukraine – When in effect, the protocol signed on 21 October 2013 provides that interest will be exempt from withholding tax if it is derived in connection with a loan or credit granted, guaranteed or insured by the government, a political subdivision or local authority, the central bank or any financial institution owned or controlled by the government; otherwise, the rate will be 5%. The withholding tax rates on dividends and royalties will not be affected by the protocol.

Hong Kong-Qatar – The 2013 comprehensive double taxation agreement entered into force on 5 December 2013 and applies as from 1 January 2014 in Qatar and as from 1 April 2014 in Hong Kong. When in effect, the agreement provides for a 0% withholding tax on dividends and interest and a 5% rate on royalties.

Iceland-United Kingdom – When in effect, the treaty signed on 17 December 2013 to replace the current treaty dating from 1991 provides for a 0% withholding tax on dividends where the beneficial owner is a pension scheme. A 5% rate will apply where the beneficial owner is a company (other than a partnership) that holds directly at least 10% of the capital of the company paying the dividends; otherwise, the rate will be 15%. Interest will be taxable only in the state of residence of the recipient. The rate on royalties will be 5%.

India-Algeria – The 2013 treaty entered into force on 4 December 2013 and applies as from 1 April 2014 in India, and as from 1 January 2014 in Algeria. When in effect, the treaty provides for a 10% withholding tax on dividends, interest and royalties.

India-United Kingdom – See article in this issue.
URL: http://newsletters.usdbriefs.com/2014/Tax/WTA/140124_8.html

India-Latvia – When in effect, the treaty signed on 18 September 2013 will provide for a 10% withholding tax on dividends. Interest will be exempt from withholding tax if paid in respect of any loan or credit made, extended, guaranteed or insured by the government, a political subdivision or local authority or one of certain specified financial institutions; otherwise, the rate will be 10%. The rate on royalties will be 10%.

Indonesia-Belarus – When in effect, the treaty and protocol signed on 19 March 2013 will provide for a 10% withholding tax on dividends, interest and royalties.

Japan-Oman – When in effect, the treaty signed on 9 January 2014 provides for a 5% withholding tax rate on dividends paid to a company that holds, directly or indirectly, at least 10% of the voting shares of the distributing company for a period of six months ending on the date on which entitlement to the dividends is determined; otherwise, the rate will be 10%. The 5% rate will not apply, however, if the distributing company is entitled to a deduction for dividends paid to its beneficiaries in computing taxable income in Japan. The withholding tax rate on interest will be 10% (with some exemptions for interest on loans guaranteed, insured or indirectly financed by certain government entities or the central bank). The rate on royalties will be 10%.

Japan-United Kingdom – When in effect, the protocol and exchange of notes signed on 17 December 2013 provide for a 0% withholding tax on dividends where the beneficial owner is either (i) a company that has owned shares representing directly or indirectly, for the six-month period ending on the date entitlement to the dividends is determined, at least 10% of the voting power of the company paying the dividends, or (ii) a pension fund, provided the dividends are not related to the carrying on of the pension fund's business; otherwise, the rate will be 10%. Interest (with exceptions for certain contingent interest) will be taxable only in the state of residence of the recipient. The tax treatment of royalties will not be affected by the protocol.

Malta-South Africa – The 2012 protocol to the 1997 treaty entered into force on 17 December 2013 and generally applies as from that date. The dividends article, however, applies from the date South Africa introduced a dividend taxation system (1 April 2012). Under the protocol, when dividends are paid by a South African resident to a beneficial owner resident in Malta, the rate is 5% where the beneficial owner is a company that holds at least 10% of the capital of the payer company; otherwise, the rate is 10%. When dividends are paid by a Malta resident company to a beneficial owner resident in South Africa, the Maltese tax may not exceed the amount chargeable on the profits from which the dividends are paid.

Mauritius-Guernsey – When in effect, the treaty signed on 17 December 2013 provides that, dividends, interest and royalties will be taxable only in the state of residence of the recipient, so the domestic rates will continue to apply.

Singapore-Morocco – The 2007 treaty entered into force on 15 January 2014 and will apply as from 1 January 2015. When in effect, the treaty provides for a 8% withholding tax on dividends where the beneficial owner is a company that holds directly at least 10% of the distributing company's capital; otherwise, the rate will be 10%. The withholding tax on interest and royalties will be 10%.

Singapore-San Marino – When in effect, the treaty signed on 11 December 2013 provides that dividends will be taxable only in the state of residence of the recipient. A 12% withholding tax will apply to interest and an 8% rate to royalties.

Sweden-Georgia – When in effect, the treaty signed on 6 November 2013 provides for a 0% withholding tax on dividends paid to a company (other than a partnership) that holds at least 10% of the capital or voting power of the payer company; otherwise, the rate will be 10%. Interest and royalties will be taxable only in the state of residence of the recipient.

United Kingdom-Albania – The 2013 treaty entered into force on 30 December 2013 and will apply in the UK as from 1 April 2014 and in Albania as from 1 January 2014. The treaty provides that a 5% rate will apply to dividends paid to a company that holds directly at least 25% of the capital of the payer; a 15% will apply where the dividends are paid out of income (including gains) derived directly or indirectly from immovable property by an investment vehicle that distributes most of this income annually and whose income from such immovable property is exempt from tax; and the rate in all other cases will be 10%. The rate on interest will be 6%. Royalties will be exempt.

United States – Intergovernmental agreements (IGAs) to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA) have been signed between the US and 19 other jurisdictions, with several more imminent, according to the US Treasury. Recent agreements have been concluded as follows: Guernsey (on 13 December 2013), the Isle of Man (on 13 December 2013), Jersey (on 13 December 2013), Malta (on 16 December 2013), the Netherlands (on 18 December 2013), Bermuda (on 19 December 2013), Mauritius (on 27 December 2013) and Italy (on 10 January 2014). Despite the fact that the Guernsey, Jersey, Isle of Man, Netherlands and Italy IGAs were not based on the Model 1A Reciprocal IGA released on 4 November 2013, they do introduce certain provisions to the Model 1 agreements signed by European countries (e.g. new sections and provisions in Annex 1 and 2). The Malta IGA is based on the Model 1A Reciprocal IGA, and the Bermuda IGA is based on the Model 2 IGA.

Bilateral treaties and protocols for DITS countries that are in effect as from 2014

The following table reflects tax treaties and protocols that became effective (or were terminated) on 1 January 2014 with respect to their provisions on withholding taxes. Rates shown are as provided in the treaty; domestic withholding tax rates or EU directives may result in a lower rate. The table does not include standard exemptions or special rates, such as those typically provided for interest paid to government entities, government-related loans, etc.

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Australia-Turkey	5/15	10	10
The 5% rate applies where dividends are paid by a company to a company that holds directly at least 10% of the voting power of the payer company; otherwise, the rate is 15%.			
Austria-Liechtenstein	0/15	0	-
The protocol provides that dividends are exempt if paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least one year; otherwise, the rate is 15%. The withholding tax rate on royalties is not affected by the protocol.			
Bulgaria-Switzerland	0/10	0/5	5
The 0% rate applies to dividends paid to a company that holds at least 10% of the payer company for one year before the dividends are paid, or to a pension fund or the reserve bank of the other contracting state; otherwise, the rate is 10%. A 0% rate applies to interest paid between associated companies where the recipient has held a stake of at least 10% for at least one year; otherwise, the rate is 5%.			
Canada-Hong Kong	5/15	10	10
The treaty applies in Hong Kong as from 1 April 2014. The 5% rate applies to dividends paid to a company (other than a partnership) that controls directly or indirectly at least 10% of the capital of the payer company; otherwise, the rate is 15%.			
Canada-Poland	5/15	15	5/10
The 5% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The rate on interest is 15% (with exemptions for interest paid on the sale of equipment, merchandise or services to an unrelated vendor). The rate on royalties is 5% if paid for literary, dramatic, musical or artistic work (excluding motion picture films or film or other means of reproduction for television broadcasting), patent royalties, and royalties paid for industrial, commercial or scientific information (but excluding royalties paid in connection with a rental or franchise agreement); otherwise, the rate is 10%.			
Canada-Serbia	5/15	10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds at least 25% of the voting power of the payer company; otherwise, the rate is 15%.			
Chile-Australia	5/15	10/15	5/10
The treaty applies in Australia as from 1 April 2013 for withholding taxes and fringe benefits tax, and as from 1 July 2013 for other tax matters. The 5% rate applies to dividends paid to a company that holds directly at least 10% of the voting power of the payer company; otherwise, the rate is 15%. Interest derived by a financial institution that is unrelated to and dealing wholly independently with the payer is taxed at a 15% rate; otherwise, the rate is 10%. A 5% rate applies to royalties paid for the use of industrial, commercial or scientific equipment; otherwise, the rate is 10%.			
China-United Kingdom	5/10/15	10	10
The treaty applies in the UK as from 1 April 2014 for corporate taxes and as from 6 April 2014 for income and capital gains taxes The 5% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company and the 15% rate applies where the dividends are paid out of income or gains derived from immovable property by a tax-exempt investment vehicle that is required to distribute most of its income or gains annually; otherwise, the rate is 10%. A 10% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment, but only on 60% of the gross amount; otherwise, the rate is 10% on the entire gross amount.			
Colombia-Mexico	0	5/10	10
A 5% rate applies to interest paid to a bank; otherwise, the rate is 10%.			
Croatia-Azerbaijan	5/10	10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			
Croatia-Georgia	5	5	5
Cyprus-Estonia	0	0	0
Cyprus-Finland	5/15	0	0
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the voting power of the payer company; otherwise, the rate is 15%.			
Cyprus-Portugal	10	10	10
Cyprus-Ukraine	5/15	2	5/10
The 5% rate applies to dividends paid to a company that holds at least 20% of the capital of the payer company or has invested at least EUR 100,000 in the acquisition of shares or other rights of the payer company; otherwise, the rate is 15%. The rate on royalties paid for a copyright of scientific work, a patent, trademark, secret formula, process or information concerning industrial, commercial or scientific experience is 5%; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Czech Republic-Panama	10	0/5/10	10
The 0% rate applies to interest paid in connection with a loan or credit guaranteed by the government or a local authority, the central bank, or a financial institution owned or controlled by the government if the period of the loan or credit is no less than four years; otherwise, the rate is 5% on loans to banks and 10% in all other cases.			
Czech Republic-Saudi Arabia	5	0	10
Czech Republic-Switzerland	0/15	-	-
The protocol provides for a 0% withholding tax on dividends paid to the central bank or a qualifying pension fund or similar institution, or if paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least one year; otherwise, the rate is 15%. The protocol does not amend the rates under the interest or royalties articles.			
Ecuador-Korea	5/10	12	5/12
The 5% rate applies to 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 is 10%. A 5% withholding tax rate applies to royalties paid for the use of, or the right to use industrial, commercial or scientific equipment; otherwise, the rate is 12%.			
Egypt-Ireland	5/10	10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			
Estonia-Bahrain	0	0	0
Estonia-Cyprus	0	0	0
Estonia-Mexico	0	4.9/10	10
A 4.9% rate applies to interest paid to a bank or pension fund; otherwise, the rate is 10%.			
Estonia-Thailand	10	10	8/10
The 8% rate applies to royalties paid for industrial, commercial or scientific equipment; otherwise, the rate is 10%.			
Estonia-Turkmenistan	10	10	10
Estonia-Uzbekistan	5/10	5	10
The 5% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			
Finland-Cyprus	5/15	0	0
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the voting power of the payer company; otherwise, the rate is 15%.			
Finland-Tajikistan	5/15	0/10	5
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 0% rate applies to interest paid on bank loans and the credit sale of merchandise and equipment; otherwise, the rate is 10%.			
Finland-Uruguay	5/15	10	5/10
A 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 5% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment or for the use of, or the right to use, software. The rate is 10% where royalties are paid for the use of, or the right to use, a copyright of literary, artistic or scientific work, including cinematograph films, and films or tapes for television or radio broadcasting, a patent, trademark, design or model, plan, secret formula or process or for information concerning industrial, commercial or scientific experience.			
France-Oman	-	-	7
The protocol does not address dividends or interest.			
Germany-Luxembourg	5/15	0	5
The 5% rate applies to dividends paid to a company (other than a partnership or investment company) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The 15% rate also applies if the distributing company is a real estate investment company whose profits are completely or partially tax exempt or if it is able to deduct the amount distributed when calculating its profit.			
Ireland-Egypt	5/10	10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Ireland-Qatar	0	0	5
Ireland-Switzerland	0/15	-	-
The 0% rate applies to dividends paid to a pension scheme or to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The protocol does not address interest or royalties.			
Ireland-Uzbekistan	5/10	5	5
The 5% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
Israel-Malta	0/15/D	0/5	0
Dividends paid by a company that is a resident of Israel are exempt from withholding tax if paid to a company (other than a partnership or a real estate investment company) that holds directly at least 10% of the paying company's capital; otherwise, the rate is 15%. Distributions by an Israeli real estate investment company, however, will be taxed according to the laws of Israel, but not to exceed a rate of 15% when paid to a resident of Malta that holds directly less than 10% of the paying company's capital. The rate on interest is 5% (with an exemption for corporate bonds traded on a stock exchange in the source state that are issued by a company that is a resident of the source state). Royalties are exempt from withholding tax.			
Italy-Mongolia	5/15	10	5
The 5% rate applies to dividends paid to a company (other than a partnership) that owns at least 10% of the capital of the payer company for a 12-month period preceding the date the dividends were declared; otherwise, the rate is 15%.			
Italy-San Marino	0/15	0/13	0/10
The 0% rate applies to dividends if the beneficial owner is a company (other than a partnership) that held directly at least 10% of the capital of the distributing company for at least 12 months before the date of resolution for the dividend distribution; otherwise, the rate is 15%. A 0% rate applies to interest if the beneficial owner is a company (other than a partnership) that held at least 25% of the stock capital of the payer company for at least 12 months before the date the interest is paid; otherwise the rate is 13%. A 0% rate applies to royalties if the beneficial owner is a company (other than a partnership) that held at least 25% of the stock capital of the payer company for at least 12 months before the date the royalties are paid; otherwise, the rate is 10%.			
Japan-Kuwait	5/10	10	10
The 5% rate applies to dividends paid to a company that holds, directly or indirectly, at least 10% of the voting shares of the distributing company for a six-month period ending on the date on which entitlement to the dividends is determined; otherwise, the rate is 10%. The 5% rate does not apply, however, if the distributing company is entitled to a deduction for dividends paid to its beneficiaries in computing taxable income in Japan.			
Japan-New Zealand	0/15	10	5
The 0% rate applies to dividends paid to a company that holds, directly or indirectly, at least 10% of the voting power of the payer company for the six-month period ending on the date entitlement to the dividends is determined, if the company that is beneficial owner of the dividends (1) is a qualified person under the limitations on benefits (LOB) provision in the treaty; (2) has at least 50% of its voting power in the aggregate owned, directly or indirectly, by five or fewer companies referred to in (1); or (3) is granted benefits with respect to those dividends under a specific clause of the LOB. The rate in all other cases is 15%.			
Japan-Portugal	5/10	5/10	5
The 5% rate applies to dividends paid to a company (other than a partnership) that has owned directly for the 12-month period ending on the date on which entitlement to the dividends is determined at least 10% of the voting shares of the Japanese payer company or 10% of the capital of the Portuguese payer company; otherwise, the rate is 10%. A 5% rate applies to interest paid to a qualifying bank; otherwise, the rate is 10%.			
Korea-Bahrain	5/10	5	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			
Korea-Ecuador	5/10	12	5/12
The 5% rate applies to 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 is 10%. A 5% withholding tax rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate is 12%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Korea-Kyrgyzstan	5/10	0/10	5/10
A 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%. A 0% rate applies to interest paid in connection with the sale of industrial, commercial or scientific equipment on credit, or in connection with the sale of merchandise by an enterprise to another enterprise on credit; otherwise, the rate is 10%. A 5% withholding tax rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment; otherwise, the rate is 10%.			
Korea-Uruguay	5/15	10	10
The 5% rate applies to dividends paid to a company that holds at least 20% of the capital of the payer company; otherwise, the rate is 15%.			
Latvia-India	10	0/10	10
The treaty applies in India as from 1 April 2014. The 0% rate applies to interest paid in respect of any loan or credit made, extended, guaranteed or insured by the government, a political subdivision or local authority or one of certain specified financial institutions; otherwise, the rate is 10%.			
Latvia-Kuwait	0/5	5	5
The 0% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the distributing company; otherwise, the rate is 5%.			
Latvia-Mexico	5/10	0/5/10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that directly holds at least 10% of the capital of the payer company; otherwise, the rate is 10%. A 0% rate applies to interest paid to a pension fund; the rate is 5% if paid to or by a bank; and 10% in all other cases.			
Latvia-United Arab Emirates	0/5	0/2.5	5
The 0% rate applies to dividends paid to the government, a local authority or the central bank; otherwise, the rate is 5%. A 0% rate applies to interest on a loan granted by a bank that is a resident of the other contracting state; otherwise, the rate is 2.5%.			
Luxembourg-Germany	5/15	0	5
The 5% rate applies to dividends paid to a company (other than a partnership or investment company) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The 15% rate also applies if the distributing company is a real estate investment company whose profits are completely or partially tax exempt, or if it is able to deduct the amount distributed when calculating its profit.			
Luxembourg-Kazakhstan	5/15	10	10
The 5% rate applies to dividends paid to a company that holds directly at least 15% of the payer company; otherwise, the rate is 15%.			
Luxembourg-Macedonia	5/15	0	5
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
Luxembourg-Mongolia	-	-	-
Mongolia terminated the treaty by a law dated 2 November 2012. The treaty ceases to apply as from 1 January 2014.			
Luxembourg-Poland	0/15	5	5
The protocol provides that a 0% rate applies to dividends paid to a beneficial owner that holds directly at least 10% of the share capital of the distributing company for a continuous period of 24 months before the dividends are paid; otherwise, the rate is 15%.			
Luxembourg-Russia	5/15	-	-
The protocol provides that a 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company and has invested at least EUR 80,000 or the equivalent in rubles in that company; otherwise, the 15% rate from the treaty applies. The protocol does not affect the tax treatment of interest or royalties.			
Luxembourg-Seychelles	0/15	0/5	5
The 0% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 0% rate applies to interest paid by a financial institution or on credit sales; otherwise, the rate is 5%.			
Luxembourg-Tajikistan	0/15	0/12	10
The 0% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least 12 months; otherwise, the rate is 15%. A 0% rate applies to interest paid to a mutual fund or financial institution; otherwise, the rate is 12%.			
Malta-Guernsey	0	0	0

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Malta-Israel	0	0/5	0
Malta tax on the gross amount of dividends paid to a beneficial owner resident in Israel may not exceed that chargeable on the profits from which the dividends are paid. A 5% rate applies to interest (with an exemption for corporate bonds traded on a stock exchange in the source state that are issued by a company that is a resident of the source state).			
Malta-Norway	0	0	0
Where the dividends are paid by a company that is a resident of Malta to a resident of Norway, Malta tax on the gross amount of the dividends may not exceed that chargeable on the profits out of which the dividends are paid.			
Malta-Turkey	0/15	10	10
Dividends paid by a Maltese company to a Turkish company are exempt from tax in Malta that is chargeable on dividends, in addition to the tax chargeable in respect of the profits of the company. Further, Malta tax chargeable with respect to distributed profits of the company may not exceed 15% if the distributed profits consist of gains or profits earned in any year in respect of which that company is in receipt of a benefit under the measures regulating aid to industries in Malta, provided the recipient submits returns and accounts to the Malta tax authorities in respect of its income liable to Malta tax for the relevant year of assessment.			
Mauritius-Australia	D	D	D
The treaty applies in Australia as from 1 July 2014. The treaty does not cover dividends, interest and royalties, so domestic rates continue to apply.			
Mauritius-Monaco	0	0	0
Mexico-Colombia	0	5/10	10
A 5% rate applies to interest paid to a bank; otherwise, the rate is 10%.			
Mexico-Estonia	0	4.9/10	10
A 4.9% rate applies to interest paid to a bank or pension fund; otherwise, the rate is 10%.			
Mexico-Hong Kong	0	4.9/10	10
The treaty applies as from 1 April 2014 for Hong Kong. A 4.9% rate applies to interest paid to a bank; otherwise, the rate is 10%.			
Mexico-Kuwait	0	4.9/10	10
A 4.9% rate applies to interest paid to a bank; otherwise, the rate is 10%.			
Mexico-Latvia	5/10	0/5/10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that directly holds at least 10% of the capital of the payer company; otherwise, the rate is 10%. A 0% rate applies to interest paid to a pension fund; the rate is 5% if paid to or by a bank; and 10% in all other cases.			
Mexico-Qatar	0	5/10	10
A 5% rate applies on interest paid to a bank; otherwise, the rate is 10%.			
Netherlands-Mongolia	-	-	-
Mongolia terminated the 2002 treaty on 28 November 2012, as a result of which the treaty ceases to apply as from 1 January 2014.			
Netherlands-Norway	0/15	-	-
Under the protocol, a 0% withholding tax applies to dividends paid to a company that holds directly at least 10% of the capital of the payer company and to dividends paid to pension funds. The default rate of 15% remains unchanged. The protocol does not affect the tax treatment of interest or royalties.			
New Zealand-Japan	0/15	10	5
The 0% rate applies to dividends paid to a company that holds, directly or indirectly, at least 10% of the voting power of the payer company for the six-month period ending on the date entitlement to the dividends is determined, if the company that is beneficial owner of the dividends (1) is a qualified person under the limitations on benefits (LOB) provision in the treaty; (2) has at least 50% of its voting power in the aggregate owned, directly or indirectly, by five or fewer companies referred to in (1); or (3) is granted benefits with respect to those dividends under a specific clause of the LOB. The rate in all other cases is 15%.			
Norway-Malta	0/15	0	0
The 0% rate applies to dividends paid by a Norwegian company to a Malta company (other than a partnership) that holds directly at least 10% of the capital of the payer company on the date the dividends are paid and has done so or will have done so for an uninterrupted 24-month period on which that date falls and to dividends derived and beneficially owned by the government, the central bank, government pension fund or other qualifying government institution; otherwise, the rate is 15%.			

<table>
<tr><th>Treaty</th><th>Dividends (%)</th><th>Interest (%)</th><th>Royalties (%)</th></tr>
<tr><td>Norway-Netherlands</td><td>0/15</td><td>-</td><td>-</td></tr>
<tr><td colspan="4">Under the protocol, a 0% withholding tax applies to dividends paid to a company that holds directly at least 10% of the capital of the payer company and dividends paid to pension funds. The default rate of 15% remains unchanged. The protocol does not affect the tax treatment of interest or royalties.</td></tr>
<tr><td>Norway-United Kingdom</td><td>0/15</td><td>0</td><td>0</td></tr>
<tr><td colspan="4">The treaty applies in the UK as from 1 April 2014 for corporate tax and as from 6 April 2014 for income and capital gains tax. A 0% rate applies to dividends paid to a company that holds, directly or indirectly, at least 10% of the capital of the payer company, or when paid to a pension scheme or a government of the other contracting state; otherwise, the rate is 15%.</td></tr>
<tr><td>Poland-Canada</td><td>5/15</td><td>15</td><td>5/10</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The rate on interest is 15% (with exemptions for interest paid on the sale of equipment, merchandise or services to an unrelated vendor). The rate on royalties is 5% if paid for literary, dramatic, musical or artistic work (excluding motion picture films or film or other means of reproduction for television broadcasting), patent royalties, and royalties paid for industrial, commercial or scientific information (but excluding royalties paid in connection with a rental or franchise agreement); otherwise, the rate is 10%.</td></tr>
<tr><td>Poland-Luxembourg</td><td>0/15</td><td>5</td><td>5</td></tr>
<tr><td colspan="4">The 0% rate applies to dividends paid to a beneficial owner that holds directly at least 10% of the share capital of the distributing company for a continuous period of 24 months before the dividends are paid; otherwise, the rate is 15%.</td></tr>
<tr><td>Portugal-Cyprus</td><td>10</td><td>10</td><td>10</td></tr>
<tr><td>Portugal-Japan</td><td>5/10</td><td>5/10</td><td>5</td></tr>
<tr><td colspan="4">The 5% rate applies to dividends paid to a company (other than a partnership) that has owned directly for the 12-month period ending on the date on which entitlement to the dividends is determined at least 10% of the voting shares of the Japanese payer company or 10% of the capital of the Portuguese payer company; otherwise, the rate is 10%. A 5% rate applies to interest paid to a qualifying bank; otherwise, the rate is 10%.</td></tr>
<tr><td>Portugal-Kuwait</td><td>5/10</td><td>10</td><td>10</td></tr>
<tr><td colspan="4">The 5% rate applies where dividends are paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company or if the beneficial owner is a resident of the other contracting state; otherwise, the rate is 10%.</td></tr>
<tr><td>Portugal-Switzerland</td><td>0/5/15</td><td>10</td><td>0/5</td></tr>
<tr><td colspan="4">The protocol provides that the 0% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company for at least two years and certain other requirements are met; the 5% rate applies 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 is 15%. The general rate of 5% on royalties is unchanged, but a 0% rate applies where royalties are paid to an associated company and the companies are connected by a direct participation of at least 25% for at least two years or are both controlled by a third company that holds directly at least 25% of the capital of the first company and the second company for at least two years and certain other requirements are met.</td></tr>
<tr><td>Russia-Luxembourg</td><td>5/15</td><td>-</td><td>-</td></tr>
<tr><td colspan="4">The protocol provides that a 5% withholding tax applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company and has invested at least EUR 80,000 or the equivalent in rubles in that company; otherwise, the 15% rate from the treaty applies. The withholding tax rates on interest and royalties are not affected by the protocol.</td></tr>
<tr><td>Russia-United Arab Emirates</td><td>0</td><td>0</td><td>D</td></tr>
<tr><td colspan="4">The treaty applies only to the federal and local government, central bank and wholly state-owned financial or investment organizations, institutions or other entities; it does not apply to privately held companies. Dividends and interest paid to the other contracting state or its financial and investment institutions are exempt from withholding tax. The treaty does not contain a royalties article.</td></tr>
<tr><td>Saudi Arabia-Czech Republic</td><td>5</td><td>0</td><td>10</td></tr>
<tr><td>Singapore-Belarus</td><td>5</td><td>5</td><td>5</td></tr>
<tr><td>Singapore-Guernsey</td><td>0</td><td>12</td><td>8</td></tr>
<tr><td>Singapore-Isle of Man</td><td>0</td><td>12</td><td>8</td></tr>
<tr><td>Singapore-Jersey</td><td>0</td><td>12</td><td>6</td></tr>
</table>

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Singapore-Vietnam	-	-	5/10
The protocol provides that dividends derived by the Singapore government from the carrying on of commercial activities are not exempt from tax, but does not otherwise change the withholding tax rates on dividends. The interest article contains a most favored nation clause, under which, if Vietnam has a tax treaty with any other state that provides for a withholding tax rate on interest that is lower than 10%, the lower rate will apply to the treaty with Singapore; the protocol does not otherwise change the withholding tax rates on interest. A 5% rate applies to royalties paid in respect of patents, designs or models, plans, secret formulae or processes or for information concerning industrial or scientific experience; and 10% in all other cases (reduced from 15% under the protocol).			
Slovenia-Armenia	5/10	10	5
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			
Slovenia-Georgia	5	0/5	5
The 0% rate applies to interest paid on a loan made, approved, guaranteed, or insured by an institution authorized by domestic law to insure or finance international business transactions; otherwise, the rate is 5%.			
Slovenia-Kuwait	0/5	5	10
The 0% rate applies to dividends paid to a government or one of its political subdivisions or entities; otherwise, the rate is 5%.			
Slovenia-Switzerland	0/15	0/5	0/5
Under the protocol, the 0% rate applies to dividends paid to a pension fund or to a company that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. Interest and royalties paid between associated enterprises are exempt from withholding tax where a 25% direct participation is held; otherwise, the rate is 5%.			
Slovenia-Uzbekistan	8	8	10
Switzerland-Bulgaria	0/10	0/5	5
The 0% rate applies to dividends paid to a company that holds at least 10% of the payer company for one year before the dividends are paid or to a pension fund and the reserve bank of the other contracting state; otherwise, the rate is 10%. A 0% rate applies to interest paid between associated companies where the recipient has held a stake of at least 10% for at least one year; otherwise, the rate is 5%.			
Switzerland-Czech Republic	0/15	-	-
The protocol provides that dividends are exempt from withholding tax if paid to the central bank or a qualifying pension fund or similar institution, or if paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least one year; otherwise, the rate is 15%. The protocol does not amend rates under the interest or royalties articles.			
Switzerland-Ireland	0/15	-	-
The 0% rate applies to dividends paid to a pension scheme or to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%. The protocol does not address interest or royalties.			
Switzerland-Portugal	0/5/15	10	0/5
The protocol provides that a 0% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company for at least two years and certain other requirements are met; the 5% rate applies 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 is 15%. The general rate of 5% on royalties is unchanged, but a 0% rate applies where royalties are paid to an associated company and the companies are connected by a direct participation of at least 25% for at least two years or are both controlled by a third company that holds directly at least 25% of the capital of the first company and the second company for at least two years and certain other requirements are met.			
Switzerland-Slovenia	0/15	0/5	0/5
Under the protocol, dividends are exempt from withholding tax if paid to a pension fund or to a company that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. Interest and royalties paid between associated enterprises are exempt from withholding tax where a 25% direct participation is held; otherwise, the rate is 5%.			
Switzerland-Turkmenistan	5/15	10	10
The 5% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
Thailand-Estonia	10	10	8/10
The 8% rate applies to royalties paid for industrial, commercial or scientific equipment; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Turkey-Australia	5/15	10	10
The 5% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the company paying the dividends and the dividends are paid out of profits that have been subject to tax at the full rate; otherwise, the rate is 15%.			
Turkey-Malta	10/15	10	10
The 10% withholding tax rate applies to dividends paid by a Turkish company to a Maltese company, provided the recipient company holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
Ukraine-Cyprus	5/15	2	5/10
The 5% rate applies to dividends paid to a company that holds at least 20% of the capital of the payer company or has invested at least EUR 100,000 in the acquisition of shares or other rights of the payer company; otherwise, the rate is 15%. A 5% rate applies to royalties paid for a copyright of scientific work, a patent, trademark, secret formula, process or information concerning industrial, commercial or scientific experience; otherwise, the rate is 10%.			
United Kingdom-Panama	0/15	0/5/D	5
A 0% rate applies to dividends if the beneficial owner is (a) a company whose capital is wholly or partially divided into shares and holds directly at least 15% of the capital of the payer company, provided: (i) the shares of the dividend recipient are regularly traded on a recognized stock exchange; (ii) at least 50% of the shares of the recipient are owned directly or indirectly by one or more individuals who are residents of either contracting state or by one or more companies whose shares are regularly traded on a recognized stock exchange and that are residents of either contracting state or that would be entitled to similar or more favorable benefits under a tax treaty; (iii) the dividend recipient conducts an active trade or business in the contracting state of its residence (other than making or managing investments for its own account, unless the recipient is a bank or insurance company); or (iv) the dividend recipient does not meet the requirements of (i), (ii) or (iii), but the competent authority of the contracting state that would grant the benefits determines that the main purpose of the persons concerned was not to obtain the benefit of the withholding tax exemption; (b) a contracting state or one of its political subdivisions or local authorities; or (c) a pension scheme. Otherwise, the rate is 15%. A 0% rate applies to interest if it is paid on a credit sale of merchandise or equipment or if the beneficial owner is a pension scheme. A 5% rate applies if the interest (1) is paid by a bank in the ordinary course of its banking business, on a quote Eurobond or by a contracting state or one of its political subdivisions or local authorities; or (2) is beneficially owned by an individual, a company whose principal class of shares is regularly traded on a recognized stock exchange, certain unrelated financial institutions or a company that does not fall into any of these categories where the competent authority of the contracting state that would grant the benefits determines that it was not a main purpose of any person concerned with the establishment, acquisition or maintenance of the company to obtain the benefit of the withholding tax exemption. Otherwise, interest is subject to the domestic withholding tax rate.			
Uruguay-Finland	5/15	10	5/10
A 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. A 5% rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment or for the use of, or the right to use, software. The rate is 10% where royalties are paid for the use of, or the right to use, a copyright of literary, artistic or scientific work, including cinematograph films, and films or tapes for television or radio broadcasting, a patent, trademark, design or model, plan, secret formula or process or for information concerning industrial, commercial or scientific experience.			
Uruguay-India	5	10	10
The treaty applies in India as from 1 April 2014.			
Uruguay-Korea	5/15	10	10
A 5% rate applies to dividends paid to a company that holds at least 20% of the capital of the payer company; otherwise, the rate is 15%.			
Vietnam-Serbia	10/15	10	10
A 10% rate applies dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
Vietnam-Singapore	-	-	5/10
The protocol provides that dividends derived by the Singapore government from the carrying on of commercial activities are not exempt from tax, but does not otherwise change the withholding tax rates on dividends. The interest article contains a most favored nation clause, under which, if Vietnam has a tax treaty with any other state that provides for a withholding tax rate on interest that is lower than 10%, the lower rate will apply to the treaty with Singapore; the protocol does not otherwise change the withholding tax rates on interest. A 5% rate applies to royalties paid in respect of patents, designs or models, plans, secret formulae or processes or for information concerning industrial or scientific experience; otherwise, the rate is 10% (reduced from 15% under the protocol).			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Vietnam-Tunisia	10	10	10

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Austria
Draft of 2014 tax reform bill released
Austria's Ministry of Finance has circulated a draft bill for the Tax Reform Act 2014, which would introduce another austerity package. The bill contains a number of measures that would affect multinational businesses. Although no dates for parliamentary debate on the bill have been announced, since certain proposed rules would become effective on 1 March 2014, the legislative process would need to be finalized in February to meet this deadline.
[Issued: 23 January 2013]
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