Deloitte.

International Tax

World Tax Advisor

23 January 2015

In this issue:

French finance laws adopted, including tax measures

The end of the calendar year in France typically is characterized by a flurry of legislative activity, including debates and votes on the finance law for the coming year, amended versions of the current year's finance law and other related finance laws. 2014 was no different: on 18 December 2014, the parliament adopted the Finance Law for 2015, the Amended Finance Law for 2014 and the Social Security Finance Law for 2015.

The Constitutional Court reviewed several of the provisions of both finance laws and, in its decision issued on 29 December, struck down certain measures and affirmed the constitutionality of others. Measures that were held unconstitutional in whole or in part will not enter into force. One of the measures that did not pass constitutional muster was a provision that would have imposed a fine (5% of the fees paid for tax assistance, but no less than EUR 10,000) on tax advisors that intentionally and knowingly assist a taxpayer in committing an abuse of tax law in cases where the taxpayer would have been penalized separately from the tax advisor for deliberately using the tax law contrary to the objective of the law. The court also struck down a proposed change to France's participation exemption that would have excluded from the regime dividends paid from profits derived from an activity not subject to the French corporate income tax or an equivalent foreign tax.

Certain corporate tax and transfer pricing measures that were adopted by the parliament and were not struck down by the Constitutional Court, which are of interest to multinational groups, are described below. These measures entered into force on 1 January 2015 and apply as from that date, unless otherwise noted.

Corporate tax

The most important measures affecting companies are those to bring France's tax consolidation regime in line with EU law (to allow horizontally consolidated groups); the introduction of restrictions consistent with the amendments to the EU parent-subsidiary directive to combat hybrid loan mismatches; and the standardization of the treatment of capital gains relating to share repurchases.

Horizontal consolidation: The Court of Justice of the European Union (CJEU) ruled in June 2014 that the Dutch law that precludes the formation of a consolidated tax entity for resident sister companies where the EU common parent company does not have its seat or a permanent establishment (PE) in the Netherlands is contrary to the freedom of establishment. Given the similarity between the Dutch and the French tax consolidation regimes, the Amended Finance Law for 2014 introduces a new form of tax consolidation that permits horizontally consolidated tax groups. Accordingly, a consolidated group now may be comprised of French sister companies that are at least 95% held by a common parent company established in an EU member state or a European Economic Area (EEA) state that has concluded an administrative assistance convention with France to combat tax fraud and evasion. The nonresident parent company can be resident outside the EU/EEA, provided it has a PE in the EU/EEA through which it is subject to a corporate tax equivalent to the French corporate income tax.

Only French companies are considered members of the French tax group, i.e. only their taxable results are consolidated for French corporate income tax purposes.

The French horizontal group can include French companies that are at least 95% held by an eligible EU/EEA parent company (the capital of which cannot be 95% or more held by a French company subject to French corporate income tax or a nonresident company subject to equivalent corporate income tax in another EU/EEA member state), directly or indirectly, through an EU/EEA intermediary company.

The key stakeholders in this new form of consolidated group (which all have a role to play, even though only French companies are entitled to consolidate their taxable results) are:

- The nonresident (EU/EEA) parent company (i.e. the ultimate head of the group in the EU/EEA);
- The designated French head of the horizontally consolidated group in France (the French companies can choose which French sister company will be the French parent of the horizontal group);
- Any other French sister companies; and
- Foreign intermediary companies (EU/EEA intermediaries between the EU/EEA parent company and the French sister companies).

The nonresident parent company and foreign intermediary companies must be liable for corporate income tax in the EU/EEA, either as EU/EEA companies or as PEs of foreign companies that are liable for corporate income tax in the EU/EEA.

All key stakeholders, including the EU/EEA parent and EU/EEA intermediary companies, must have the same 12-month fiscal year (except where this is not allowed under foreign legislation). The EU/EEA parent company, EU/EEA intermediary companies, the French head of the group and other French members of the group must comply with formalities governing the election to use the regime. The designated French head of the group must annually provide the French tax authorities a list of the group members, identifying, as applicable, the EU/EEA parent company, the designated French head and EU/EEA intermediaries.

Given the particular roles of each of the parties, the decision to elect into the new horizontal consolidated group must be considered carefully because:

- The formation of a new horizontal group automatically terminates an existing group;
- An indirect holding by the EU/EEA parent entity of the designated French head of a horizontal group, as well as the interposition of one or more PEs, must be taken into account;
- Financial flows between French members of the consolidated tax group, the EU/EEA parent and the EU/EEA intermediary companies would not be neutralized in the majority of cases;
- The "*Charasse*" rule (which limits finance charge deductions on the acquisition of a company that is a member of, or is joining, a group where the company acquiring the shares obtains them either from shareholders that control the acquiring company or from companies controlled by these shareholders) could apply to sister companies joining a group; and
- The restructuring of acquisitions relating to the EU/EEA parent entity or an EU/EEA intermediary company could have severe future consequences.

Denial of benefits of participation exemption: Under France's participation exemption regime, dividends paid to a parent company are 95% tax exempt, provided certain requirements are met. A restriction to this regime has been adopted to apply to fiscal years commencing on or after 1 January 2015.

The Amended Finance Law for 2014 transposes recent changes to the EU parent-subsidiary directive into French law. The Council of Europe adopted an amendment to the directive in July 2014 that aims to prevent double nontaxation resulting from mismatches in the tax treatment of profit distributions between EU member states, particularly with respect to the use of hybrid loans. The amended directive requires EU member states to refrain from taxing profits to the extent they are not deductible by the subsidiary and to tax profits to the extent they are deductible by the subsidiary. The French Tax Code (FTC) now will exclude distributed profits that are deductible from the subsidiary's taxable income from the participation exemption.

As noted above, a second restriction to the participation exemption was found unconstitutional by the Constitutional Court and, therefore, did not enter into force.

Share repurchases: The Amended Finance Law for 2014 provides that where a company repurchases its own shares, only the capital gains tax regime will apply to amounts paid to partners or shareholders, irrespective of whether they are individuals or legal entities.

This new measure standardizes the applicable tax treatment following a June 2014 decision of the Constitutional Court. The court declared provisions of the FTC unconstitutional to the extent they provide differing treatment (either capital gains treatment or a hybrid regime) for amounts paid to individuals who are partners or shareholders upon the repurchase by a company of its own shares, on the basis of the repurchase procedure followed (attribution to salaried employees/share repurchase plan (capital gains regime), or otherwise (hybrid taxation regime associating deemed dividends and capital gains)).

While the Constitutional Court's decision applies only to individuals, the new legislative measure is broader and also applies to corporate shareholders.

Applying capital gains treatment to all shareholders, including legal entities, means that the issuing company no longer will be subject to the 3% contribution applicable to distributions on the repurchase, and, if applicable, withholding tax on dividends will not apply on amounts distributed to nonresident partners/shareholders.

Registration duties on sale of shares in predominantly property-holding entities: The Amended Finance Law for 2014 provides that the taxable base for registration duties upon the sale of shares in predominantly property-holding entities (i.e. unlisted French or foreign companies whose assets consist more than 50% of French real estate or shares in a real estate holding company) now will be calculated based on the same rules that applied before 1 January 2012.

Prior to 1 January 2012, the sale of shares in legal entities that were considered predominantly property-holding entities was subject to the general registration duty regime. Accordingly, the taxable base for registration duties was the higher of the sales price or the net asset value. In assessing the value of the shares, deductions were not limited and could be broadly taken.

Driven by concerns about aggressive tax planning, the parliament created a specific regime applicable to predominantly property-holding entities, to narrowly limit liability deductions, which applied to sales between 1 January 2012 and 31 December 2014. Under the regime, *only* the liabilities relating to the acquisition of real property and shares in a real property entity could be taken into account in assessing the value of the shares.

Given the practical difficulties of this regime, notably in defining liabilities that relate "only" to the acquisition of the real property and shares, the specific regime has been repealed and the general regime now applies as from 1 January 2015. Accordingly, the taxable base for registration duties for such sales now will be calculated according to the pre-2012 rules (as the higher of the sales price or the net asset value). Returning to the general regime increases potential deductions, which would reduce the taxable base.

Other measures: Other measures relevant for corporations from the three laws include the following:

- The “Sarkozy Bonus” enacted in 2011, under which French companies that increase dividend payments to their shareholders over two consecutive fiscal years must grant a bonus to all their employees, has been repealed. For distributions as from 1 January 2015, the bonus no longer will be due.
- Certain changes are made to the employment competitiveness tax credit, including an increase in the rates that apply to employees in the French overseas departments (Guadeloupe, Martinique, French Guiana, Reunion and Mayotte) from 6% to 7.5% for expenses incurred in calendar year 2015, and to 9% for expenses incurred as from 1 January 2016.
- The research and development tax credit rate is increased from 30% to 50% for eligible expenses incurred as from 1 January 2015 by businesses located in a French overseas department (the rate for a taxpayer’s eligible expenses in excess of EUR 100 million remains at 5%).
- The exemption from withholding tax on distributions made to nonresident collective investment funds has been clarified. The FTC now expressly provides that the mere existence of an administrative assistance convention between France and the jurisdiction in which the collective investment fund is headquartered is not, in and of itself, sufficient to automatically apply the exemption. The exemption may be granted only if the convention effectively permits the French tax authorities to obtain confirmation from the foreign jurisdiction that the fund has satisfied the conditions required by French law.
- Certain modifications will apply to the French film tax credit rate for tax credits calculated as from fiscal years beginning on or after 1 January 2016. For cinematographic works and animated audiovisual works, the rate will increase from 20% to 25%, and for works where the production budget is less than EUR 7 million (an increase from the current EUR 4 million cap), the rate will be 30%.
- The international film tax credit rate for tax credits calculated as from fiscal years beginning on or after 1 January 2016 will increase from 20% to 30%, and the ceiling for the credit will increase from EUR 20 million to EUR 30 million.

Transfer pricing

Penalty for failure to comply with documentation requirements: Transfer pricing documentation requirements apply under article L. 13 AA of the Tax Procedure Code. Legal entities established in France that meet any of the following requirements must submit transfer pricing documentation to the French tax authorities during the course of an audit, within 30 days of the request:

- The company has an annual turnover or gross assets equal to or exceeding EUR 400 million;
- The company holds, directly or indirectly, at the close of a fiscal year, more than 50% of the capital or voting rights of a legal entity that meets the turnover/assets requirement, or is held under the same conditions by a legal entity that meets the turnover/assets requirement; or
- The company is part of a consolidated group that includes at least one legal entity that meets the turnover/assets requirement.

The documentation to be submitted to the tax authorities includes general information about the group of associated entities, specific information about the audited entity and any decisions from foreign tax administrations regarding the associated entities.

A penalty is imposed for failure to comply with the documentation requirements (either by failing to respond to the request from the tax authorities or by submitting incomplete information). The Finance Law for 2015 increases the penalty as follows: for tax audits commencing on or after 1 January 2015, the penalty may be up to 0.5% of the amount of the relevant transactions (i.e. the transactions for which documentation is lacking or is incomplete), or 5% of the adjusted profits relating to the transactions, whichever is higher. In any case, the amount of the penalty cannot be less than EUR 10,000 (this amount is unchanged from the pre-2015 rules).

The purpose of this provision is to base the penalty on the amount of the transfers for which documentation is lacking. (The constitutionality of the penalty was challenged, but the Constitutional Court upheld the measures.)

Mitigating the consequences of a transfer pricing adjustment: The amended Finance Law for 2014 introduces a provision in the FTC that will allow a taxpayer to alleviate the consequences of a transfer pricing adjustment by codifying a practice the French tax authorities had recently abandoned. Under this practice, if the taxpayer accepted a proposed transfer pricing reassessment during a tax audit and the amount improperly transferred out of France was repatriated to the French company, the reassessed amounts treated as deemed dividends received by the foreign affiliated entity would not be subject to withholding tax in France.

Under the “new” procedure, a taxpayer can avoid the imposition of French withholding tax if it submits a written request and all of the following conditions are satisfied:

- The taxpayer’s request is made before the recovery of the withholding tax on the deemed dividends;
- In the request, the taxpayer accepts the reassessment and applicable penalties;
- The amounts classified as deemed dividends by the tax authorities are repatriated by the taxpayer within 60 days from the request; and
- The beneficiary of the deemed dividends is not located in a country on the French noncooperative jurisdictions blacklist.

This article has been prepared by professionals in Taj, French tax and legal firm, member of Deloitte Touche Tohmatsu Limited.

— Patrick Fumenier (Paris)
Partner
Taj
pfumenier@taj.fr

Marie-Pierre Hôo (Paris)
Director
Taj
mhoo@taj.fr

Belgium:
Reporting obligation applies to payments made to Luxembourg

The requirement for companies to report payments to Luxembourg persons continues to apply for 2014 corporate tax returns filed in 2015.

Article 307 of the Belgian Income Tax Code requires companies to report annually any payments made, directly or indirectly, to persons established in a tax haven or in a country which, during the entire financial year in which the payment was made, is considered not to effectively and substantially apply the OECD standard on the exchange of information. Failure to comply with the reporting requirement will result in the payment being nondeductible.

In 2013, the OECD Global Forum on Transparency and Exchange of Information rated four countries as noncompliant: the British Virgin Islands (which also is considered a tax haven), Cyprus, Luxembourg and the Seychelles. These countries are the only noncompliant countries among the 64 jurisdictions that have been given an overall rating by the Global Forum.

Although Luxembourg has taken a number of steps to significantly improve its position and expects the OECD to upgrade its status to (largely) compliant by mid-2015, the country still is considered noncompliant for purposes of article 307. As a result, the majority of companies whose financial year corresponds to the calendar year must report all direct and indirect payments made to Luxembourg persons in 2014 on a specific form attached to their 2014 corporate tax return filed in 2015. The Belgian finance minister announced during a meeting held on 16 December 2014 that the tax administration is working on new guidance that would supplement a circular issued in 2010 on the reporting requirement.

— Geert Lowagie (Brussels)
Partner
Deloitte Belgium
glowagie@deloitte.com

Brazil:
Guidance issued on transparency standards and black/grey list status

The Brazilian authorities published a Normative Ruling (NR 1,530/2014) on 22 December 2014 that defines "international fiscal transparency standards" and sets out the procedures for jurisdictions included on Brazil's "black list" or "grey list" as a low-tax or privileged tax regime jurisdiction, respectively, to request the Brazilian tax authorities to reevaluate their status. The new ruling follows the issuance of an ordinance (Ordinance 488/2014) that reduced the income tax rate threshold for the application of the low-tax jurisdiction and privileged tax regime rules from 20% to 17% for countries that follow the OECD international fiscal transparency standards (for prior coverage, see *World Tax Advisor*, 12 December 2014).
URL: http://newsletters.usdbriefs.com/2014/Tax/WTA/141212_2.html

Under the ruling, jurisdictions are considered aligned with international fiscal transparency standards if they have signed or negotiated a treaty or agreement with Brazil relating to the exchange of information for tax purposes and are committed to following the standards established at international forums on fiscal evasion, such as the Global Forum on Transparency and Exchange of Information for Tax Purposes (which currently has 124 members, including Brazil).

The ruling also describes the procedures a jurisdiction should follow, and the information it should gather and present to Brazilian tax authorities, to request a review of its status as a low-tax jurisdiction or privileged tax regime jurisdiction. The jurisdiction may request application of the reduced income tax rate threshold set by Ordinance 488/2014, as long as the jurisdiction is considered aligned with international fiscal transparency standards. The Brazilian tax authorities' decision on the jurisdiction's status will not apply retroactively.

— Marcelo Natale (São Paulo)
Partner
Deloitte Brazil
mnatale@deloitte.com

Cristina A. Berry (São Paulo)
Partner
Deloitte Brazil
caberry@deloitte.com

Finland:
Change to transfer pricing rules proposed

Finland's government issued a draft proposal on 7 January 2015 that would amend the transfer pricing rule in section 31 of the Tax Procedure Act.

The contemplated change follows a decision issued by the Supreme Administrative Court in July 2014, in which the court held that section 31 only allows the Finnish tax authorities to make a transfer pricing adjustment (in accordance with the OECD guidelines); it does not permit the authorities to also recharacterize a transaction, unless the conditions for application of the general anti-avoidance rule (GAAR) in section 28 of the Tax Procedure Act also are met. The case involved a situation in which the tax authorities recharacterized a hybrid instrument as equity (rather than debt) and disallowed a deduction for the related interest expense.

The draft proposal would add a specific GAAR clause to section 31 that would grant the tax authorities the power to recharacterize and disregard transactions where the legal form of the transaction does not correspond with its commercial substance. Although the draft generally targets financing-related arrangements, the actual wording of the proposed rule is not limited to financing transactions.

Comments on the draft proposal are due on 20 February 2015. As yet, no effective date has been announced for the amended rule.

— Outi Ukkola (Helsinki)
Partner
Deloitte Finland
outi.ukkola@deloitte.fi

Japan:
2015 tax reform proposals announced

On 30 December 2014, the ruling parties of Japan released an outline of the 2015 tax reform proposals, a number of which may affect foreign-based companies doing business in Japan and foreign nationals working in Japan. It is important to note that the proposed measures could be modified as they progress through the legislative process.

Corporate tax

- Through reductions in both the national corporate tax rate and the local enterprise tax rate, the standard effective income tax rate in Japan for companies with stated capital over JPY 100 million would decrease from 34.62% to 31.33% over the next two years, starting with tax years beginning on or after 1 April 2015. The effective tax rate based on the maximum rates applicable in Tokyo to a company whose paid-in capital is over JPY 100 million currently is 35.64%, and the future tax rates for such a company will be available once the enterprise tax rates (income component) for Tokyo are determined.
- The amount of taxable income that may be offset by tax losses carried forward would decrease from 80% to 50% over the next three years, starting with tax years beginning on or after 1 April 2015. However, the tax loss carryover period would increase from nine years to 10 years for tax losses incurred in tax years beginning on or after 1 April 2017.
- The tax rates for both the capital factor and the value-added factor of the factor-based enterprise tax regime (imposed on companies with stated capital over JPY 100 million) would increase from 0.2% to 0.4% and from 0.48% to 0.96%, respectively, over the next two years, starting with tax years beginning on or after 1 April 2015. (A reduction of the value-added factor tax base could be available for certain taxpayers that raise employee wages.)
- The ownership threshold required to fully exclude dividends received from another Japanese company from taxable income would increase from 25% or more to more than 33.3%. In addition, only 20% (currently, 50%) of dividends received from domestic shareholdings of 5% or less would be able to be excluded from taxable income. Dividends received from domestic shareholdings of more than 5% up to 33.3% would be eligible for a 50% exclusion.
- The special measure allowing an increase in the limit for the tax credit available for R&D expenditure to 30% (originally 20%) of the total corporate tax liability would be abolished and replaced with a 30% overall credit limit in certain cases. The one-year carryover for any excess R&D tax credit would be abolished.
- One of the requirements to take a tax credit for wage increases would be relaxed. Companies increasing wages by 4% (currently, 5%) over a specified base period for tax years beginning on or after 1 April 2016 would be eligible for the tax credit, provided other conditions are satisfied. The required increase would be further reduced to 3% for small and medium-sized companies with stated capital of JPY 100 million or less.
- Various tax incentives, including special depreciation and tax credits, would be provided to companies that invest in assets and hire employees in specified regional areas of Japan.
- Additional measures related to the revisions to the taxation of permanent establishments that were included as part of the 2014 tax reform would be introduced

(e.g. where a foreign company earns interest on short-term accounts receivable (generally less than six months), the interest would not be considered Japan-source income for Japanese corporate income tax purposes).

- The 95% foreign dividend exemption regime would not apply to foreign dividends that are deductible in the jurisdiction of the payer. This rule generally would be effective for tax years beginning on or after 1 April 2016, with grandfathering rules for existing shares applying for periods beginning before 1 April 2018.
- Several amendments would be made to the controlled foreign corporation (CFC) regime, including changing the effective tax rate for triggering the CFC rules to less than 20%, from the current 20% or less.

Consumption tax (JCT)

- The place of supply for cross-border digital services (e.g. the provision of e-books and online advertising services) would change from the office of the supplier to the domicile of the recipient. The supply of cross-border digital services would be classified as business-to-business (B2B) supplies or business-to-consumer (B2C) supplies, according to their nature and service terms. A reverse-charge mechanism would apply to B2B supplies, and recipients (rather than suppliers) would be liable to account for output JCT on the supply. The new rules would apply for transactions taking place on or after 1 October 2015.
- The JCT rate increase to 10% would be postponed by 18 months to 1 April 2017, and the “economic conditions” clause giving the government discretion to cancel the rate increase based on prevailing economic conditions would be removed. A broad discussion on the introduction of multiple JCT rates in 2017 would be launched.

Individual tax

- Income tax would be levied on built-in gains on shares held by individuals who have maintained an abode in Japan for more than five of the preceding 10 years and who have assets worth more than JPY 100 million, at the time these individuals exit Japan. The tax would apply for individuals leaving Japan on or after 1 July 2015.
- Additional documentation requirements would be imposed on individuals claiming a nonresident as a dependent on their income tax return.

— Sunie Oue (Tokyo)
Partner
Deloitte Japan
sunie.oue@tohmatsu.co.jp

Jun Takahara (Tokyo)
Partner
Deloitte Japan
jun.takahara@tohmatsu.co.jp

Peru:
Tax reform package enacted

Peru’s government enacted a law on 31 December 2014 that contains several tax measures intended to stimulate the economy, including a progressive reduction of the corporate and employment income tax rates, changes to the dividend tax regime, the introduction of a binding private ruling regime and a new electronic tax audit procedure. Unless otherwise noted, the measures discussed below apply as from 1 January 2015. Supplementary regulations are awaited to facilitate compliance with some aspects of the law, but potentially affected taxpayers should begin assessing the impact of the new rules on their activities and transactions.

Corporate income tax and dividends tax

Gradual reduction of corporate tax rate: The new law gradually reduces the income tax rate applicable to resident corporate taxpayers (i.e. legal entities incorporated in Peru and branches of foreign companies) from 30% to 26%, as follows:

Year	Rate
2014	30%
2015-2016	28%
2017-2018	27%
2019 and thereafter	26%

The full implications of the progressive reduction in the corporate income tax rates should be assessed to properly manage the financial projections of multinational groups operating in Peru. It should be noted that, starting with the 2014 financial statements, deferred tax assets and liabilities may have to be adjusted to reflect the tax rate in effect for the year(s) in which the temporary difference(s) will be realized.

Gradual increase of dividend tax rate: The tax rate for the dividend tax that is triggered when there is a distribution of profits or an agreement to distribute profits to resident individuals or nonresident shareholders gradually will increase from 4.1% to 9.3%, as follows:

Year	Rate
2014	4.1%
2015-2016	6.8%
2017-2018	8%
2019 and thereafter	9.3%

It should be noted that, under the mechanics of the dividend tax for branches and other permanent establishments (PEs) in Peru, a distribution of profits is deemed to be made in the year in which an after-tax profit is reported in the branch/PE's annual income tax return. Thus, an additional 4.1% rate would apply to any after-tax profits reported in the annual income tax return for 2014; starting in 2015, the specific dividend tax rate applied to branches/PEs depends on the year in which an after-tax profit is reported in the annual income tax return.

The new dividend tax rates apply to any dividend distribution in cash or in kind agreed or paid as from 1 January 2015. However, under a grandfathering rule, if the relevant agreement or payment comprises accumulated results, or any other circumstances are present that would create a deemed dividend before 31 December 2014, that amount still will be subject to the 4.1% rate. The purpose of the grandfathering rule is to ensure that corporate taxpayers that could have distributed profits at a lower rate before the amendments in the new law still will be subject to the same tax burden (approximately 33% effective tax rate), regardless of the year in which the distributions of these accumulated profits occur.

Relationship between corporate and dividend tax rate changes: The amendments to the corporate income tax and dividend tax rates are intended to encourage the reinvestment of profits in Peru without substantially altering the effective tax rate of approximately 33% that traditionally has applied to resident corporate taxpayers (see Peru Tax Alert, 19 December 2014 for additional details and examples on the application of the new rates). Where profits are distributed in the same year in which they are earned, the combined effect of the corporate income tax rate reduction and the dividend tax rate increase results in only a slight variation in the total effective tax rate for the distributed income (e.g. the effective tax rate is 32.87% in 2014 and 32.896% in 2015).
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-peru-191214.pdf?id=us:em:na:wta:eng:tax:012315

However, distributions of profits earned in years subject to a specific reduced corporate income tax rate but distributed in a year subject to an increased dividend tax rate could result in a higher effective tax rate, due to the mechanics of the new provisions and the absence of rules preventing an adverse result. A separate analysis seems necessary for branches and PEs, given that the triggering event for the dividend tax for these entities is linked to the year in which the after-tax profit is reported in the annual income tax return.

An additional consideration for domestic taxpayers that are benefiting from tax stability agreements (e.g. those in the energy and resources industry) with the government that provide for a fixed corporate income tax regime for a specific number of years is that they are not eligible to apply the new corporate rates while the tax stability agreement is still in force (unless they relinquish the agreement); however, they will need to apply the new rates when withholding the dividends tax applicable to shareholders.

Even if taxpayers are willing to relinquish their tax stability agreements, their shareholders or applicable investors also would need to relinquish the agreements regarding their investments to result in a combined tax burden consistent with the policies underlying the new law. This issue has prompted a constitutional analysis of whether the new measure is valid under Peruvian law.

Deemed dividend rule for credits granted to shareholders: The new law modifies the deemed dividend rule applicable to credits granted by resident corporate taxpayers (except for some entities providing financial services and leasing companies) to their shareholders.

Under the former provisions, any credit up to the limit of profits and freely distributable reserves granted in cash or in kind to shareholders, on a single or general basis and regardless of the legal form used, was recharacterized as a deemed dividend if:

- There was no obligation to repay the capital;
- The due date agreed upon for returning the capital exceeded 12 months or, regardless of the deadline, the payment was not actually made within 12 months; or
- Regardless of the conditions agreed upon, consecutive renewals or recurrence of similar transactions lead to the conclusion that there was a unique transaction that, in total, exceeded the 12-month term.

Based on the new provisions, the specific conditions detailed above no longer are required to apply the deeming provision to credits granted to shareholders. The new rule is intended to avoid the remittance of profits to shareholders in the form of a credit without paying the applicable tax in Peru.

It should be noted that the new law does not include a grandfathering rule for outstanding credits that were granted for years ended on or before 31 December 2014. In addition, no clarity has been provided on how this new rule will interact with other tax rules applicable to loan transactions (deemed interest rule, etc.).

Tax rates on employment income

The new law provides for a reduction in the progressive tax rates applicable to employment income of resident individuals, according to the following schedule (the progressive brackets used for computation of this tax are expressed in tax units; 1 tax unit in 2015 = PEN 3,850):

Employment income tax			
2014		**2015 and thereafter**	
	Rate		**Rate**
Up to 27 tax units	15%	Up to 5 tax units	8%
28-54 Tax Units	21%	6-20 tax units	14%
More than 54 tax units	30%	21-35 tax units	17%
		36-45 tax units	20%
		More than 45 tax units	30%

The changes to the employment income tax rates aim to create a more progressive system by reducing the tax burden for most taxpayers, while maintaining the higher rates for high income earners.

Private binding rulings

The new law introduces a provision to the tax code that allows a resident taxpayer with a direct and legitimate interest in a tax issue to request a binding private ruling from the Peruvian tax authorities (SUNAT) on the tax treatment applicable to specific facts and circumstances affecting the taxpayer, as long as a related tax obligation has not yet arisen. The private ruling is not subject to appeal. It binds only the requesting taxpayer, and only with respect to the facts and circumstances that are the subject of the request (thus, a private ruling may not be considered as precedent).

This new private binding ruling regime will enter into force on 25 June 2015. The executive branch will issue a decree setting forth the procedural rules for a ruling request.

Electronic partial tax audits/examination procedures

As a step in the government's efforts to develop more efficient mechanisms for tax control and collection, the new law introduces an electronic process for partial tax audits/examinations. Because taxpayers are progressively producing and presenting supporting tax documentation electronically, the SUNAT currently has the ability to review and analyze taxpayers' information and documents uploaded to its system. Although the new procedure should help reduce administrative costs for both the taxpayer and the SUNAT, it may increase the risk of the SUNAT identifying tax exposures before the expiration of the applicable statute of limitations.

The new measure allows the SUNAT to perform an electronic partial tax audit/examination to review specific issues detected during its analysis of the taxpayer´s tax returns, corporate books, registers, and other documents that the SUNAT stores, archives and preserves electronically in cases where a settlement could be proposed to the taxpayer as a result of a partial tax audit. The electronic process for the partial tax audit/examination begins when the SUNAT electronically notifies the taxpayer of the start of the process and ends when the SUNAT electronically notifies the taxpayer of the resolution of the tax determination, and the fine amount if appropriate. This process lasts 30 business days, starting on the day the first notification is sent to the taxpayer.

In addition to regular tax audits, the SUNAT also will apply the electronic partial tax audit/examination rules for purposes of conducting its delegated functions related to the payment of the mining royalty and the special mining duty.

Other provisions

A temporary special regime for the early recovery of value added tax (VAT) is introduced to promote the acquisition, replacement or renewal of capital goods by microenterprises, which generally do not meet the minimum requirements for other regimes for the early recovery of VAT. The regime, which applies during the three years starting on 1 January 2015, provides for the refund of VAT input credits generated from imports and/or domestic acquisitions of new capital goods by resident taxpayers that are qualifying microenterprises. A regulation providing the specific requirements for the regime is expected to be issued in the near future.

To continue to promote private investment in the mining industry, the additional minimum investment amount needed for investors or mining rights holders to benefit from a tax stability agreement (which would provide that any change in the tax regime imposed after the signing of the mining agreement will not impact their business activities in Peru within a specific timeframe and under specific limits) is substantially reduced from USD 250 million to USD 25 million.

— Ana Luz Bandini (Lima)
Partner
Deloitte Peru
abandini@deloitte.com

Francisco Prados (Lima)
Senior Manager
Deloitte Peru
frprados@deloitte.com

Switzerland:
Agreement reached with Italy on tax issues

Switzerland and Italy have reached agreement on a protocol that would amend the existing tax treaty dating from 1976 (as previously amended) to enhance the provisions on the exchange of tax information and, in principle, future tax cooperation in tax matters. The parties also agreed on a “roadmap” that includes a clear political commitment to several aspects of bilateral relations between the treaty partners. The protocol, initialed on 19 December 2014, followed more than two years of protracted negotiations over untaxed Italian assets in Swiss banks. It is expected to be signed before the 2 March 2015 deadline that would allow Switzerland to be removed from Italy's "black list" for purposes of Italy's voluntary disclosure program (VDP) that applies from 1 January 2015 and is expected to operate until the end of September (the VDP allows Italian residents to "regularize" undeclared assets held abroad). The roadmap is expected to be signed at the same time.

The protocol to the treaty will incorporate the OECD standard for the exchange of information upon request, and will apply as from the date the protocol was signed, rather from the date it is ratified by both countries.

The roadmap includes the following provisions:

- The OECD standard for the automatic exchange of information is to be introduced between Switzerland and Italy in the future.
- Italian taxpayers that have accounts in Switzerland can participate in the Italian VDP under the same conditions as individuals in countries that are not included on any black list.
- Taxpayers who participate in the VDP are eligible for reduced penalties. Financial institutions and their employees generally will not be held liable for tax offenses committed by their clients.
- The treaty is likely to be further amended to reduce the withholding tax rates on dividends and interest payments, revise the anti-abuse provision and add an arbitration clause.
- The tax treatment of cross-border commuters will be revised. The governments of Italy and Switzerland intend to negotiate an agreement under which cross-border commuters would be subject to reduced taxation in the state in which they exercise their employment, and regular taxation in their country of residence. The portion of tax retained by the state where the employment is exercised will be a maximum of 70% of the total income tax withheld.
- Once the protocol enters into effect, Switzerland will be removed from Italian lists that are based solely on the absence of an exchange of information. The Swiss privileged regimes that currently are on Italy's black lists (i.e. the holding, mixed and domiciliary regimes) will remain listed until they have been abolished or adjusted to bring them in line with international standards.
- Both countries intend to seek ways to enhance cross-border cooperation and financial market access.

The agreement between Italy and Switzerland is a milestone, and should substantially improve relations with regard to financial and tax matters between the two countries. In particular, the removal of Switzerland from Italy's black list should have a positive market impact for Swiss companies.

— Rene Schreiber (Zurich)
Partner
Deloitte Switzerland
rschreiber@deloitte.ch

Ferdinando Mercuri (Lausanne)
Partner
Deloitte Switzerland
fmercuri@deloitte.ch

In brief

Austria: The Second Tax Reform Act 2014 was published in the federal gazette on 29 December 2014. One notable provision in the act is that, as from 30 December 2014, there is a further tightening of the rules restricting the deductibility of interest and royalty payments made to recipients in low-tax jurisdictions that apply as from 1 March 2014. The rules are extended to apply to payments where the level of taxation of the recipient is lower than 10% due to a tax refund to the recipient or its shareholders.

Canada: The draft legislation released on 29 August 2014 to implement back-to-back financing proposals and numerous other budget measures, and to revise the 2013 draft amendments to the foreign affiliate "dumping" rules received royal assent and was passed into law on 16 December 2014 (for prior coverage, see *World Tax Advisor*, 10 October 2014).
URL: http://newsletters.usdbriefs.com/2014/Tax/WTA/141010_1.html

China: New regulations on the application of the general anti-avoidance rule apply from 1 February 2015 (for prior coverage, see China Tax Alert, 19 December 2014).
URL: http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-alert-china-191214.pdf?id=us:em:na:wta:eng:tax:012315

Costa Rica: The corporate income tax brackets for fiscal year 2015 (i.e. the fiscal year from 1 October 2014 to 30 September 2015) are as follows: 10% for income up to CRC 52,710,000; 20% for income between CRC 52,710,000 and CRC 106,026,000; and 30% for income over CRC 106,026,000.

Hong Kong: The Court of Final Appeal (CFA) issued a decision on 15 December 2014, concluding that a lump sum amount received upon the termination of a contract was not subject to profits tax under section 14 of the Inland Revenue Ordinance. The CFA's ruling, along with the earlier decisions of the two lower courts, provide useful guidance on various issues, including the distinction between capital and revenue, the transfer of a right to receive income and the recapture of tax depreciation.

Italy: A decree has been issued to include San Marino in the list of countries that meet the exchange of information requirements. Inclusion of a country on this "white list" allows persons resident in that country to obtain an exemption from tax on certain types of income.

Italy: The 2015 budget law approved on 22 December 2014 and published in the official gazette on 29 December 2014 repeals the reduction of the IRAP (the regional tax on productive activities) rates that was passed in April 2014 (for prior coverage, see *World Tax Advisor*, 27 June 2014). The new IRAP rates (which are the same rates that applied until 31 December 2013, i.e. 3.9% as the general average rate, 4.65% for banks/financial entities and 5.9% for insurance companies) are applicable as from 1 January 2014. Therefore, the reduced rates introduced in April 2014 will never be effective.
URL: http://newsletters.usdbriefs.com/2014/Tax/WTA/140627_6.html

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.

Croatia-United Kingdom: When in effect, the tax treaty signed on 15 January 2015 to replace the 1981 treaty between the former Yugoslavia and the UK provides for a 0% withholding tax rate where dividends are paid to a pension scheme; a 5% rate will apply where dividends are paid to a company that controls, directly or indirectly, at least 25% of the capital of the distributing company; a 15% rate will apply where 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 property is exempt from tax; otherwise, the rate will be 10%. An exemption will apply to interest paid in connection with the credit sale of industrial, commercial or scientific equipment or the credit sale of merchandise by one enterprise to another enterprise, or on a bank loan; otherwise, the rate will be 5%. The rate on royalties will be 5%.

France-Singapore: When in effect, the tax treaty signed on 15 January 2015 to replace the 1974 treaty provides for a 5% withholding tax rate where dividends are paid to a company that owns, directly or indirectly, at least 10% of the capital of the distributing company. The domestic withholding tax rate may apply to dividends paid by an investment vehicle that derives income or gains from immovable property, whose income or gains are not taxed and that distributes most of its income annually to a shareholder that owns, directly or indirectly, at least 10% of the capital of the investment vehicle. Otherwise, the rate will be 15%. An exemption will apply to interest paid from one enterprise to another; otherwise, the rate will be 10%. Royalties will be taxable only in the state of residence of the recipient.

Hong Kong-United Arab Emirates: When in effect, the tax treaty signed on 11 December 2014 provides for a 5% withholding tax rate on dividends, interest and royalties.

India: The Pune Tribunal has held that payments by an Indian company to a Swedish parent for management services are not considered fees for technical services (FTS) that are chargeable to tax in India under the India-Sweden tax treaty. In reaching this conclusion, the tribunal applied the most-favored nation clause in the protocol to the treaty with Sweden to import a more restrictive definition of FTS from the India-Portugal tax treaty that requires the services to “make available” technical knowledge, experience, skills, know-how or processes, and concluded that the management services did not meet this definition.

Ireland-Ethiopia: When in effect, the tax treaty signed on 3 November 2014 provides for a 5% withholding tax rate on dividends, interest and royalties.

Italy-Switzerland: See article in this issue.
URL: http://newsletters.usdbriefs.com/2015/Tax/WTA/150123_7.html

Singapore-Uruguay: When in effect, the tax treaty signed on 15 January 2015 provides for a 5% withholding tax rate where dividends are paid to a company (other than a partnership) that holds directly at least 10% of the capital of the distributing company; otherwise, the rate will be 10%. A 0% rate will apply to interest paid between financial institutions; otherwise, the rate will be 10%. A 5% rate will apply to royalties for the use of, or the right to use, a copyright of literary, artistic or scientific work, including cinematograph films or films or tapes used for radio or television broadcasting; otherwise, the rate will be 10%.

United States: Intergovernmental agreements to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA) were signed between the US and Curaçao (on 16 December 2014) and Qatar (on 7 January 2015).

Bilateral treaties and protocols for DITS countries that are in effect as from 2015: The following table reflects tax treaties and protocols that became effective on 1 January 2015 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-Switzerland	0/5/15	0/10	5
The 0% rate applies if the recipient of the dividends has directly or indirectly owned shares representing 80% or more of the voting power of an Australian distributing company for a 12-month period ending on the date the dividend is declared and the recipient company meets certain specified conditions. Dividends also are exempt if the recipient holds directly no more than 10% of the voting power in an Australian distributing company and is a Swiss pension scheme whose income is exempt from Swiss tax. A 5% rate applies if the recipient of the dividends is a company that holds directly at least 10% of the voting power in an Australian distributing company; otherwise, the rate is 15%. Interest is exempt from withholding tax if it is derived by a financial institution that is unrelated to and dealing wholly independently with the payer (except in a back-to-back loan or similar arrangement), or if it is derived by a Swiss pension scheme whose investment income is exempt from Swiss tax; however, this exemption does not apply where the beneficial owner of the interest participates directly or indirectly in the management, control or capital or has a right to participate in the financial, operating or policy decisions of the issuer of the debt claim. Otherwise, the rate is 10%.			
Austria-Taiwan	10	0/10	10
The 0% rate applies to interest paid on loans granted, guaranteed or insured by an approved financial institution of the other territory for the purposes of promoting exports and on all loans between banks; otherwise, the rate is 10%.			
Brazil-Trinidad and Tobago	10/15	15	15
The 10% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the distributing company; otherwise, the rate is 15%.			
Brazil-Venezuela	10/15	15	15
The treaty applies in Venezuela as from 1 January 2011. The 10% rate applies to dividends paid to a company (other than a partnership) that controls, directly or indirectly, at least 20% of the capital of the distributing company; otherwise, the rate is 15%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Canada-United Kingdom	0/5/15	0/10	-
The protocol provides for a 0% rate on dividends paid to qualifying organizations that administer or provide benefits under one or more recognized pension plans; the 5% rate from the treaty continues to apply to dividends paid to a company that controls, directly or indirectly, at least 10% of the voting power in the distributing company; otherwise, the default rate remains 15%. A 0% rate applies to interest (other than certain contingent interest) paid between parties dealing at arm's length; otherwise, the rate is 10%. The withholding tax rate on royalties is not affected by the protocol.			
China-Ecuador	5	10	10
China-France	5/10/D	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 distributing company; otherwise, the rate is 10%. However, where dividends are paid out of income or gains derived from immovable property by a tax-exempt investment vehicle that distributes most of its income or gains annually and the beneficial owner of the dividends directly or indirectly holds 10% or more of the capital of the vehicle paying the dividends, the dividends may be taxed at the domestic rate applying in the source state.			
China-Netherlands	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 distributing company; otherwise, the rate is 10%. Royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment are subject to a 10% withholding tax on 60% of the gross amount; otherwise, the rate is 10%.			
China-Switzerland	5/10	10	9
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 distributing company; otherwise, the rate is 10%.			
Colombia-India	5	10	10
The treaty applies in India for withholding tax purposes as from 1 April 2015.			
Colombia-Korea	5/10	10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 20% of the capital of the distributing company; otherwise, the rate is 10%.			
Cyprus-Iceland	5/10	0	5
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 distributing company; otherwise, the rate is 10%.			
Cyprus-Lithuania	0/5	0	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%.			
Cyprus-Norway	0/15	0	0
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 15%.			
Cyprus-Spain	0/5	0	0
The 0% rate applies to dividends paid to a company whose capital is wholly or partly divided into shares and that holds directly at least 10% of the capital of the distributing company; otherwise, the rate is 5%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Czech Republic-Luxembourg	0/10	0	0/10
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 distributing company for an uninterrupted period of at least one year; otherwise, the rate is 10%. A 10% rate applies to royalties paid for a copyright of literary, artistic or scientific works (except computer software), as well as cinematograph films and films or tapes for television or radio broadcasting; otherwise, the rate is 0%.			
Czech Republic-Singapore	-	-	0/5/10
The protocol applies in Singapore for withholding tax purposes as from 1 January 2016. The protocol provides for a 0% rate on royalties for a copyright of literary, artistic or scientific work, except for computer software and including cinematograph films and films or tapes for television or radio broadcasting; a 5% rate on royalties received as consideration for the use of, or the right to use, industrial, commercial or scientific equipment; and a 10% rate on royalties received as consideration for the use of, or the right to use, a patent, trademark, design or model, plan, secret formula or process and computer software or for information concerning industrial, commercial or scientific experience. The withholding tax rates on dividends and interest are not affected by the protocol.			
Ecuador-China	5	10	10
France-China	5/10/D	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 distributing company; otherwise, the rate generally is 10%. However, where dividends are paid out of income or gains derived from immovable property by a tax-exempt investment vehicle that distributes most of its income or gains annually and the beneficial owner of the dividends directly or indirectly holds 10% or more of the capital of the vehicle paying the dividends, the dividends may be taxed at the domestic rate applying in the source state.			
Greece-San Marino	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 distributing company; otherwise, the rate is 10%.			
Hungary-Republic of Kosovo	0/5	0	0
The 0% rate applies to dividends paid to a company (other than a partnership that is not liable to tax) that holds directly at least 25% of the capital of the distributing company; otherwise, the rate is 5%.			
Hungary-Switzerland	0/15	0	0
The 0% rate applies to dividends paid to a company (other than a partnership that is not liable to tax) that holds directly at least 10% of the capital of the distributing company, or dividends paid to a pension scheme; otherwise, the rate is 15%.			
Hungary-United Arab Emirates	0	0	0
Iceland-Cyprus	5/10	0	5
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 distributing company; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Iceland-United Kingdom	0/5/15	0	0/5
The 0% rate applies to dividends paid to a pension scheme; 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 distributing company; otherwise, the rate is 15%. A 5% rate applies to royalties for information concerning industrial, commercial or scientific experience provided in connection with a rental or franchise agreement, a trademark associated with a rental or franchise agreement or a copyright in respect of film or television works; otherwise, the rate is 0%.			
Indonesia-Papua New Guinea	15	10	10
Israel-Panama	5/15/20	0/15	15
The 5% rate applies to dividends paid to a pension fund; the 20% rate applies to dividends distributed by a REIT where the recipient holds directly less than 10% of the capital of the REIT payer; otherwise, the rate is 15%. A 0% rate applies to interest paid to a pension fund; otherwise, the rate is 15%.			
Italy-Republic of the Congo	8/15	0	10
The 8% rate applies to dividends paid to a company (other than a partnership) that holds at least 10% of the capital of the distributing company; otherwise, the rate is 15%.			
Japan-Oman	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 period of six months ending on the date on which entitlement to the dividends is determined; otherwise, the rate is 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.			
Japan-Sweden	0/10	0	0
The protocol provides for a 0% withholding tax on dividends paid to a company (other than a partnership) that has held, directly or indirectly, at least 10% of the voting power of the distributing company for the six-month period ending on the date entitlement to the dividends is determined; otherwise, the rate is 10%. The 0% 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 its state of residence. Interest (with exceptions for certain contingent interest) is taxable only in the state of residence of the recipient.			
Japan-United Arab Emirates	5/10	10	10
The 5% rate applies to dividends paid to a company that owns, directly or indirectly, at least 10% of the voting shares of the distributing company for the six-month period ending on the date entitlement to the dividends is determined; otherwise, the rate is 10%.			
Japan-United Kingdom	0/10	0/10	-
The protocol provides for a 0% withholding tax on dividends paid to (i) a company that has owned shares representing, directly or indirectly, at least 10% of the voting power of the distributing company for the six-month period ending on the date entitlement to the dividends is determined, or (ii) a pension fund, provided the dividends are not related to the carrying on of the pension fund's business; otherwise, the rate is 10%. Interest is taxable only in the state of residence of the recipient, except for certain contingent interest that is subject to a 10% withholding tax. The tax treatment of royalties is not affected by the protocol.			
Korea-Colombia	5/10	10	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 20% of the capital of the distributing company; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Korea-Peru	10	15	10/15
Royalties paid for technical services are taxed at 10%; otherwise, the rate is 15%.			
Lithuania-Cyprus	0/5	0	5
The 0% rate applies to dividends are 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%.			
Lithuania-Turkmenistan	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 distributing company; otherwise, the rate is 10%.			
Lithuania-United Arab Emirates	0/5	0	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%.			
Luxembourg-Czech Republic	0/10	0	0/10
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 distributing company for an uninterrupted period of at least one year; otherwise, the rate is 10%. A 10% rate applies to royalties paid for a copyright of literary, artistic or scientific works (except computer software), as well as cinematograph films and films or tapes for television or radio broadcasting; otherwise, the rate is 0%.			
Luxembourg-Guernsey	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 capital of the distributing company; otherwise, the rate is 15%.			
Luxembourg-Isle of Man	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 capital of the distributing company; otherwise, the rate is 15%.			
Luxembourg-Jersey	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 capital of the distributing company; otherwise, the rate is 15%.			
Luxembourg-Laos	5/15	0/10	5
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 distributing company; otherwise, the rate is 15%. A 0% rate applies where interest is paid to a financial institution; otherwise, the rate is 10%.			
Luxembourg-Saudi Arabia	5	0	5/7
The 5% rate applies to royalties paid in consideration for the right to use industrial, commercial or scientific equipment; otherwise, the rate is 7%.			
Luxembourg-Sri Lanka	7.5/10	10	10
The 7.5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the distributing company; otherwise, the rate is 10%.			
Luxembourg-Taiwan	10/15	0/10/15	10
The 15% rate applies to dividends where the recipient is a collective investment vehicle in the other state and treated as a body corporate in that other state; otherwise, the rate is 10%. A 0% rate applies to interest on loans between banks; a 15% rate applies where the recipient is a collective investment vehicle in the other state and treated as a body corporate in that other state; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Malta-India	0	10	10
The treaty applies in India as from 1 April 2014. Where dividends are paid by a Malta company to an Indian company, Malta tax on the dividends may not exceed that chargeable on the profits from which the dividends are paid.			
Malta-Liechtenstein	0	0	0
Malta-Mexico	0	5/10	10
A 5% rate applies to interest paid on a bank loan; otherwise, the rate is 10%.			
Malta-Russia	0	5	5
Where dividends are paid by a Malta company to a Russian company, Malta tax on the gross amount of the dividends may not exceed that chargeable on the profits from which the dividends are paid.			
Mauritius-Guernsey	0	0	0
Mauritius-Republic of Congo	0/5	0	0
The 0% rate applies to dividends paid to a recipient that holds at least 25% of the capital of the distributing company; otherwise, the rate is 5%.			
Mexico-Malta	0	5/10	10
The 5% rate applies to interest paid on a bank loan; otherwise, the rate is 10%.			
Mexico-Peru	10/15	15	15
The 10% rate applies to dividends paid to a company that holds, directly or indirectly, at least 25% of the voting rights of the distributing company; otherwise, the rate is 15%.			
Mexico-United Arab Emirates	0	4.9/10	10
The 4.9% rate applies to interest paid to a bank; otherwise, the rate is 10%.			
Netherlands-China	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 distributing company; otherwise, the rate is 10%. Royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment are subject to a 10% withholding tax on 60% of the gross amount; otherwise, the rate is 10%.			
New Zealand-Vietnam	5/15	10	10
The 5% rate applies to dividends paid to a company that holds directly at least 50% of the voting power in the distributing company; otherwise, the rate is 15%.			
Norway-Cyprus	0/15	0	0
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 15%.			
Peru-Korea	10	15	10/15
Royalties paid for technical services are taxed at 10%; otherwise, the rate is 15%.			
Peru-Mexico	10/15	15	15
The 10% rate applies to dividends paid to a company that holds, directly or indirectly, at least 25% of the voting rights of the distributing company; otherwise, the rate is 15%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Peru-Portugal	10/15	10/15	10/15
The 10% rate applies to dividends paid by a Peru company to a Portugal company (other than a partnership) that holds directly at least 10% of the voting power of the distributing company; otherwise, the rate is 15%. Interest paid on a bank loan is taxable at a maximum rate of 10%; otherwise, the rate is 15%. A 10% rate applies to royalties paid for technical assistance in connection with the use of, or the right to use, a copyright of literary, artistic or scientific work (including computer software, cinematographic films and other means of audio or video reproduction) or a patent, trademark or secret formula, or for industrial, commercial or scientific information; otherwise, the rate is 15%.			
Peru-Switzerland	10/15	10/15	10/15
The 10% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the distributing company; otherwise, the rate is 15%. A 10% rate applies to interest incurred on financing obtained to acquire industrial, commercial or scientific equipment or on a bank loan; otherwise, the rate is 15%. A 10% rate applies to royalties paid for technical assistance or digital services; otherwise, the rate is 15%.			
Poland-India	10	10	15
The treaty applies in India as from 1 April 2015. The rate on royalties also applies to technical service fees.			
Poland-Singapore	5/10	5	2/5
The 5% rate applies to dividends paid to a company (other than a partnership) that controls directly at least 10% of the capital of the distributing company on the date the dividends are paid and has held or will have held the participation for an uninterrupted 24-month period in which that date falls; otherwise, the rate is 10%. A 2% rate applies to royalties paid for industrial, commercial or scientific equipment; otherwise, the rate is 5%.			
Poland-Slovakia	0/5	5	-
The protocol provides for a 0% rate on dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the distributing company on the date the dividends are paid, and has held the participation or will have done so for an uninterrupted 24-month period within which that date falls; otherwise, the rate is 5%. The withholding tax rate on royalties is not affected by the protocol.			
Portugal-Peru	10/15	10/15	10/15
The 10% rate applies to dividends paid by a Portugal company to a Peru company (other than a partnership) that holds directly at least 10% of the capital of the distributing company; otherwise, the rate is 15%. The rate on interest paid on a bank is 10%; otherwise, the rate is 15%. A 10% rate applies to royalties paid for technical assistance in connection with the use of, or the right to use, a copyright of literary, artistic or scientific work (including computer software, cinematographic films and other means of audio or video reproduction) or a patent, trademark or secret formula, or for industrial, commercial or scientific information; otherwise, the rate is 15%.			
Portugal-Qatar	5/10	10	10
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 distributing company; otherwise, the rate is 10%.			
Romania-Uruguay	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 distributing company; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Russia-Malta	5/10	5	5
The 5% rate applies to dividends paid by a Russian resident company to a Malta company that holds directly at least 25% of the capital of the Russian company and the holding is at least EUR 100,000; otherwise, the rate is 10%.			
Saudi Arabia-Luxembourg	5	0	5/7
The 5% rate applies to royalties paid in consideration for the right to use industrial, commercial or scientific equipment; otherwise, the rate is 7%.			
Singapore-Liechtenstein	0	12	8
Singapore-Morocco	8/10	10	10
The 8% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the distributing company; otherwise, the rate is 10%.			
Singapore-Poland	5/10	5	2/5
The 5% rate applies to dividends paid to a company (other than a partnership) that controls directly at least 10% of the capital of the distributing company on the date the dividends are paid and has held or will have held the participation for an uninterrupted 24-month period in which that date falls; otherwise, the rate is 10%. A 2% rate applies to royalties paid for industrial, commercial or scientific equipment; otherwise, the rate is 5%.			
Slovakia-Kuwait	0	10	10
Slovakia-Poland	0/5	5	-
The protocol provides for a 0% rate on dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the distributing company on the date the dividends are paid, and has held the participation or will have done so for an uninterrupted 24-month period within which that date falls; otherwise, the rate is 5%. The withholding tax rate on royalties is not affected by the protocol.			
Slovenia-Iran	7	0/5	5
The treaty applies in Iran as from 21 March 2015. 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 any merchandise by an enterprise to another enterprise on credit; otherwise, the rate is 5%			
Slovenia-Republic of Kosovo	5/10	5	5
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 distributing company; otherwise, the rate is 10%.			
Slovenia-United Arab Emirates	5	5	5
Spain-Cyprus	0/5	0	0
The 0% rate applies to dividends paid to a company whose capital is wholly or partly divided into shares and that holds directly at least 10% of the capital of the distributing company; otherwise, the rate is 5%.			
Sweden-Georgia	0/10	0	0
The 0% rate applies to dividends paid to a company (other than a partnership) that holds at least 10% of the capital or voting power of the distributing company; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Sweden-Japan	0/10	0	0
The protocol provides that 0% rate applies to dividends paid to a company (other than a partnership) that has held, directly or indirectly, at least 10% of the voting power of the distributing company for the six-month period ending on the date entitlement to the dividends is determined; otherwise, the rate is 10%. The 0% 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 its state of residence. Interest (with exceptions for certain contingent interest) is taxable only in the state of residence of the recipient.			
Switzerland-Australia	0/5/15	0/10	5
The 0% rate applies if the recipient of the dividends has directly or indirectly owned shares representing 80% or more of the capital of a Swiss distributing company for a 12-month period ending on the date the dividend is declared and the recipient company meets certain specified conditions. Dividends also are exempt if the recipient holds directly no more than 10% of the capital in a Swiss distributing company and is an Australian resident deriving the dividends from complying superannuation activities. A 5% rate applies if the recipient of the dividends is a company that holds directly at least 10% of the capital in a Swiss distributing company; otherwise, the rate is 15%. Interest is exempt from withholding tax if it is derived by a financial institution that is unrelated to and dealing wholly independently with the payer (except in a back-to-back loan or similar arrangement), or if it is derived by an Australian resident from complying superannuation activities; however, this exemption does not apply when the beneficial owner of the interest participates directly or indirectly in the management, control or capital or has a right to participate in the financial, operating or policy decisions of the issuer of the debt claim. Otherwise, the rate is 10%.			
Switzerland-China	5/10	10	9
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 distributing company; otherwise, the rate is 10%.			
Switzerland-Hungary	0/15	0	0
The 0% rate applies to dividends paid to a company (other than a partnership that is not liable to tax) that holds directly at least 10% of the capital of the distributing company, or to a pension scheme; otherwise, the rate is 15%.			
Switzerland-Kazakhstan	0/5/15	-	-
The protocol provides that the 0% rate applies to dividends paid to a qualifying pension fund or other similar institution providing pension schemes; a 5% rate apples where dividends are 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 15%. The tax treatment of interest and royalties is not affected by the protocol.			
Switzerland-Peru	10/15	10/15	10/15
The 10% rate applies to dividends paid to a company that holds directly at least 10% of the capital of the distributing company; otherwise, the rate is 15%. A 10% rate applies to interest incurred on financing obtained to acquire industrial, commercial or scientific equipment or on a bank loan; otherwise, the rate is 15%. A 10% rate applies to royalties paid for technical assistance or digital services; otherwise, the rate is 15%.			
Taiwan-Austria	10	0/10	10
The 0% rate applies to interest paid on loans granted, guaranteed or insured by an approved financial institution of the other territory for the purposes of promoting exports and on all loans between banks; otherwise, the rate is 10%.			
Taiwan-Kiribati	10	10	10

Treaty	Dividends (%)	Interest (%)	Royalties (%)
Taiwan-Luxembourg	10/15	0/10/15	10
The 15% rate applies to dividends where the recipient is a collective investment vehicle in the other state and treated as a body corporate in that other state; otherwise, the rate is 10%. A 0% rate applies to interest on loans between banks; a 15% rate applies where the recipient is a collective investment vehicle in the other state and treated as a body corporate in that other state; otherwise, the rate is 10%.			
United Kingdom-Canada	0/5/15	0/10	-
The protocol provides for a 0% rate on dividends paid to qualifying organizations that administer or provide benefits under one or more recognized pension plans; the 5% rate from the treaty continues to apply to dividends paid to a company that controls, directly or indirectly, at least 10% of the voting power in the distributing company; otherwise, the default rate remains 15%. A 0% rate applies to interest (other than certain contingent interest) paid between parties dealing at arm's length; otherwise, the rate is 10%. The withholding tax rate on royalties is not affected by the protocol.			
United Kingdom-Iceland	0/5/15	0	0/5
The 0% rate applies to dividends paid to a pension scheme; 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 distributing company; otherwise, the rate is 15%. A 5% rate applies to royalties for information concerning industrial, commercial or scientific experience provided in connection with a rental or franchise agreement, a trademark associated with a rental or franchise agreement or a copyright in respect of film or television works; otherwise, the rate is 0%.			
United Kingdom-Japan	0/10	0/10	-
The protocol provides for a 0% withholding tax on dividends paid to (i) a company that has owned shares representing, directly or indirectly, at least 10% of the voting power of the distributing company for the six-month period ending on the date entitlement to the dividends is determined, or (ii) a pension fund, provided the dividends are not related to the carrying on of the pension fund's business; otherwise, the rate is 10%. Interest is taxable only in the state of residence of the recipient, except for certain contingent interest that is subject to a 10% withholding tax. The tax treatment of royalties is not affected by the protocol.			
Uruguay-Romania	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 distributing company; otherwise, the rate is 10%.			
Vietnam-New Zealand	5/15	10	10
The 5% rate applies to dividends paid to a company that holds directly at least 50% of the voting power of the distributing company; otherwise, the rate is 15%.			
Vietnam-Palestinian Territories	10	10	10

Are You Getting Your Global Tax Alerts?

Throughout the week, Deloitte provides commentary and analysis on developments affecting cross-border transactions on a free subscription basis delivered straight to your email. Read the recent alerts below or visit the archive.

Subscribe: http://www2.deloitte.com/global/en/pages/tax/articles/global-tax-newsletter-sign-up.html?id=us:em:na:wta:eng:tax
Archives: http://www2.deloitte.com/content/www/global/en/pages/tax/articles/global-tax-alerts.html?id=us:em:na:wta:eng:tax

No new alerts were issued this period. Be sure to refer to the archives to ensure that you are up to date on the most recent releases.