Global Tax Developments Quarterly

Accounting for Income Taxes

Summary of recent international tax developments that may have implications on accounting for income taxes under US GAAP

April 1, 2023–June 30, 2023
June 30, 2023
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Introduction

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Applicable US GAAP guidance

Under US GAAP, the effects of new legislation are recognized upon enactment. More specifically, the effect of a change in tax laws or rates on a deferred tax liability or asset is recognized as a discrete item in the interim period that includes the enactment date. The tax effects of a change in tax laws or rates on taxes currently payable or refundable for the current year are reflected in the computation of the annual effective tax rate after the effective dates prescribed in the statutes, beginning no earlier than the first interim period that includes the enactment date of the new legislation. However, any effect of tax law or rate changes on taxes payable or refundable for a prior year, such as when the change has retroactive effects, is recognized upon enactment as a discrete item of tax expense or benefit for the current year. While there is no specific guidance as to what constitutes "enactment" under US GAAP, it is commonly accepted that enactment takes place on the date the last step in the legislative process required to promulgate the law is complete (e.g., a law is published in an official gazette, signed by a president, or receives Royal Assent).

Enacted Tax Law Changes: April 1, 2023 to June 30, 2023

The following section includes a summary of major international income tax law changes enacted during the period April 1, 2023 to June 30, 2023.

Albania

New law on income tax significantly amends corporate, individual, and withholding tax

Date of Enactment: May 2, 2023
Effective Date: January 1, 2024

Law No. 29/2023 "On income tax" ("the new law") dated March 30, 2023, was published in Albania's official gazette on May 2, 2023. The new law introduces significant changes to corporate income tax, individual income tax, and withholding tax and will become fully effective on January 1, 2024, when it will replace Law No. 8438, "On income tax," as amended ("the current law") dated December 28, 1998. The relevant bylaws providing further detailed instructions on the implementation of each article of the new law are expected to be approved and issued by August 2023.

See also tax@hand - May 23, 2023

Belgium

Law relating to mergers, demergers, and conversions enters into force

Date of Enactment: May 25, 2023
Effective Date: June 16, 2023

The Belgian mobility law of May 25, 2023 (available in French) implementing the EU mobility directive (Directive (EU) 2019/2121 of November 27, 2019) relating to cross-border conversions, mergers, and demergers of companies entered into force as from June 16, 2023. Corporate restructurings with draft terms filed with the enterprise court on or after that date are subject to the new law; ongoing restructuring procedures are unaffected.

The new law introduces substantial changes to the landscape for both domestic and cross-border restructurings involving Belgian companies but primarily affects cross-border restructurings which, in accordance with the terms of the EU mobility directive, are often regulated more rigorously to increase the protection for all parties involved (including minority shareholders, creditors, and employees). Nonetheless, certain changes to domestic restructuring proceedings are also of note, such as the introduction of a simplified procedure for mergers between companies in which all shares are directly or indirectly held by one person, or by multiple shareholders in the same proportions. Such "sister" companies are allowed to merge without issuing new shares and are therefore exempt from some otherwise important formalities.

See also tax@hand - June 19, 2023

China

R&D super deduction rate increased to 100% for all eligible sectors

Date of Enactment: March 26, 2023
Effective Date: January 1, 2023

On March 24, 2023, China's State Council announced an increase of the super deduction rate for research and development (R&D) expenditure from 75% to 100% for all eligible sectors. The Ministry of Finance (MOF) and State Taxation Administration (STA) published Bulletin [2023] No. 7 (Bulletin 7) on March 26, 2023, to confirm that the 100% rate applies retroactively as from January 1, 2023. In addition, the STA has published updated policy guidance on its official website regarding the R&D super deduction.

See also tax@hand - April 12, 2023

Malaysia

Key tax measures relevant to companies in enacted Finance Act 2023

Date of Enactment: May 31, 2023
Effective Date: Various

Malaysia's Finance Act 2023 was published in the government gazette on May 31, 2023 and came into operation on June 1, 2023. The act was passed by the House of Representatives and Senate on April 10, 2023, and received royal assent from the king on May 31, 2023. The Finance Act 2023 adopts all provisions proposed in the Finance Bill 2023 and the Finance Bill 2023 (Amendment in Committee), including an amendment extending the personal tax relief of up to MYR 8,000 for deposits made by contributors into a National Education Savings Scheme (SSPN) account for their child until year of assessment (YA) 2024 (the relief initially expired after YA 2022).

Although the government plans to consider the introduction of a capital gains tax on the disposal of unlisted shares by companies as from 2024, the Finance Act 2023 does not include any provisions relating to such a tax. Other proposed changes will be legislated by way of gazette order, such as the increase in the tax-deductible rental expense for a non-commercial electric vehicle up to MYR 300,000 (currently, the cap is MYR 50,000 or MYR 100,000, depending on the cost of the motor vehicle when it was new).

This article focuses on the key tax measures for companies that were enacted in the Finance Act 2023, some of which are effective as from YA 2023 and may affect a company's estimate of tax payable for the YA.

See also tax@hand - June 19, 2023

Portugal

Equity-based incentive plans: New tax regime for startups and scaleups introduced

Date of Enactment: May 25, 2023
Effective Date: January 1, 2023

In December 2022, the Portuguese government presented a legislative proposal to create a new tax regime for equity-based incentive plans offered by "startup" companies, or by "scaleup" companies (as defined in the legislation) that qualify as innovative companies or small or medium-sized enterprises (SMEs). Following approval by the Portuguese parliament, the regime was established by Law No. 21/2023, which was published on May 25, 2023, and is now in force.

The law is effective retroactively as from January 1, 2023, and the regime also applies to stock option plans approved up to December 31, 2022, if the company that established the plan qualifies as a startup. The regime aims to make Portugal a more attractive location for both innovative companies and their employees by allowing certain income derived by employees participating in a stock option plan to qualify for deferred taxation, as well as for a reduced effective tax rate, provided certain conditions are fulfilled by the employer and the employee.

See also tax@hand - June 5, 2023

Qatar

Significant amendments to Executive Regulations of Income Tax Law published

Date of Enactment: May 17, 2023
Effective Date: May 17, 2023

Significant amendments to the Executive Regulations of the Income Tax Law No. 24 of 2018 in accordance with Decision of the Council of Ministers No. (3) of 2023 were published in Qatar's official gazette on May 17, 2023 and are effective as from that date.

This article highlights the key amendments primarily affecting the activities of foreign investors, including changes to the definition of permanent establishment (PE) and the taxation of PEs and branches; the introduction of new disclosure requirements around legal and beneficial ownership; and the extension of the powers of the General Tax Authority (GTA) to include the power to obtain and exchange information under international agreements.

See also tax@hand - June 15, 2023

Spain

New law includes measures transposing DAC 7 into domestic law

Date of Enactment: May 25, 2023
Effective Date: May 26, 2023

Law 13/2023 of May 24, 2023 ("Law 13/2023"), published in the Spanish official gazette on May 25, 2023, modifies General Tax Law 58/2003 of December 17, 2003, by transposing into Spanish domestic law the provisions of Council Directive (EU) 2021/514 ("DAC 7") amending Directive 2011/16/EU on administrative cooperation in the field of taxation. Law 13/2023 contains certain other tax measures (including a measure relating to the deductibility of financial expenses for corporate income tax purposes). Law 13/2023 generally entered into force on May 26, 2023, except for specific provisions that entered into force on January 1, 2023 or that will enter into force on January 1, 2024, as mentioned in the article.

See also tax@hand - May 25, 2023

Thailand

Rules provided for tax deduction for certain donations to Royal Forest Department

Date of Enactment: April 28, 2023
Effective Date: January 1, 2023

A notification from the Director-General of the Thai Revenue Department on income tax (No. 434) issued on April 28, 2023, provides rules and criteria for claiming the individual or corporate income tax deduction with respect to cash donations made to the Royal Forest Department via the electronic donation (e-Donation) system to support community forest sites in Thailand. The deduction is available for qualifying donations made from January 1, 2023, to December 31, 2027, and is allowed by a royal decree (No. 761) issued on March 18, 2023, subject to certain limitations set forth in the royal decree.

See also tax@hand - May 1, 2023, tax@hand - April 1, 2023

Rules provided for tax incentive to promote reduction of carbon emissions

Date of Enactment: April 10, 2023
Effective Date: March 20, 2023

A notification from the Director-General of the Thai Revenue Department on income tax (No. 433) issued on April 10, 2023, provides rules and criteria for claiming the exemption from corporate income tax for companies and juristic partnerships for net profits derived from the sale of carbon credits in Thailand under the "Thailand Voluntary Emission Reduction Program" in relation to a project registered with the Thailand Greenhouse Gas Management Organization (TGO). The tax exemption is available for three consecutive accounting periods (i.e., fiscal years) and is allowed by a royal decree (No. 760) issued on March 18, 2023, that is effective as from March 20, 2023.

See also tax@hand - May 1, 2023, tax@hand - April 1, 2023

United States

President renews call for corporate, high-wealth tax hikes

Date of Enactment: June 3, 2023
Effective Date: Various

US President Biden on June 2, 2023, reiterated his commitment to increasing taxes on large corporations and ultrawealthy individuals.

Biden's comments came during an Oval Office address to discuss congressional passage of the Fiscal Responsibility Act, which suspended the federal debt limit through January 1, 2025, imposed new limits on federal spending, and made other policy changes. The legislation cleared the House on May 31, and the Senate on June 1. The president signed it into law on June 3 after the enrolled bill was delivered to the White House from Capitol Hill.

See also tax@hand - June 12, 2023, tax@hand - June 2, 2023, tax@hand - June 1, 2023
tax@hand - April 21, 2023, tax@hand - May 19, 2023

Enacted Tax Law Changes That Are Now Effective: April 1, 2023 to June 30, 2023

The following section includes a summary of major international income tax law changes enacted before April 1, 2023, but are first effective in the period April 1, 2023, to June 30, 2023.

Ghana

India

United Kingdom

Ghana

New tax laws implementing 2023 budget proposals enacted

Date of Enactment: March 31, 2023
Effective Date: May 1, 2023

On March 31, 2023, following the announcement of various tax policy proposals in the 2023 budget statement, Ghana's parliament enacted a number of new and amending acts to implement the measures, which were published in the official gazette on April 3, 2023. The Ghana Revenue Authority (GRA) has issued a public notice confirming the implementation date for the new laws as May 1, 2023. Key changes for companies include the introduction of a minimum chargeable income regime, unification of the operating loss carryforward rules, restrictions on the deduction of foreign exchange losses, and a new general levy applicable to all business sectors. For individuals, the most significant measures are the introduction of an additional income tax band for residents with a new 35% top rate of income tax, and changes to the taxation of gains from disposals of investment assets.

This article provides a summary of the provisions contained in these acts and their potential implications for taxpayers. The GRA is expected to issue administrative and practical guidelines to provide guidance on the implementation of the new legislation.

See also tax@hand - April 28, 2023

India

Finance Bill, 2023 enacted with amendments

Date of Enactment: March 31, 2023
Effective Date: April 1, 2023

India's Finance Act, 2023 was enacted on March 31, 2023, after being passed by the Lok Sabha (the lower house of parliament), approved by the Rajya Sabha (the upper house), and receiving presidential assent. The Finance Bill, 2023 was initially presented to parliament by the finance minister on February 1, 2023, and a large number of revisions were made to the bill during its passage through parliament. This article highlights some of the key amendments to the original bill in relation to the Income-tax Act, 1961 (ITA). The enacted provisions apply as from April 1, 2023 unless otherwise stated and all legislative references are to the ITA.

See also tax@hand - April 15, 2023

United Kingdom

Finance Act 2023 receives royal assent

Date of Enactment: January 10, 2023
Effective Date: Various

The UK "Autumn Finance Bill 2022," the brief finance bill introduced in November 2022 to enact a small number of key tax changes announced in November's Autumn Statement, received royal assent on January 10, 2023 and has become Finance Act 2023.

The act comprises 12 sections in total and includes changes to the energy profits levy as from January 1, 2023, changes to corporation tax research and development relief rates as from April 1, 2023, and the reduction of the income tax additional rate threshold as from April 6, 2023.

See also tax@hand - January 13, 2023

Corporation tax increased to 25% effective as of April 1, 2023

Date of Enactment: June 10, 2021
Effective Date: April 1, 2023

On October 14, 2022, the UK prime minister announced her decision to keep in place the increase in the main rate of corporation tax to 25% as from April 1, 2023, reversing the announcement made in September's "mini-budget" that legislation would be introduced to maintain the rate at 19%.

tax@hand - October 17, 2022

Enacted Tax Law Changes That Are Effective After June 30, 2023

The following section includes a summary of major international income tax law changes enacted before July 1, 2023, but effective after June 30, 2023.

Vietnam

Vietnam

2022 Petroleum Law includes tax incentives

Date of Enactment: November 14, 2022
Effective Date: July 1, 2023

Vietnam's Petroleum Law (no. 12/2022/QH15) was officially approved at the 4th Session, 15th National Assembly on November 14, 2022. It contains 11 chapters and 69 articles and is effective as from July 1, 2023. A draft decree providing implementation guidance is currently under discussion and is expected to be released prior to July 1, 2023.

The new law, which includes tax incentives, will positively support investors and increase the efficiency in governmental management of petroleum-related activities in Vietnam, as well as:

- Provide more attractive investment incentives in petroleum projects;
- Re-enforce regulations on petroleum contracts in a more convenient and flexible manner for the investor (e.g., by increasing the petroleum contract period);
- Introduce a new mechanism on full exploitation in petroleum projects;
- Clarify regulations on the approval orders of stages in the petroleum contract;
- Add a new regulation on developing a synchronous chain in petroleum projects to improve the efficiency of the project; and
- Stipulate regulations on accounting, auditing, and finalizing work in accordance with the characteristics of petroleum activities and international petroleum industry practices.

These positive changes should create a more convenient and attractive investment environment that supports the investor by enhancing the efficiency of petroleum investment activities.

See also tax@hand - February 1, 2023

On the Horizon

The following developments had not yet been enacted as of June 30, 2023, but may, in certain cases, be enacted and become effective in the near future. Please follow up with your U.S. or local country tax advisor for more information.

Australia

Exposure draft denying deduction for payments attributed to intangible assets issued

On March 31, 2023, the Australian Treasury issued the Exposure Draft Treasury Laws Amendment (Measures for Consultation) Bill 2023: Deductions for payments relating to intangible assets connected with low corporate tax jurisdictions (the ED).

The ED is the third pillar of the August 5, 2022, Treasury consultation on Multinational Tax Integrity and Tax Transparency, along with proposed changes to Australia's thin capitalization regime, as well as new tax transparency reporting rules.

Broadly, the ED will introduce an anti-avoidance rule whereby tax deductions for payments attributable to the exploitation of intangible assets made by a significant global entity (SGE), directly or indirectly, to an associate in a low corporate tax jurisdiction will be denied. The anti-avoidance rule is to apply to relevant payments made on or after July 1, 2023. The proposed new rule is subject to a consultation period which closes on April 28, 2023.

See also tax@hand - April 4, 2023

Bill containing digital games tax offset legislation passes Senate

On June 21, 2023, the Australian Senate passed the Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 which contains the long-awaited provisions for the digital games tax offset (DGTO). Parts of the bill unrelated to the DGTO were amended, with the House of Representatives immediately agreeing to the amendments, so the bill now awaits royal assent.

The DGTO was announced by the former Coalition government's Digital Economy Strategy in May 2021, with an exposure draft form of the legislation released for public consultation in March 2022. The new Labor government subsequently confirmed that the bill had bipartisan support.

The provisions will introduce new division 378 of the Income Tax Assessment Act 1997 (ITAA 1997) and provide a 30% refundable tax offset for qualifying Australian development expenditure. The provisions will retroactively apply to expenditure incurred as from 1 July 2022, meaning the new regime will encompass both new game development projects and development projects conducted over the past income year.

See also tax@hand - June 21, 2023

Proposed reforms to the petroleum resource rent tax

On May 7, 2023, the Australian treasurer advised of significant changes to the design of the petroleum resource rent tax (PRRT). The package of proposed changes, which include integrity reforms, is expected to increase tax receipts by AUD 2.4 billion over the forward estimates.

The PRRT is a tax on oil and gas projects located offshore in Australian Commonwealth waters. PRRT is levied at the rate of 40% on the taxable profits derived from the petroleum project in a year of tax. The taxable profit derived from a petroleum project in a year of tax is the excess of assessable receipts over the deductible expenditure and transferred exploration expenditure.

If deductible expenditure exceeds the assessable receipts derived during the year, the excess is uplifted and carried forward so it can be deducted against assessable receipts derived in future years.

The PRRT is deductible for income tax and so the 10% assessable receipts now taxed earlier will be at an effective rate of 28% (i.e., 40% x (1-30%)) assuming the taxpayer is taxable.

See also tax@hand - May 8, 2023

Federal Budget 2023-24 tax developments

The Australian Treasurer Jim Chalmers delivered the Federal Budget 2023-24 ("Budget") on May 9, 2023 with the theme "Stronger foundations for a better future."

The key announcements are:

- Australia has announced the implementation timeline and costings for the OECD/G20 Pillar Two global minimum tax;
- The government will expand and strengthen part IVA (the general anti-avoidance rule);
- As previously announced, the government will collect an additional AUD 2.4 billion over the forward estimates from modifications to the petroleum resource rent tax (PRRT);
- The patent box initiatives announced by the Coalition government will not proceed;
- Small and medium businesses will benefit from an additional deduction for spending on electrification and more efficient use of energy;
- There will be a one-year temporary increase in the instant asset write-off to AUD 20,000 for small business;
- Superannuation contributions to be paid on payday as from July 1, 2026; and
- Significant additional funding for the ATO.

The article provides an overview of the key tax proposals for individuals and businesses.

See also tax@hand - May 9, 2023

Weekly tax round-up (26 June 2023)

This article provides a summary of key commonwealth tax developments in Australia.

See also tax@hand - June 26, 2023

Tax legislation containing measures relating to multinationals introduced

On June 22, 2023, the last sitting day of parliament before the slated 1 July 2023 start date, the government introduced a new bill into parliament titled Treasury Laws Amendment (Making Multinationals Pay Their Fair Share—Integrity and Transparency) Bill 2023 ("Multinational Tax Bill" or "Bill"). The Multinational Tax Bill as introduced deals with two of the multinational tax measures:

1. New interest limitation rules; and
2. An element of the tax transparency measures (stage 1), but not the public CbC reporting (stage 2).

The public CbC measure and the intangibles measure were not included in the Bill, although there is commentary in the accompanying explanatory memorandum (EM) on these measures. In addition, on June 23, 2023, the government issued revised ED legislation (not introduced into the parliament) dealing with the intangibles measure.

See also tax@hand - June 26, 2023

Canada

Budget 2023: Clean economy incentives

In Budget 2023, the government of Canada restated and enhanced its commitment to supporting efforts to achieve net-zero carbon emissions by 2050.

The government of Canada's plan for decarbonization includes a set of predictable investment tax credits (ITCs) and low-cost strategic financing. It also incorporates targeted investments and targeted programs to provide the flexibility to support projects of national economic significance.

The article provides an overview of the key pillars of Budget 2023.

See also tax@hand - June 14, 2023

Czech Republic

Government presents "Czech Republic in Shape" consolidation and austerity package

After weeks of debates and negotiations, the Czech government presented "Czech Republic in Shape," its fiscal consolidation and austerity package for the next few years, at a press conference on May 11, 2023. The package contains a set of measures aimed at stabilizing the state budget and reducing inflation in the Czech economy. The measures also include the long-discussed pension reform.

The article provides an overview of selected tax changes in the consolidation and austerity package, including a proposal to increase the corporate income tax rate to 21%. If enacted, the changes could apply as from as early as January 1, 2024.

See also tax@hand - May 11, 2023

Implications for Czech taxpayers of updates to EU noncooperative jurisdictions list

On February 14, 2023, the Council of the European Union issued a press release indicating that four jurisdictions—British Virgin Islands, Costa Rica, Marshall Islands, and Russia—were added to annex I of the EU list of noncooperative jurisdictions for tax purposes (also referred to as the "black list"). This development may have a significant impact on Czech taxpayers, especially with regard to the application of the controlled foreign company (CFC) rules in relation to shares directly or indirectly held in companies in listed jurisdictions and the reporting obligation for certain cross-border arrangements under the EU directive on administrative cooperation in the area of taxation ("DAC 6").

The Czech Ministry of Finance published an updated list of noncooperative jurisdictions that is effective as from February 23, 2023 in the Financial Bulletin (3/2023) (available in the Czech language only). Thus far, the General Financial Directorate has issued only a brief statement (available in the Czech language only) that focuses on the implications of Russia's listing in annex I.

Entities that may be affected by Russia's listing and new obligations that may arise for these entities are discussed in the article.

See also tax@hand - May 29, 2023

Overview of tax amendments proposed in relation to recovery package

Following the Czech government's presentation of its fiscal consolidation and austerity package containing a set of measures aimed at stabilizing the state budget and reducing inflation ("recovery package") on May 11, 2023, the related amendments (available in the Czech language only) proposed to tax legislation and certain other legislation were published on May 22, 2023.

The most important tax changes proposed are summarized in the article, including an increase in the corporate income tax rate to 21%, a reduction in the threshold for the application of the 23% personal income tax rate, and changes to the VAT rates. Unless otherwise noted, the changes generally are expected to be effective as from January 1, 2024.

To be enacted, the amendments must be approved by the Chamber of Deputies (the lower house of parliament), the Senate (the upper house of parliament), and the president.

See also tax@hand - May 31, 2023

Hong Kong SAR

Consultation on refinements to FSIE regime for disposal gains launched

The Hong Kong SAR government in April 2023 released to relevant stakeholders a consultation paper on proposed refinements to the foreign-sourced income exemption (FSIE) regime for foreign-source disposal gains to align the regime with the latest guidance on such regimes issued by the European Union (EU).

Despite having implemented the FSIE regime, under which specified foreign-source income is deemed taxable in Hong Kong SAR (unless certain conditions are met) as from January 1, 2023, Hong Kong SAR remains on the EU's "grey list." This is because the EU updated its guidance on FSIE regimes in December 2022, shortly before Hong Kong SAR's FSIE legislation was passed, and in accordance with the updated guidance, the scope of foreign-source disposal gains under Hong Kong SAR's FSIE regime is not considered sufficiently wide. As a result, Hong Kong SAR is required to amend its FSIE regime with respect to disposal gains by December 31, 2023.

See also tax@hand - April 20, 2023

Analysis of potential tax impacts of proposed risk-based capital regime for insurers

On April 19, 2023, Hong Kong SAR's government introduced the Insurance (Amendment) Bill 2023 to the Legislative Council for a first reading. The bill provides the legal framework for the implementation of a risk-based capital (RBC) regime for the insurance industry, and in particular, seeks to amend the Inland Revenue Ordinance (IRO) to provide for an arrangement permitting the one-time increase in assessable profits arising from the implementation of the regime to be spread over a period of five years.

The new regime is expected to apply as from 2024. The bill is currently under consideration by the Bills Committee and would be enacted after three readings. The new legislation would take effect after publication in the official gazette.

See also tax@hand – May 2, 2023

Ireland

Department of Finance launches feedback statement on EU Pillar Two directive

On March 31, 2023, Ireland's Department of Finance launched a feedback statement on the transposition into domestic law of the EU Pillar Two directive on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the EU. The feedback statement builds on a related May 2022 public consultation.

The feedback statement includes draft legislative approaches to key elements of the global anti-base erosion ("GloBE") rules and contains details on potential approaches in respect of the qualified domestic top-up tax (QDTT). The feedback statement also includes details on potential approaches to the administrative requirements, such as registration, self-assessment, filing of returns, payments, and record-keeping.

See also tax@hand - April 5, 2023

Isle of Man

Joint statement on OECD Pillar Two global minimum tax released

The Isle of Man government announced on May 19, 2023 that a joint approach to the implementation of the OECD's Pillar Two model has been agreed with the governments of Guernsey and Jersey, as set out in a joint statement from the three Crown Dependencies.

Pillar Two will only apply to multinational groups with annual consolidated revenue of at least EUR 750 million. The vast majority of businesses in the Isle of Man will therefore not be within scope of the rules and will continue to be subject to the Isle of Man's established zero/ten corporate tax regime.

The joint statement confirms the Isle of Man's intention to implement an "income inclusion rule" and a domestic minimum tax to provide for a 15% effective tax rate for large in-scope multinational enterprises. A number of jurisdictions (including the UK) will apply Pillar Two rules in 2024; however, the joint statement confirms that the Isle of Man (as well as Guernsey and Jersey) is expected to implement the Pillar Two framework as from 2025.

See also tax@hand - May 25, 2023

Jersey

Joint statement on implementation of OECD Pillar Two framework released

On May 19, 2023, the government of Jersey released a joint statement announcing that the governments of Jersey, Guernsey, and the Isle of Man are adopting a common approach to implementation of the OECD's Pillar Two (the OECD's global minimum tax) framework. This marks the culmination of an extended consultation period by Jersey's government following the release of a policy reflection paper on April 1, 2022, which set out the various implementation options being considered.

Pillar Two will only apply to multinational groups with annual consolidated revenue of at least EUR 750 million. The vast majority of businesses in Jersey will therefore not be within scope of the rules and will continue to be subject to Jersey's established zero/ten corporate tax regime.

The press release confirms Jersey's intention to implement an "income inclusion rule" and a domestic minimum tax, which will broadly impose a 15% effective tax rate for those entities that are in-scope. A number of jurisdictions (including the UK) will apply Pillar Two rules in 2024; however, the statement confirms that implementation in the Crown Dependencies will not take effect until later.

See also tax@hand - May 19, 2023

Netherlands

Bill for Minimum Tax Rate Act 2024 presented to parliament

On May 31, 2023, the Dutch parliament was presented with a bill for the Minimum Tax Rate Act 2024, together with a memorandum of understanding. The bill proposes legislation for the implementation into domestic law of the OECD/G20 Pillar Two global minimum tax rules. The rules would ensure that multinational groups and domestic groups with an annual revenue of EUR 750 million or more pay tax on their profits at an effective rate of at least 15% in each jurisdiction where they operate.

See also tax@hand - May 31, 2023

Norway

Proposed global minimum tax rules introduced for consultation

On June 6, 2023, Norway's Ministry of Finance submitted a proposal for consultation on the introduction into domestic law of the OECD/G20 Pillar Two global minimum tax rules, which would entail significant changes in the taxation of multinational groups within the scope of such rules. The rules are intended to ensure that large multinational groups are taxed at an effective tax rate of at least 15% in all jurisdictions in which they are established. The proposal includes details on an income inclusion rule, and the Ministry of Finance indicated that the details on an undertaxed profits rule will be forthcoming. The Ministry of Finance also recommended the adoption of a domestic top-up tax. The consultation deadline is August 1, 2023.

See also tax@hand - June 12, 2023

Saudi Arabia

ECZA launches special economic zones

On April 14, 2023, Saudi Arabia's Economic Cities and Special Zones Authority (ECZA) announced the launch of special economic zones (SEZs) to create a more competitive investment landscape in Saudi Arabia. The purpose of the SEZs is to provide investors with opportunities for regional and international growth by easing access to the rapidly growing Saudi market.

See also tax@hand - April 26, 2023

Singapore

Bill proposes introduction of tax on capital gains on disposal of foreign assets

On June 6, 2023, Singapore's Ministry of Finance (MoF) issued the draft Income Tax (Amendment) Bill 2023 for public consultation. The bill proposes various legislative changes to implement tax measures announced in Budget 2023, as well as several other changes arising from international tax developments and the MoF's periodic review of Singapore's tax system to better reflect policy objectives and improve tax administration.

A key feature of Singapore's current income tax regime is the nontaxation of capital gains and one of the more significant proposed legislative changes in the bill arising from international tax developments is the introduction of a new provision that would, in certain situations, subject capital gains arising from the sale or disposal of foreign assets on or after January 1, 2024 to tax at the standard corporate income tax rate if the gains are received in Singapore.

The consultation closes on June 30, 2023. The MoF will consider all comments received during the consultation and those accepted will be incorporated into the bill before it is presented to parliament, expected to be in September or during the fourth quarter of the year.

See also tax@hand - June 19, 2023

Sweden

Overview of committee's interim report on implementation of EU Pillar Two directive

On February 7, 2023, the committee requested to analyze implementation in Sweden of the OECD global minimum tax rules under Pillar Two and more specifically the EU minimum tax directive, released an interim report together with a draft bill for proposed new legislation on top-up tax (*Sw. tilläggsskatt*). The rules broadly require large multinational groups with a yearly turnover of EUR 750 million or more to be subject to an effective tax rate of at least 15% in all jurisdictions in which they operate. The proposal is that the rules would enter into force on January 1, 2024 and would apply to fiscal years starting after December 31, 2023. Consultation on the proposed legislation and other matters raised in the report ends on May 15, 2023. The work to complete the report is expected to proceed during and after the consultation period. The final report, incorporating inputs from the consultation where appropriate, will serve as the foundation for a draft bill to be prepared by the government. The draft bill is expected to be distributed for further consultation before the legislation is finalized and enacted.

See also tax@hand - April 6, 2023

Switzerland

Geneva's municipal business tax may be abolished, corporate income tax rate increased

The Geneva Parliament on May 11, 2023, approved a project that would abolish the Swiss canton's municipal business tax (MBT) (*taxe professionnelle communale*) and increase its corporate income tax rate.

Created at the end of the 18th century, the MBT is only levied by the municipalities of the canton of Geneva and covers the gainful commercial activity of legal entities and individuals carried on in the canton.

The MBT is assessed on entities' annual gross revenues, rents, and number of employees.

See also tax@hand - May 12, 2023

Global minimum tax: Voters pave the way for implementation in 2024

On June 18, 2023, Swiss voters approved the most extensive change to the Swiss corporate income tax system in over a century with a large majority. With the amendment of the Swiss constitution, voters have paved the way for the Swiss legislator to introduce the OECD's global minimum tax (Pillar Two, or the global anti-base erosion (GloBE) rules) in Switzerland. The change is expected to come into force as from January 1, 2024.

Pillar Two introduces an additional layer of taxation to Swiss constituent entities of multinational enterprises (MNEs) within the scope of the rules, and introduces a corporate group taxation system in Switzerland with a mandatory 15% tax as determined under the new GloBE rules. The magnitude of the change is significant and will redefine the Swiss corporate income tax environment in the years to come.

See also tax@hand - June 19, 2023, tax@hand - May 3, 2023

United Kingdom

Draft guidance on implementation of Pillar Two IIR and domestic top-up tax published

On June 15, 2023, UK HM Revenue & Customs (HMRC) published draft guidance on the UK's implementation of an income inclusion rule (IIR or "multinational top-up tax") and qualified domestic minimum top-up tax ("domestic top-up tax") based on the OECD/G20 inclusive framework's Pillar Two global minimum tax model rules and guidance. The legislation for implementing both taxes is contained in Finance (No. 2) Bill 2022-23 which is currently proceeding through parliament.

The draft guidance covers which groups will be in scope of the taxes, and how the taxes will be administered and charged. HMRC are consulting on the draft guidance and are inviting comments from stakeholders by September 12, 2023. HMRC state that they will publish further guidance in due course, including updated versions of the draft chapters released as part of the draft guidance.

See also tax@hand - June 19, 2023

Consultation on transfer pricing, permanent establishments, and diverted profits tax

On June 19, 2023, HM Revenue & Customs (HMRC) published a consultation on potential reforms to the UK's transfer pricing, permanent establishments, and diverted profits tax legislation.

The UK government said in April 2023 that it would consult on updating legislation in these areas to ensure consistency with "underlying policy intention, international standards and the UK's bilateral treaties."

See also tax@hand - June 20, 2023

United States

Senate tax writers split over minimum tax rules for domestic multinationals

The question of how to ensure that large US-based multinational businesses pay an appropriate level of domestic tax left members of the US Senate Finance Committee split along party lines at a hearing on May 11, 2023 addressing the pharmaceutical industry and US international tax policy.

Democrats argued that the current-law global intangible low-taxed income (GILTI) rules and other provisions enacted in the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97) encourage domestic multinationals to move intellectual property and manufacturing activities offshore and reduce their US income tax bills to unacceptably low levels. Republicans, meanwhile, contended the TCJA broadened the US tax base and brought jobs back to the US, and that the "Pillar Two" global minimum income tax rules for certain large multinational corporations that are being advanced by the OECD and endorsed by the Biden administration would, if adopted in the US, put US-headquartered taxpayers at a competitive disadvantage on the global playing field.

See also tax@hand - May 12, 2023

Ways and Means Republican proposal takes aim at Pillar Two's undertaxed profits rule

Ahead of a planned visit with tax officials in Europe to express in person their opposition to international tax law changes, US House Republican taxwriters the week of May 22, 2023 introduced legislation that would impose retaliatory taxes on the US income of certain foreign entities and individuals based in jurisdictions that implement an undertaxed profits rule (UTPR) or similar measures to ensure large multinational groups pay a minimum level of tax.

Republicans have long criticized the OECD-driven global tax agreement that the Biden administration signed on to in 2021, and House Ways and Means Committee Chairman Jason Smith, R-Mo., has ratcheted up the condemnation since becoming the chamber's top taxwriter earlier in 2023. Smith has been especially critical of the UTPR, which was crafted as part of the OECD agreement's Pillar Two and serves as a backstop to the primary and secondary rules through the imposition of a "top-up" tax—either by denying a deduction for payments or by making an equivalent adjustment—on the operations of large multinational companies that are otherwise not subject to a minimum level of tax.

See also tax@hand - May 27, 2023

Proposed regulations terminate section 367(d) application to certain repatriated IP

On May 2, 2023, the US Treasury Department and the Internal Revenue Service (IRS) released proposed regulations under Internal Revenue Code section 367(d) affecting certain US persons that previously transferred intangible property ("section 367(d) IP") to a foreign corporation in a transaction subject to section 367(d). The regulations are proposed to apply to subsequent dispositions of section 367(d) IP occurring on or after the date final regulations are published in the Federal Register.

See also tax@hand - May 30, 2023

Ways and Means Republicans advance "economic growth" tax package

Republicans on the US House Ways and Means Committee on June 13, 2023 formally kicked off what could be a months-long debate over the contours of a potential deal on tax legislation in Congress during the year as they approved a trio of largely business-focused tax relief measures that Chairman Jason Smith, R-Mo., argues are intended to promote economic growth.

The Tax Cuts for Working Families Act (text; Joint Committee on Taxation (JCT) summary), the Small Business Jobs Act (text; summary), and the Build it in America Act (text; summary) all cleared the committee with only Republican votes after a roughly 10-hour mark-up session. As expected, a string of amendments proposed by the panel's Democrats failed along party lines.

The three committee-approved measures are expected to be consolidated into a single package—dubbed the American Families and Jobs Act—sometime before the legislation is eventually brought to the House floor.

See also tax@hand - June 17, 2023, tax@hand - June 12, 2023,

House Appropriations panel proposes pared-down IRS budget for FY 2024

The US House of Representatives' Appropriations Financial Services and General Government Subcommittee approved by voice vote on June 22, 2023 a fiscal year (FY) 2024 budget package for the government departments and agencies under its jurisdiction that would allocate USD 11.2 billion to the Internal Revenue Service (IRS)—nearly USD 1.1 billion below the level enacted for FY 2023 and USD 2.9 billion less than the Biden administration requested in the FY 2024 budget blueprint it sent to Congress in March.

The full House Appropriations Committee is expected to take up the Financial Services and General Government funding measure shortly after lawmakers return from their Independence Day recess the week of July 10th. If the pared-down package clears the full committee in its current form and is approved in the House along party lines—outcomes that appear likely—it is destined to encounter resistance in the Democratic-controlled Senate, where appropriators in both parties have agreed to mark up government funding measures that align with the spending caps established in the Fiscal Responsibility Act.

See also tax@hand - June 24, 2023, tax@hand - April 21, 2023, tax@hand - April 6, 2023, tax@hand - April 1, 2023

US-Chile tax treaty clears US Senate

More than a decade after it was originally signed and after overcoming multiple hurdles, the US-Chile tax treaty was approved in the US Senate on June 22, 2023 by a vote of 95-2. Ratification of the treaty has become an increasingly urgent priority for the US Senate in light of the growing reliance by US industries on Chile's vast lithium and copper mines. Majority Leader Charles Schumer, D-N.Y., acknowledged that reality during floor remarks the day before the final vote.

Now that the treaty with Chile has been approved by the full Senate, the US will exchange articles of ratification with the Chilean government, and Chile also will have to vote on the treaty again before it will go into effect. Chile previously approved the original version without the reservation language.

See also tax@hand - June 24, 2023

Did you know

The following section contains information that may be relevant at the date of publication.

France

Taxpayer in loss position may not carry forward unused foreign tax credits

The French Administrative Supreme Court confirmed on March 8, 2023 that a corporate taxpayer in a loss position may not carry forward unused foreign tax credits to a subsequent tax year and that the credits are definitively lost (Conseil d'Etat, 8 March 2023, n°456349, available in French only).

As a reminder, under French tax law, a French company may not deduct foreign withholding taxes paid in accordance with a tax treaty from its corporate income tax base in France—even if the company is in a loss position. The French Administrative Supreme Court has ruled that foreign tax credits that cannot be used because a taxpayer is in a loss position are not refundable by the French Tax Administration (Conseil d'Etat, 27 June 2016, n°388984 and n°392534). The Constitutional Court has ruled that the fact that unused foreign tax credits may not be carried forward is not contrary to the French Constitution (Constitutional Court, 28 September 2017, n°2017-654 QPC).

See also tax@hand - April 19, 2023

Court confirms calculation of foreign tax credit to offset dividend lump sum add-back

According to French law, dividends eligible for the participation exemption regime are tax-exempt, with the exception of a lump sum to be added back to the taxable result (up to 1% or 5% of the gross dividends received, depending on the facts).

In its July 2022 decision, the Conseil d'Etat canceled French Tax Administration (FTA) guidelines that stated that the add-back of a 5% lump sum on dividends that are tax-exempt under the participation exemption regime could not be treated as a tax paid on part of the dividends, thus denying the use of foreign tax credits to offset the add-back. The Conseil d'Etat ruled that the purpose of the add-back is to neutralize the deduction of expenses incurred by the taxpayer in obtaining the dividend income (i.e., the costs associated with acquiring and retaining the participations from which the dividends are derived), but also to subject to corporate income tax (CIT) a portion of the dividends when those expenses are lower than the lump sum add-back (Conseil d'Etat, 5 July 2022, n°463021).

See also tax@hand - April 21, 2023

CJEU rules former French tax consolidation scheme infringes freedom of establishment

Under French law, dividends eligible for the domestic participation exemption regime are 95% tax exempt. The remaining 5% is deemed to represent nondeductible costs relating to the exempt dividends and is added back to the taxable result, to be taxed at the standard corporate income tax rate. The 95% exemption applies regardless of whether the dividends are received from a French subsidiary or a subsidiary in another country (whether within or outside the EU, except for noncooperative states).

For fiscal years commencing prior to January 1, 2016, the 5% lump sum add-back was "neutralized" within tax consolidated groups, by allowing the 5% deemed expense to be deducted from profits, resulting in a full exemption for intragroup dividends. Only a French parent company and its French resident 95% held subsidiaries are permitted to be members of a French tax consolidated group, hence parent companies with subsidiaries established in other EU member states could not benefit from the full exemption.

See also tax@hand - May 16, 2023

Israel

ITA issues guidance on taxation of Simple Agreement for Future Equity instruments

On May 16, 2023, the Israeli Tax Authority (ITA) published guidance setting out the terms and conditions for a Simple Agreement for Future Equity (SAFE) instrument to be classified as a capital instrument and treated as an advance equity investment for tax purposes. No specific date is provided from which the guidance applies.

SAFE instruments provide a quick and efficient means of raising capital for private companies and are frequently used by start-ups (most often in the technology sector) to obtain initial funding. Under a SAFE instrument, capital is immediately injected by an investor into the company, based on an investment agreement, while the actual allocation of the company's shares to the investor will follow at a later stage. An important aspect of a SAFE instrument is that no valuation of the shares is required when the investment is made. During the period between the injection of the capital and its conversion to shares, the capital does not bear interest. On conversion, the investor receives a discount on the share price compared to other new investors participating in the financing round.

See also tax@hand - June 1, 2023

Italy

Ruling issued regarding application of imported hybrid mismatch rule

The Italian tax authorities (ITA) issued a ruling (No. 288) dated April 7, 2023, that provides some clarification on the circumstances in which the ITA may determine that a hybrid mismatch exists and may apply the imported hybrid mismatch rule in a situation involving an Italian company that is part of a multinational enterprise group. The ruling relates specifically to a Swiss tax regime that was introduced following the 2019 abolition of the Swiss "principal company regime" and that allows Swiss companies to amortize, as from January 1, 2020 for federal tax purposes, the step-up of the goodwill that is considered to be recognized upon the "repatriation" of a deemed permanent establishment (PE).

Under the circumstances, the ITA determined that a hybrid mismatch existed and applied the imported hybrid mismatch rule to deny a deduction for costs of goods sold (COGS) at the level of an Italian limited risk distributor (LRD) with respect to transactions involving a Swiss company that benefitted from the deduction for goodwill amortization.

See also tax@hand - April 14, 2023

Luxembourg

AG opines that Luxembourg tax rulings do not constitute unlawful state aid

On May 4, 2023, Advocate General (AG) Kokott of the Court of Justice of the European Union (CJEU) delivered her opinion in the case *C-451/21 P (Luxembourg v. European Commission)* on the appeal lodged by Luxembourg on whether it had granted unlawful state aid in the form of tax advantages. AG Kokott concluded this was not the case.

The European Commission found that Luxembourg had granted favorable tax treatment through rulings granted to taxpayers giving rise to state aid. This conclusion was based on the fact that the advantage granted to taxpayers was considered selective as it was not in line with Luxembourg tax laws. For the European Commission, the selective advantage consisted of a tax exemption at the level of the Luxembourg parent company without taxation at the level of the Luxembourg subsidiary (nonapplication of the "principle of correspondence").

See also tax@hand - May 15, 2023

Mexico

Fringe benefits: A significant but limited deduction for employers

Mexico's 2014 tax reform limiting the deductibility of employee fringe benefits has led taxpayers to hire workers and grant them only the minimum benefits required under the Federal Labor Law (LFT) (fringe benefit plans).

Prior to 2014, any fringe benefits other than those required by the LFT included in plans executed between a taxpayer (employer) and its workers were fully deductible. However, since 2014, these benefits are only partially deductible.

See also tax@hand - May 29, 2023

New Zealand

A little bit "SaaSy"

On March 22, 2023, with nine days to spare before 2022 income tax returns were due, New Zealand Inland Revenue released its draft interpretation guideline, PUB00464: Deductibility of software as a service (SaaS) configuration and customization costs. This gave taxpayers a fairly short window to consider Inland Revenue's (draft) position before potentially submitting their tax returns, but helpfully there were not too many surprises. In short, a deduction should be allowed for costs incurred in configuring or customizing a software as a service (SaaS) application, although there is some complexity involved in determining what timeframe costs are deductible. Like any good tax question, the answer will ultimately depend on the actual arrangements entered into.

See also tax@hand - April 13, 2023

Snapshot of recent tax developments

These articles provides a round-up of New Zealand tax news and developments in April and June 2023 including, but not limited to the following:

- Income tax—cryptoassets and employees
- Investing into a US limited liability company—New Zealand consequences
- Tax treatment of reimbursing payments made to employees
- When employee allowances for additional transport costs for home to work travel are exempt from income tax

See also tax@hand - June 12, 2023, tax@hand - April 12, 2023

Poland

CJEU finds Polish rules restricting interest paid on tax overpayments violate EU law

On June 8, 2023, the Court of Justice of the European Union (CJEU) rendered its decision in case C-322/22, concerning the reimbursement of overpaid Polish corporation tax and the calculation of interest. The CJEU held that the EU principles of effectiveness and sincere cooperation prohibit national legislation that limits or excludes the payment of interest on overpayments of tax when a refund request is submitted more than 30 days after a judgment of the CJEU stating that the tax at issue is contrary to EU law.

The CJEU's decision opens the possibility for investment funds and pension funds outside the EU or European Economic Area to claim interest in Poland in respect of refunds of dividend withholding tax overpayments, potentially with retroactive application.

See also tax@hand - June 19, 2023

Saudi Arabia

ZATCA changes position and requires physical presence for service PEs

Saudi Arabia's Zakat, Tax and Customs Authority (ZATCA) issued a circular on May 17, 2023 stating that a nonresident's employees or personnel must be physically present in Saudi Arabia for the establishment of a service permanent establishment (PE). The service PE concept, based on article 5(3)(b) of the United Nations Model Double Taxation Convention, is included in 54 out of 57 of Saudi Arabia's double taxation agreements (DTAs) and states that a PE encompasses the provision of services by an enterprise through its employees or personnel, if these activities continue in a contracting state for more than 183 days in any 12-month period.

Previously, ZATCA held the position that a physical presence in Saudi Arabia was not necessary to establish a service PE, often referred to as the "virtual PE" approach. Under this approach, a nonresident service provider from a jurisdiction with a DTA containing a service PE article would be deemed to have a PE in Saudi Arabia if services were provided to a customer in the jurisdiction for longer than the specified threshold (usually 183 days) within a 12-month period, even without physical presence.

See also tax@hand - May 24, 2023

Spain

Clarification provided on use of tax loss and tax credit carryforwards in tax groups

On May 5, 2023, the Spanish tax agency ("Agencia Estatal de Administración Tributaria") published guidance (in the form of a note) in which it clarifies some issues related to the use of tax loss carryforwards and tax credit carryforwards generated by members of tax consolidated groups for corporate income tax purposes. Among other things, the note includes clarifications on the allocation rules regarding the use of tax loss carryforwards and tax credit carryforwards generated within a tax consolidated group, and the application of limits on the use of "pre-consolidation" tax loss carryforwards and tax credit carryforwards (i.e., tax loss or tax credit carryforwards generated by a group member prior to joining the group).

See also tax@hand - May 5, 2023

Taiwan

Enterprises entitled to enhanced deduction for salary costs of called-up reservists

In 2022, Taiwan's Ministry of National Defense (MND) piloted a new call-up system and enacted the "The Act Governing Preferential Treatment for Recalled Reservists," which includes an authorization for the MND and the Ministry of Finance to jointly formulate the "Regulations on Additional Deduction of Salary Expenses for Employees on Leave for Accepting a Military Call-up." One of the key features of this tax relief is that the salary paid by enterprises or institutions to employees during the period of leave can be deducted at a rate of 150% from the business' taxable income of the reporting year.

See also tax@hand - April 18, 2023

United Arab Emirates

Corporate tax relief regulations issued for small businesses and start-ups

On April 3, 2023, the Ministry of Finance of the United Arab Emirates issued Ministerial Decision No. 73, which pertains to small business tax relief under article 21 of the corporate tax law. The decision sets forth the revenue threshold and necessary conditions for a resident person to elect to be treated as not having any taxable income for a specified tax period, as follows:

- The revenue threshold is AED 3 million and applies to tax periods beginning on or after June 1, 2023. This threshold will remain in effect for subsequent tax periods ending on or before December 31, 2026. A future ministerial decision will be required to establish the applicable threshold for subsequent tax periods.
- Revenue must be calculated based on applicable accounting standards accepted in the UAE.

- The tax relief is not available to constituent companies of multinational enterprises groups with consolidated revenue exceeding AED 3.15 billion and qualifying free zone persons.
- Electing taxpayers may not carry forward any tax losses or disallowed net interest expenditures incurred during the tax period for which the election is made.

See also tax@hand - April 10, 2023

United Kingdom

HMRC publishes guidance on research and development tax relief changes

Further to a consultation in December 2022, the UK tax authorities (HM Revenue & Customs (HMRC)) on April 18, 2023 finalized and published updated guidance on recent changes to research and development (R&D) tax relief. The guidance is intended to clarify technical aspects of how these changes will work in practice and when they will take effect.

See also tax@hand - April 23, 2023

United States

First allocation round for 48C advanced energy project credit begins on 31 May 2023

On February 13, 2023, the US Treasury Department ("Treasury") and the Internal Revenue Service (IRS) issued Notice 2023-18, establishing the program under section 48C(e)[1] to allocate USD 10 billion of tax credits to qualifying advanced energy projects (USD 4 billion of which may be allocated only to projects located in certain energy communities) ("section 48C(e) program"). The notice provides that at least two allocation rounds are anticipated. On May 31, 2023, the first allocation round ("round 1") begins, allocating credits of USD 4 billion (USD 1.6 billion of which is expected for projects located in certain energy communities). To be considered for round 1, taxpayers must submit concept papers to the Department of Energy (DOE) by July 31, 2023. Treasury and the IRS intend to issue a supplemental notice by May 31, 2023, that will provide additional guidance ("additional section 48C(e) program guidance").

See also tax@hand - April 25, 2023

Transferability of credits: Proposed and temporary regulations

The Inflation Reduction Act of 2022 (P.L. 117-169) (IRA) added a novel "transferable credit" provision, section 6418, to the US Internal Revenue Code.[1] Section 6418 provides that "eligible taxpayers" may elect to transfer (i.e., sell) certain credits to unrelated taxpayers rather than using the credits against their federal income tax liabilities. On June 14, 2023, the Internal Revenue Service (IRS) and Treasury released proposed regulations (REG-101610-23) under section 6418. In addition, the IRS and Treasury issued temporary regulations (T.D. 9975) setting forth mandatory information and registration requirements for transfer elections.

The proposed regulations would generally apply to taxable years ending on or after the date the final regulations are published in the Federal Register. Taxpayers and other entities may rely on the proposed regulations for taxable years beginning after December 31, 2022 and before the date final regulations are published in the Federal Register, provided the proposed regulations are followed in their entirety and in a consistent manner. The temporary regulations apply to taxable years ending on or after the date they are published in the Federal Register. An IRS FAQ further explaining the proposed regulations and temporary regulations was also released. The proposed regulations and temporary regulations are scheduled to be published in the Federal Register on June 21, 2023.

See also tax@hand - June 21, 2023

Direct pay election: Proposed and temporary regulations

The Inflation Reduction Act of 2022 (P.L. 117-169) (IRA) added a novel "direct pay" provision, section 6417, to the US Internal Revenue Code.[1] Section 6417 provides that "applicable entities" (or "electing taxpayers" for credits provided in sections 45V, 45Q, or 45X) may elect to treat certain credits ("applicable credits") as a direct payment made against their federal income tax liabilities, thereby allowing such entities a federal tax refund of the amount of the direct payment in excess of any tax liability (the "direct-payment election").

On June 14, 2023, the Internal Revenue Service (IRS) and Treasury released proposed regulations (REG-101607-23) under section 6417. In addition, the IRS and Treasury issued temporary regulations (T.D. 9975) setting forth mandatory information and registration requirements for direct-payment elections.

See also tax@hand - June 21, 2023

Example Disclosures

The following section contains example financial statement disclosures that may be considered relevant, in part or in whole, at the date of publication.

FASB Accounting Standards Codification (ASC or the "Codification") Topic 740, Income Taxes states that deferred tax liabilities and assets should be adjusted for the effect of changes in tax laws or rates in the period that includes the enactment date. Before enactment, financial statement preparers should consider whether potential changes represent an uncertainty that management reasonably expects will have a material effect on the results of operations, liquidity, or capital resources. If so, financial statement preparers should consider disclosing information about the scope and nature of any potential material effects of the changes. After enactment, when material, financial statement preparers should consider disclosing in Management's Discussion & Analysis (MD&A) the anticipated current and future impact on their results of operations, liquidity, and capital resources. In addition, financial statement preparers should consider disclosures in the critical accounting estimates section of MD&A, the footnotes to the financial statements, or both, to the extent that the changes could materially impact existing assumptions used in making estimates of tax-related balances.

Certain legislation that has been discussed in other sections of this document may lead to an adjustment to the deferred tax balances and current taxes payable recorded on an entity's books and, if material, may need to be disclosed in the company's financial statements. In addition, proposals to change tax laws, rules, regulations, and interpretations could impact an entity's accounting for income taxes in the future. In preparation for possible impacts of the changes in tax laws, companies should consider including disclosure of the impacts of these proposed changes in their financial statements or in MD&A.

The link below provides sample disclosures with respect to issues including but not limited to the US tax reform, indefinite reinvestment, and intra-entity transfers.

See Roadmap to Accounting for Income Tax and Deloitte Financial Reporting Alerts

Quick Reference Guide for Income Tax Rates

The following section includes a summary of combined tax rates applicable in jurisdictions with rate changes in 2023, the related dates of enactment, for US GAAP purposes, of certain income tax rate changes, and supplemental information with respect to certain jurisdictions.

For other jurisdictions see 2023 Global Tax Rates as well as a comparative table of 2019-2023 Global Tax Rates.

Jurisdiction	Combined national/local rate (incl. surcharges, etc.)		Date the combined national/local rate enacted	Notes
	2022	**2023**	**National and Local**	
Austria	25%	24%	February 14, 2022	See tax@hand – June 2022
Korea	10% - 25%	9% - 24%	December 23, 2022	On December 23, 2022, the Korean National Assembly officially passed the 2022 Tax Revision Bill originally announced by the Ministry of Economy and Finance in July 2022. Corporate tax rates for each taxable income bracket are reduced by one percentage point. This amendment will be effective for fiscal years beginning on or after January 1, 2023. See also tax@hand – December 25, 2022
South Africa	28%	27%	February 23, 2022	Rate reduced from 28% for years of assessment ending on or after March 31, 2023. See also tax@hand - February 24, 2022
United Kingdom	19%	25%	January 1, 2022	On October 14, 2022, the UK prime minister announced her decision to keep in place the increase in the main rate of corporation tax to 25% as from April 1, 2023, reversing the announcement made in September's "mini-budget" that legislation would be introduced to maintain the rate at 19%. See also tax@hand - October 17, 2022

Additional Resources

A Roadmap to Accounting for Income Taxes—This Roadmap includes all of Deloitte's interpretive guidance on the accounting for income taxes, combining the income tax accounting rules and implementation guidance from ASC 740 with Deloitte's interpretations.

Accounting for Income Taxes—Global Tax Developments archive

Accounting for Income Taxes Hot Topics archive—A quarterly publication that highlights certain recent tax and accounting developments that may have accounting for income taxes (ASC 740) implications.

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Deloitte International Tax Source (DITS)—An online database featuring corporate, withholding and tax treaty rates and information for 66 jurisdictions worldwide.

Tax Accounting & Provisions Dbriefs Webcasts—A collection of live and archived Dbrief webcasts that give you valuable insights on important developments impacting financial reporting for taxes.

Tax Publications—Various tax publications issued by Deloitte to help clients stay informed on tax legislation and regulations and the potential impact on their businesses.

Deloitte COVID-19 hub—A collection of all the latest Deloitte content in relation to COVID-19.

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