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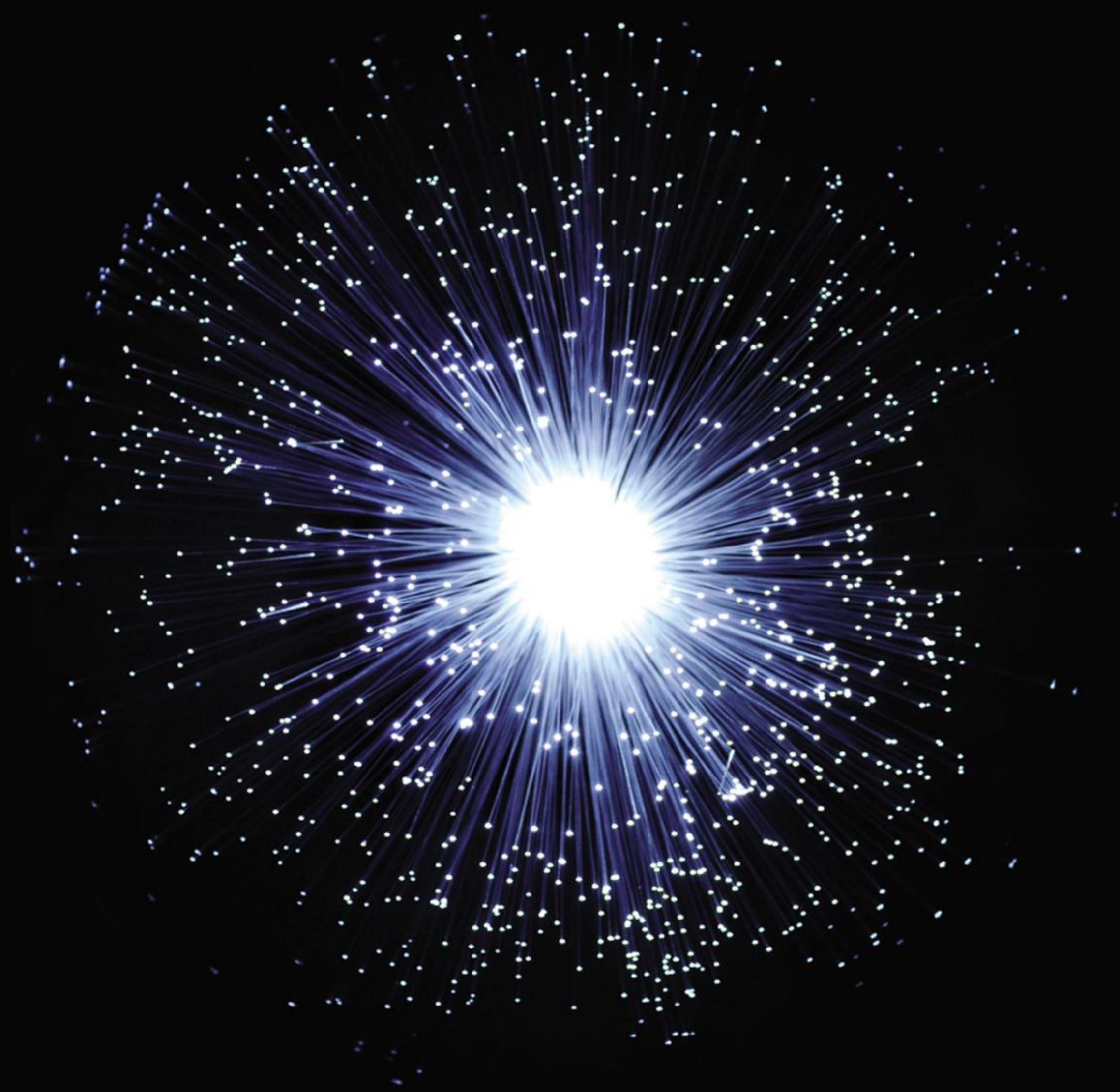

Global Tax Developments Quarterly
Accounting for Income Taxes

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

April 1, 2021 – June 30, 2021
July 12, 2021
Issue 2021-2

Contents

Introduction

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Unless otherwise indicated, the content in this document is based on information available as of July 1, 2021. Accordingly, certain aspects of this document may be updated as new information becomes available. Financial statement preparers and other users of this document should take actions to remain abreast of and carefully evaluate additional events that may be relevant to accounting for income taxes matters.

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, 2021 to June 30, 2021

The following section includes a summary of major international income tax law changes enacted during the period April 1, 2021 to June 30, 2021.

Argentina

Federal Congress approves new system of progressive corporate income tax rates

Date of Enactment: June 16, 2021
Effective Date: January 1, 2021

On June 2, 2021, Argentina's Federal Congress passed a bill amending the Income Tax Act that would establish a new structure of progressive tax rates for companies based on the level of their taxable accumulated net profits. The amendments were approved by the National Executive Power and published in the Official Gazette on June 16, 2021. The new rates apply retroactively for fiscal years (FYs) starting on or after January 1, 2021. Under the new system, the applicable tax rate for companies whose taxable accumulated net profits exceed ARS 50 million (approximately USD 500,000) will be 35%. The progressive rates will start with a 25% rate for net profits below ARS 5 million (USD 50,000).

See also tax@hand - June 7, 2021

Finland

COVID-19: Terms of tax payment arrangements will be temporarily relaxed

Date of Enactment: April 13, 2021
Effective Date: April 21, 2021

Due to the ongoing effects of the coronavirus (COVID-19) pandemic, it was announced on April 13, 2021 that the terms of tax payment arrangements for all types of unpaid tax, including VAT and corporate income tax, are being relaxed in Finland for the second time. Previously, companies and entrepreneurs had an opportunity to request a tax payment arrangement with relaxed terms between March and August 2020. Taxpayers (including certain taxpayers that were granted a tax payment arrangement under the previous terms) will be able to apply for a tax payment arrangement with the new relaxed terms through the MyTax portal from April 21, 2021 up to August 31, 2021.

See also tax@hand - April 15, 2021

Germany

Upper house of parliament approves law to implement EU anti-tax avoidance directive

Date of Enactment: June 25, 2021
Effective Date: January 1, 2020

On June 25, 2021, Germany's upper house of parliament approved the "ATAD implementation law" to implement the EU anti-tax avoidance directive (including provisions of ATAD I and ATAD II) into domestic German tax law. The final version of the ATAD implementation law does not contain any changes from the version that was approved by the lower house of parliament on May 21, 2021. The approval of the upper house marks the end of a more than 18-month journey to implement the ATAD rules into German law since the first draft was published on December 10, 2019.

The law now must be signed by the president and published in the federal gazette, which is a simple formality that should take place within the next few days. The ATAD rules will be implemented with retroactive effect as from January 1, 2020, as intended from the beginning.

See also tax@hand - June 25, 2021

Greece

New tax provisions for legal entities and individuals introduced

Date of Enactment: May 18, 2021
Effective Date: January 1, 2021

On May 18, 2021, the Greek government enacted new tax provisions in Law 4799/2021, which was published in the government gazette (Vol. A' 78/18.05.2021). Key measures include a retroactive reduction in the corporate income tax rate, a reduction in the advance tax payable by individuals and legal entities, the abolition of the annual special solidarity contribution for certain types of income, the extension of the suspension of rental payments, and new provisions regarding the sale of shares listed on the Athens stock exchange. The corporate income tax rate is reduced to 22% (from 24%) for fiscal year (FY) 2021 and later.

The law has been enacted and is in force since the date of its publication in the Greek government gazette, mentioned above, without prejudice to special provisions of said Law having different date of implementation, such as the reduction in CIT rate which applies to FY2021 onwards. No clarifications have been provided so far.

See also tax@hand - May 25, 2021

Hong Kong

Legislative Council passes tax bill on tax deductions

Date of Enactment: May 7, 2021
Effective Date: Year of assessment 2020-2021

On April 28, 2021, Hong Kong's Legislative Council passed the Revenue (Tax Concessions) Bill 2021, which provides for tax reductions proposed in the 2021-2022 budget, including one-off 100% tax reductions for profits tax, salaries tax, and tax under personal assessment for the year of assessment 2020-2021, subject to a ceiling of HKD 10,000 for each case. The bill was published in the official gazette on June 11, 2021. The one-off tax reduction will be reflected in a taxpayer's final tax payable for the year of assessment 2020-2021.

See also tax@hand - April 30, 2021.

Legislative Council passes bills to implement various tax amendments

Date of Enactment: June 11, 2021
Effective Date: Various

Hong Kong's Legislative Council passed the Inland Revenue (Amendment) (Miscellaneous Provisions) Bill 2021 and the Revenue (Stamp Duty) Bill 2021 on June 2, 2021. The bills cover the:

- Tax treatment of amalgamations;
- Deduction of foreign tax;
- Filing of tax returns; and
- Increase in stamp duty rate on stock transfers.

The bills were published in the official gazette on June 11, 2021 and the provisions apply as from that date unless otherwise stated. The Inland Revenue (Amendment) (Miscellaneous Provisions) Ordinance 2021 codifies the current practice of the Inland Revenue Department (IRD) in relation to the taxation of court-free amalgamations of companies and notably introduces the option to elect special tax treatments for qualifying amalgamations. The Ordinance also provides a deduction for "specified tax," which is defined as tax charged by a territory outside Hong Kong on a certain percentage of income without a deduction for outgoings and expenses when computing the amount of tax. The IRD clarified that foreign taxes on deemed profit will, subject to certain conditions, be deductible if they are charged based on turnover. In addition to providing a statutory framework for filing tax returns electronically, the Ordinance allows taxpayers to engage service providers to furnish tax returns for or on their behalf, irrespective of the manner in which the return is furnished (i.e., paper, electronic, or a combination of the two).

See also tax@hand - June 1, 2021, tax@hand - May 11, 2021, tax@hand - March 31, 2021, and tax@hand - March 23, 2021

India

Conditions for foreign pension funds to obtain income tax exemption relaxed

Date of Enactment: April 15, 2021
Effective Date: April 15, 2021

On April 15, 2021, India's Central Board of Direct Taxes (CBDT) issued Notification 32/2021, applicable as from that date, relaxing the existing eligibility conditions for pension funds to obtain the exemption from income tax on certain income from qualifying infrastructure investments under section 10(23FE) of the Income-tax Act, 1961 (ITA).

See also tax@hand - April 26, 2021

Italy

Law decree provides significant enhancements to notional interest deduction regime

Date of Enactment: May 25, 2021
Effective Date: January 1, 2021

On May 25, 2021, the Italian government published a new law decree (No. 73/2021) in the official gazette, introducing tax measures to increase the support for businesses and the economy in response to the coronavirus (COVID-19). To support liquidity and encourage Italian entities to increase their capital, the law decree introduces, among other measures, significant enhancements to the notional interest deduction ((NID), also referred to as the ACE) for equity increases taking place during fiscal year (FY) 2021 (i.e., between January 1, 2021 and December 31, 2021 for calendar-year companies). In lieu of the deduction from the corporate income tax base, companies may choose to convert the NID into a tax credit. The tax credit is available immediately after the execution of the equity increase and it can offset any type of tax liability (e.g., corporate income tax, regional tax, VAT, payroll tax, etc.). The tax credit also is refundable or may be transferred to a third party. The Italian NID may be considered as a "hybrid deduction" for purposes of IRC section 245A(e).

See also tax@hand - June 3, 2021

Netherlands

Changes to Dutch tax loss carryforward enacted

Date of Enactment: June 4, 2021
Effective Date: January 1, 2022

On June 4, 2021, the Netherlands published the Decree in the Official Gazette, which provides for the implementation of the NOL carryforward changes that were proposed as part of the 2021 Tax Plan.

Currently, Dutch tax law states that tax losses can be carried back 1 year and carried forward 6 years. Under the new tax law, the NOL carryback period will remain 1 year and the carryforward period will be unlimited. However, the amount of the NOL utilization will be limited to 50 per cent of taxable income (in excess of EUR 1 million).

The legislation will enter into force on January 1, 2022 and will apply to all tax losses arising as of January 1, 2022, as well as tax loss carryforwards still available at that date. For example, the entry into force provision states that losses incurred in financial years starting on or after January 1, 2013 can be carried forward indefinitely again, however, are affected by the 50% rule, at least to the extent that they are set off against the taxable profit of financial years starting on or after January 1, 2022. This limitation likewise applies to the carry-back of losses incurred in 2022 against the 2021 taxable profit. Losses from before January 1, 2013 can be carried forward for a maximum period of nine years.

See also Deloitte Netherlands Article June 4, 2021

United Kingdom

UK corporate tax rate increase effective April 2023

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

Royal Assent has now been received such that the UK corporation tax rate increase to 25%, effective from April 1, 2023, has now been enacted for US GAAP purposes.

See also Business Tax Briefing – June 11, 2021

Capital allowances super deduction

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

For qualifying capital expenditure incurred from April 1, 2021 up to and including March 31, 2023, companies can claim in the period of investment:

- A super-deduction providing allowances of 130% on most new plant and machinery investments that ordinarily qualify for 18% main rate writing down allowances
- A first-year allowance of 50% on most new plant and machinery investments that ordinarily qualify for 6% special rate writing down allowances

The measure will come into effect from April 1, 2021, until March 31, 2023, in respect of plant and machinery expenditure incurred under contracts entered into on or after March 3, 2021.

See also Capital Allowances Super-Deduction

Trading loss carry back rules

Date of Enactment: June 21, 2021
Effective Date: April 1, 2021

A temporary increase to the period over which companies and unincorporated businesses can carry back trading losses from one year to three years. Companies with accounting periods ending between April 1, 2021 and March 31, 2022 will be permitted, after carry back to the preceding year which remains unlimited, to carry back a maximum of £2,000,000 of unused losses against trading profits of the preceding two years, subject to certain group restrictions.

See also tax@hand - March 3, 2021

Enacted Tax Law Changes That Are Now Effective: April 1, 2021 to June 30, 2021

The following section includes a brief summary of major international income tax law changes enacted before April 1, 2021 but are first effective in the period April 1, 2021 to June 30, 2021.

Per a review of jurisdictions that are generally monitored in this publication, there were no major international income tax law changes enacted before April 1, 2021, and made first effective for the period from April 1, 2021 to June 30, 2021.

Enacted Tax Law Changes That Are Effective Beginning July 1, 2021

The following section includes a summary of major international income tax law changes enacted before April 1, 2021, but effective beginning July 1, 2021.

Per a review of jurisdictions that are generally monitored in this publication, there were no major international income tax law changes enacted before April 1, 2021, but that are effective beginning July 1, 2021.

On the Horizon

The following developments had not yet been enacted as of June 30, 2021, but in certain cases, may 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

Canada

Finland

France

Netherlands

United States

Australia

R&D tax considerations – past, present, and future

The transitional capital allowances provisions driven by the government's response to the COVID-19 pandemic can have a significant R&D side effect. The generously increased declines in value (now extended to June 30, 2023) can be fully claimed to the extent tangible depreciating assets are used for R&D purposes in the income year in which the expenditure is incurred, albeit with potential clawbacks if disposed of. The new R&D tax offset rates will take effect from July 1, 2021. Ultimately, there is no change for refundable R&D taxpayers who will retain a 43.5% tax offset albeit now comprising of an 18.5% premium above the new and final base corporate tax rate of 25%. Non-refundable R&D taxpayers will also retain a base net tax benefit of 8.5%, but taxpayers exceeding the defined 2% intensity threshold will benefit from a new 16.5% rate on spend over that threshold. The abandonment of decoupled flat rates means that base rate entities no longer will see an increased net tax benefit if the base rate falls below 25% at any time in the future. A further change is the reduced two-year period of review that will apply to companies with an aggregated turnover of less than AUD 50 million for income years commencing on or after July 1, 2021. This will by definition encompass all refundable R&D taxpayers.

See also tax@hand - May 10, 2021

Canada

International tax measures in 2021-2022 federal budget

On April 19, 2021, Canada's Deputy Prime Minister and Minister of Finance, Chrystia Freeland, introduced the government's first budget in two years. The budget proposes to introduce a new earnings-stripping rule that would limit the amount of net interest expense that a corporation, trust, partnership, or Canadian branch may deduct in computing its taxable income to no more than a fixed ratio of EBITDA (earnings before interest, taxes, deduction, and amortization) determined on a tax basis. The new limitation is to be phased in, with a fixed ratio of 40% of EBITDA for taxation years beginning on or after January 1, 2023 but before January 1, 2024; and 30% for taxation years beginning on or after January 1, 2024.

See also tax@hand - April 23, 2021

Finland

Government introduces tax measures as part of mid-term policy review

On April 29, 2021, as part of its mid-term policy review, the Finnish government approved a variety of measures to strengthen employment and public finances and to promote the wellbeing of the Finnish population during the recovery from the COVID-19 pandemic. To expand the tax liability of foreign investors, the government aims to ensure that profits derived by foreign funds from real estate investments in Finland are taxed as broadly as possible in Finland. The changes will be effective as from 2023.
Also, the government will analyze the effects that certain structural changes to corporate income taxation and dividend taxation would have, by the end of May 2022. This will involve analyzing the effects of an "Estonian" tax model where the tax base would be different for profits retained in the company and for profits distributed as dividends. The aim is to strengthen the incentives for investment and domestic ownership.

See also tax@hand - May 7, 2021

France

Draft 2021 amended finance bill published

On June 2, 2021, France's government released a draft of the 2021 amended finance bill. It includes some provisions that could be favorable to taxpayers if enacted at the end of the legislative process. The draft bill would extend temporarily the mechanism's timing and amount:

- Tax losses incurred during the fiscal year ending between June 30, 2020 and June 30, 2021 could be used to offset the taxable profits of the previous three fiscal years (i.e., 2019, 2018, and 2017 for a company with a fiscal year ending on December 31, 2020);
- The EUR 1 million cap would be eliminated;
- Taxpayers would be allowed to file the election until the corporate income tax return filing deadline for companies with a fiscal year ending on June 30, 2021 (i.e., until September 30, 2021); and
- The amount of the receivable would be determined using the corporate income tax rate applicable to fiscal years beginning on January 1, 2022 or later and based on the turnover for the fiscal year for which the election is made (tax rate generally 25% for 2022).

In light of this, companies should analyze the opportunity to carry back losses incurred during the fiscal year ended December 31, 2020 before September 30, 2021. A carryback election would depend on taxable income realized during the last three fiscal years, the amount of dividends previously distributed, and available forecasts.

See also tax@hand - June 3, 2021

Netherlands

Consultation on changes to the entity qualification rules for Dutch tax purposes

On March 4, 2021, the Dutch State Secretary of Finance published two consultation documents with law proposals to regulate reverse hybrid entities for Dutch tax purposes and to combat transfer pricing mismatches. It is intended that the proposals will enter into effect for financial years starting as of January 1, 2022. Please note that these proposals are still under consultation, and thus do not entail a formal legislative proposal. That said, it seems likely that this consultation draft will form the basis for a formal legislative proposal later this year.

The main proposed changes are summarized below:

Transfer pricing mismatches, which may include informal capital, arising from interpretation differences on the arm's length principle will be combatted in such a way that it would no longer be allowed to take a downward adjustment for Dutch CIT purposes to the extent no corresponding upward adjustment is taken into account by the counterparty to the transaction. The proposed changes would also apply in case of double deductions arising from transfer pricing mismatches (e.g., mismatch in allocation of costs).

In case an asset is transferred by a group entity to a Dutch entity, the Dutch entity would in principle be entitled to value the asset at fair market value for Dutch corporate income tax purposes. If, however, the transfer value of the asset is lower than the fair market value of the asset and the transferring entity would only take into account the lower transfer value of the entity in its tax base, the new provision would require the Dutch BV to take into account that lower transfer value as the Dutch tax book value (for amortization purposes) after the transfer. Although the depreciation and amortization would be limited as of 2022 only, this is intended to apply for assets transferred to the Netherlands as of financial book years starting on or after January 1, 2017.

Dutch reverse hybrid entities will become liable to tax in the Netherlands and thus be subject to corporate income tax to the extent its income is not taxed at the level of the investors. This also means that the reverse hybrids will become liable to Dutch dividend WHT and the conditional WHT on the interest/royalty payments, and will act as withholding agent towards their investors that view the reverse hybrid as an entity (non-transparent).

See also Deloitte Netherlands Article March 30, 2021

United States

Treasury Department report adds detail to Made in America Tax Plan

The US Treasury Department released a report on April 7, 2021 that adds additional detail to the Made in America Tax Plan, the financing component of the USD 2 trillion proposal aimed at overhauling the nation's infrastructure that President Biden unveiled on March 31. Among its more notable details, the report includes an overview of the administration's proposed global minimum tax on US multinational corporations and describes a replacement regime for the current-law base erosion and anti-abuse tax (BEAT).

See also tax@hand - April 7, 2021, and Report

Treasury "Green Book" sheds additional light on President Biden's tax proposals

The White House released a fiscal year 2022 US budget blueprint on 28 May 2021 that, as expected, calls for significant tax increases focused on large corporations and high-income individuals to pay for lower- and middle-class tax relief and bankroll trillions of dollars in new spending on the traditional physical infrastructure projects and "human" infrastructure initiatives the administration has proposed in its American Jobs Plan and American Families Plan. One of the more notable provisions is calling to increase the corporate tax rate to 28% and tighten the international tax rules. The administration also proposes a 15% minimum tax on corporations based on worldwide book income, if a corporation has more than USD 2 billion of worldwide book income. More specifically, the new minimum tax would equal the excess of (1) book tentative minimum tax over (2) regular tax. Although the budget gives the president the opportunity to formally lay out his tax policy agenda, these proposals are not binding and the authority for drafting actual legislation lies with members of Congress.

See also tax@hand - May 29, 2021

Did you know

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

Colombia

DIAN confirms resident companies may deduct expenses from dividend income

On March 26, 2021, Colombia's National Tax Authority (DIAN) confirmed in Ruling No. 0490 that Colombian companies may offset expenses and other deductions against dividend income for the purpose of calculating taxable profits.

See also tax@hand - April 10, 2021

Germany

Corporate law change could affect validity of profit and loss transfer agreements

On March 24, 2021, The German Ministry of Finance (MOF) published a decree in which the tax authorities provide guidance on the requirements related to the wording of the loss absorption provision in profit and loss transfer agreements (PLTAs) and necessary amendments to certain PLTAs concluded on or before February 26, 2013, due to recent changes in the German Stock Corporation Act. Failure to make the necessary amendments by December 31, 2021 potentially could result in the invalidation of existing tax consolidated groups.

See also tax@hand - March 26, 2021

Greece

Foreign tax credit takes precedence over other credits when tax treaty applies

In a circular issued on May 5, 2021 (no. E. 2089/2021), Greece's Independent Authority for Public Revenue clarified the process that taxpayers must follow to claim a foreign tax credit when a tax treaty applies. In particular, the circular follows recent jurisprudence and provides that the amount of tax paid by a Greek tax resident legal entity in a country with which Greece has signed an income tax treaty should be credited against the entity's total tax liability in Greece before any other locally withheld taxes or advance tax payments, acknowledging the supremacy of tax treaties over domestic law, consistent with the Greek constitution. Any receivable balance will be refunded.

See also tax@hand - May 6, 2021

Circular clarifies certain depreciation and deduction rules in context of COVID-19

The Greek tax authorities on May 21, 2021, issued a circular clarifying the rules on the depreciation of fixed assets as well as the deductibility of expenses and employer social security contributions for businesses that have been adversely affected by COVID-19 (Circular no. E. 2110/21.05.2021). Both individuals who carry out business activities and legal entities subject to an operating ban under a state mandate meant to address the adverse effects of COVID-19 may depreciate their fixed assets for the period when they were closed if they remained on stand-by to restart operations at any time during that period. Also, any expenses that have already been incurred by individuals who carry out business activities as well as legal entities for events that have been cancelled due to COVID-19 (e.g., airline tickets, rent for conference/exhibition spaces, etc.) may be deducted in the fiscal year in which they were incurred, provided that the expenses meet the general deductibility criteria of the Greek Income Tax Code.

See also tax@hand - May 24, 2021

India

Fees paid to nonresident commission agent to generate foreign sales are not taxable

Fees for technical services (FTS) in the form of commission paid to a nonresident for the purpose of generating income from sources outside India are not taxable in India. This has been reaffirmed by the Kerala High Court in a decision given on October 13, 2020 and published on April 20, 2021.

See also tax@hand - May 4, 2021

ITAT rules on taxation of issuance of shares at face value in scheme of amalgamation

The Ahmedabad Bench of India's Income-tax Appellate Tribunal (ITAT) has issued its decision that the issuance of shares at face value by an amalgamated company to the shareholders of the amalgamating company in accordance with a scheme of amalgamation does not fall within the scope of section 56(2)(viib) of the Income-tax Act, 1961 (ITA), even where the face value exceeds the fair market value (FMV) of the shares. The ruling was given on April 13, 2021 and published on April 24, 2021. Section 56(2)(viib) broadly treats as taxable income amounts received by a closely held company from an Indian resident taxpayer on the issuance of shares at higher than face value (i.e., issued at premium) in excess of the FMV of those shares. This ruling establishes the following important principles:

- Based on the facts of the specific case, the provisions of section 56(2)(viib) did not apply on an amalgamation where the shares were issued at face value by the amalgamated company and the difference between the value of the net assets acquired and the shares issued was credited to the capital reserve by the amalgamated company; and
- The provisions of section 56(2)(viib) do not apply to an amalgamation having regard to the broader provisions of the ITA.

See also tax@hand - May 6, 2021

Deduction for infrastructure activity income available against gross total income

On April 28, 2021, India's Supreme Court held that a deduction under section 80-IA of the Income tax Act, 1961 (ITA) is not restricted to "business income" but may be set off against gross total income (GTI). Section 80-IA effectively provides a profit linked tax holiday in the form of a 100% deduction of profits and gains for a period of 10 consecutive years out of 15-20 years to a company that develops; operates and maintains; or develops, operates, and maintains any qualifying infrastructure facility where the development commenced by March 31, 2017 and certain other conditions are met. The ruling resolves the controversy relating to restricting the deduction under section 80-IA to business income. It has held that the deduction for eligible undertakings, computed under section 80-IA of the ITA, can be set off to the extent of gross total income and cannot be restricted to business income.

See also tax@hand - May 26, 2021

Italy

Guidance issued on digital services tax, payment and filing obligations deferred

On March 24, 2021, the Italian tax authorities released official guidance on the digital service tax (DST) that is being implemented in Italy pending broader solutions from the OECD on the taxation of digital services. The extensive guidance provides significant clarifications on the definitions of taxable persons and services, exemptions, territorial nexus requirements, reporting and accounting obligations, refunds, and double taxation relief. In addition, through Law Decree No. 41, published in the official gazette on March 22, 2021, the Italian government has further postponed the payment and reporting deadlines for the DST to allow taxpayers time to comply with the additional guidance. In particular, as a result of the postponement:

- The new deadline for payment of the DST due for fiscal year (FY) 2020 is May 16, 2021 (extended from March 16, 2021); and
- The new deadline for filing the DST return related to FY 2020 is June 30, 2021 (extended from April 30, 2021).

See also tax@hand - April 8, 2021

Luxembourg

Tax authorities update guidance on interest expense deduction limitation rules

The Luxembourg tax authorities updated their guidance on the interest expense deduction limitation rules of article 168bis of the Income Tax Law (ITL) for the (only) purpose of commenting on the equity escape provision for members of a consolidated group for financial accounting purposes. This new circular dated June 2, 2021 (Circular n°168bis/1) replaces the previous circular on article 168bis LIR. Where the taxpayer is part of a group that files statutory consolidated accounts, the worldwide indebtedness of the overall group may be taken into account to allow taxpayers to deduct higher amounts of exceeding borrowing costs. In this respect, the interest limitation rule does not apply if a company can demonstrate that its ratio of equity over total assets is equal to or higher than the equivalent group ratio.

See also tax@hand - June 10, 2021

New Zealand

R&D new guidance and deadlines: You might be back in the running for a 15% credit

New R&D guidance material released by Inland Revenue brings a welcome broadening of the interpretation of the rules, and filing extensions are available in certain circumstances. The broadening of the interpretation brings the regime more into line with the overall policy intent of incentivizing R&D activity.

See also tax@hand - May 9, 2021

New business continuity test for loss carryforward

New Zealand's Inland Revenue has issued guidance on how the main aspects of the recently enacted business continuity test (BCT) will apply, in the form of a draft interpretation statement: Loss carry-forward – continuity of business activities (draft IS). The draft IS provides valuable detail about how Inland Revenue sees the BCT operating in practice, including guidance on the meaning of various elements of the BCT, as well as the quantitative and qualitative factors to be considered when applying the test. For example, a tax loss cannot be carried forward if, before the beginning of the prescribed period, the business activities of the company have ceased and not been revived; or if the company ceases to carry on business activities during the prescribed period. To clarify, the draft IS discusses the difference between "temporary cessation of business" and "cessation with the possibility of recommencement," noting that a temporary cessation will not constitute a cessation of business activities for the purposes of the BCT, whilst a cessation with the possibility of recommencement will constitute a cessation.

See also tax@hand - June 1, 2021

Singapore

IRAS publishes summary of advance ruling on source of franchise income

The IRAS was requested to issue an advance ruling on the source of franchise income derived by a newly incorporated Singapore company under a franchise agreement with a non-Singapore resident affiliated company. Determining the source of income is important as this will affect the time at which the income becomes taxable. Singapore-sourced income is taxed on an accrual basis; whereas foreign-sourced income is not taxed until the income is remitted or deemed remitted to Singapore. MNEs with IP holding companies in Singapore that derive passive IP income and conduct limited activities in Singapore may wish to review the tax filing position they have adopted in respect of that income (e.g., whether such passive-sourced income can be considered as being sourced outside Singapore and hence taxable on a remittance basis). Going forward, the IRAS may seek more information on the actual management and decision making process undertaken in relation to IP rights held, as well as the geographic location of those management and decision making processes so as to determine whether the IP income should be considered sourced in Singapore.

See also tax@hand - April 15, 2021

United States

Notice addresses deductibility of food and beverages provided by a restaurant

On April 8, 2021, the US Internal Revenue Service (IRS) released Notice 2021-25 providing guidance regarding amendments to section 274 of the Internal Revenue Code made by the Consolidated Appropriations Act of 2021. The notice provides guidance on the deductibility of any expense paid or incurred after December 31, 2020 and before January 1, 2023 for food or beverages provided by a restaurant, which are 100% deductible. The notice clarifies that the term “restaurant” means a business that prepares and sells food or beverages to retail customers for immediate consumption, regardless of whether the food or beverages are consumed on the business’s premises.

See also tax@hand - April 12, 2021

IRS provides automatic consent and updates procedural guidance for CFC method changes

On May 11, 2021, the US Internal Revenue Service (IRS) issued Revenue Procedure 2021-26 (Rev. Proc. 2021-26), which provides guidance for a controlled foreign corporation (CFC) to change its depreciation method, whether permissible or impermissible, to the alternative depreciation system (ADS) under Internal Revenue Code (IRC) section 168(g) for purposes of computing its gross and taxable income and earnings and profits (E&P). Rev. Proc. 2021-26 also modifies Rev. Proc. 2015-13 to require taxpayers to include IRC section 481(a) adjustments resulting from a CFC's method change in computing its tested income and tested loss. Additionally, the guidance clarifies that the computation of the “150 percent rule” that limits audit protection with respect to certain CFC method changes is determined based on foreign taxes deemed paid. This clarification is effective for method changes filed on or after May 11, 2021.

See also tax@hand - May 19, 2021

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 2021, 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 2021 Global Tax Rates as well as a comparative table of 2017 – 2021 Global Tax Rates

Jurisdiction	Combined national/ local rate (incl. surcharges, etc.)		Date the combined national/ local rate enacted	Notes
	2020	2021	National and Local	
Argentina	30%	25%-35%	June 16, 2021	Income up to ARS 5,000,000 (approx. USD 50,000) is subject to a 25% rate, the one exceeding ARS 50,000,000 (approx. USD 500,000) is subject to a 35%, while income between 5,000,000 and 50,000,000 is subject to a 30% rate.
Colombia	32%	31%	Dec 27, 2019	A law enacted on December 27, 2019 reiterates the progressive reduction of the corporate income tax rate (initially introduced by Law 1943 of 2018 which was revoked by the Constitutional Court due to procedural defects) 33% for taxable year 2019, to 32% for 2020, 31% for 2021, and 30% for taxable year 2022 and thereafter. A reduced rate of 20% applies to companies located in free trade zones. The 4% surcharge, which was abolished for 2019, was applicable when the taxpayer's income was equal to or exceeded COP 800 million (approximately USD 266,000).
France	28% -28.9 % with surtax (revenue below € 250M) / 31% -32% with surtax (28% on the first € 500K of taxable income) for taxpayers with revenue above €250 M	26.5% - 27.4% with surtax (revenue below € 250M) 27.5% - 28.4% with surtax (revenue above € 250M)	Dec 29, 2017 / July 25, 2019 (See Note 1 for reduced rate for SMEs) and for the rates applicable for FYs opened as of Jan 1, 2021.	For FY 2020, 28% - 28.9% with surtax for companies with revenue below € 250M. 31% - 32% with surtax, for companies with revenue above € 250M (28% on the first € 500K of taxable income) For 2021, 26.5% (revenue below € 250M) and 27.5% (revenue above € 250M), plus surtax of 3.3% if applicable. These rates do not include the impact of the CVAE, an annual local business tax that is considered an income tax under US GAAP.
Greece	24%	22%	May 18, 2021	The corporate income tax rate is reduced to 22% (from 24%) for fiscal year (FY) 2021 and later.

Note 1:

A reduced rate of 15% applies to SMEs (i.e., micro, small, and medium-sized companies held directly or indirectly, at least 75% by individuals and with revenue below EUR 10 million for FY beginning from Jan 1,2021) on the first EUR 38,120 of taxable income.

For FY 2019, a 28% rate applied to the portion of income under EUR 500,000, and the 31% rate applied to taxable income exceeding this threshold for companies with a revenue below EUR 250 million (33.33% for companies with revenue of EUR 250 million or more following a legislation passed on 25 July 2019).

As from January 1, 2020, the rate is 15% where taxable income is under EUR 38,120.

The ordinary corporate rate applies for taxable income exceeding that threshold, are as follows:

- 28% in 2020, 26.5% in 2021, and 25% in 2022 for companies with revenue of less than EUR 250 million;
- 31% (or 28% for the first EUR 500,000 of taxable income) in 2020, 27.5% in 2021, and 25% in 2022 for companies with revenue of EUR 250 million or more.

A 3.3% surtax computed on the standard corporate income tax charge (after the deduction of a lump-sum amount of EUR 763,000) applies. Accordingly, the maximum aggregated corporate income tax rates reflecting the surtax should be as follows: 31% => 32.02%; 28% => 28.92%; 26.50% => 27.37%; 27.50% => 28.41%; and 25% =>25.83%.

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.

Click to subscribe to receive Accounting for Income Taxes Hot Topics directly via email.

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World Tax Advisor—Biweekly bulletin of international tax developments written by professionals of the member firms of Deloitte. The newsletter focuses on analysis of cross-border tax developments that reflect the dynamic business environment faced by multinationals.

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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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