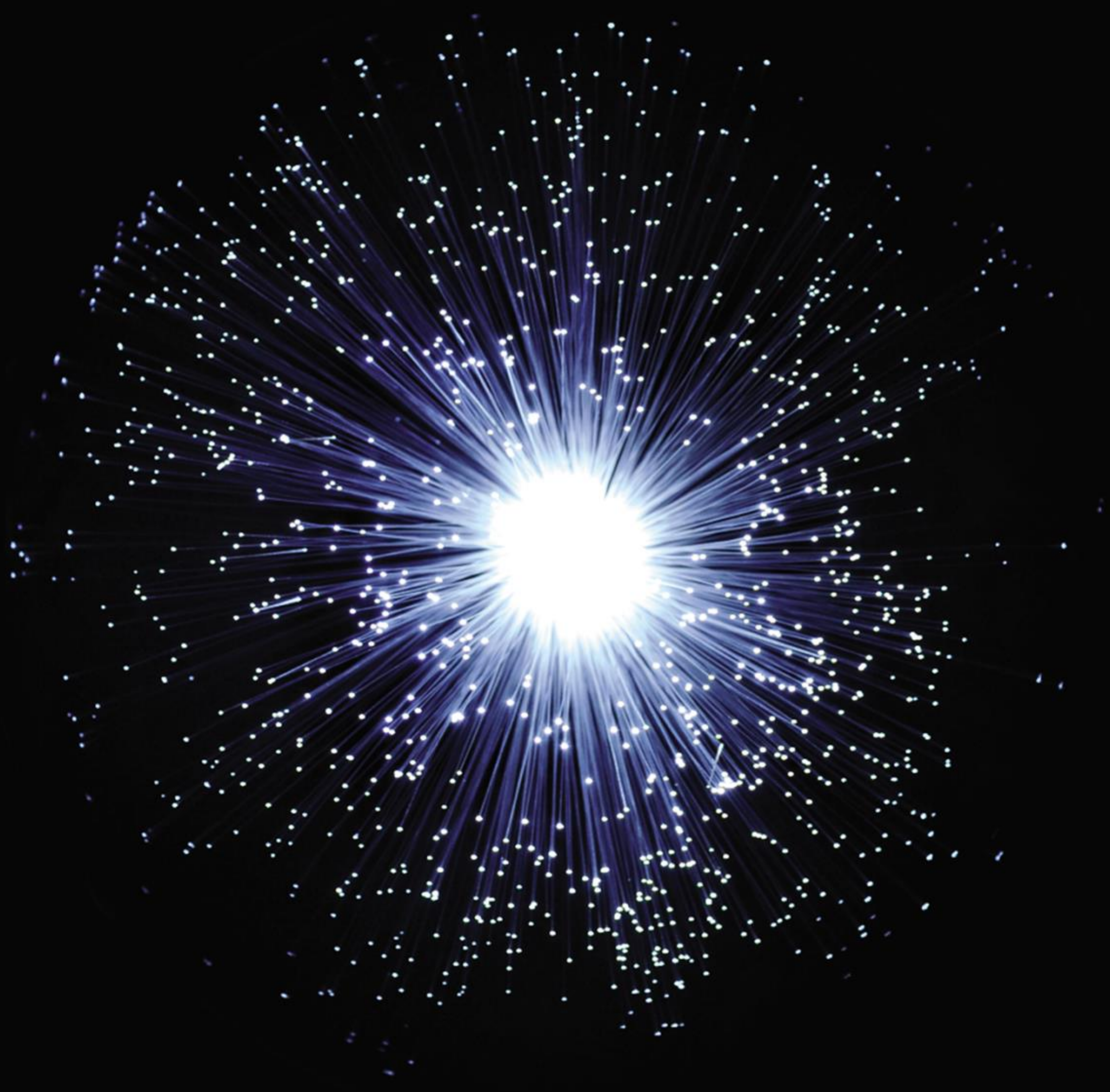

Global Tax Developments Quarterly

Accounting for Income Taxes

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

October 1, 2021–December 31, 2021
January 25, 2022
Issue 2021-4

Contents

Introduction

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. The information contained in this document was not intended or written to be used, and cannot be used, for purposes of avoiding penalties or sanctions imposed by any government or other regulatory body. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

Unless otherwise indicated, the content in this document is based on information available as of January 1, 2022. 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: October 1, 2021 to December 31, 2021

The following section includes a summary of major international income tax law changes enacted during the period October 1, 2021, to December 31, 2021.

Colombia

Guidance on identifying preferential tax regimes issued

Date of Enactment: October 28, 2021
Effective Date: October 28, 2021

On October 28, 2021, the Colombian government issued Decree 1357 of 2021 (available only in Spanish) to facilitate the application of article 260-7 of the Tax Code that sets out the criteria to identify preferential tax regimes. The provisions of the decree apply as from the date of issuance.

Under the provisions of the Tax Code, payments made by a Colombian corporate or individual income tax payer to an individual, corporation, company, or other entity subject to a preferential tax regime may be deductible for income tax purposes only if (i) the payments are subject to withholding tax at the standard corporate income tax rate (i.e., 31% for 2021 and 35% for 2022), if applicable and (ii) the transactions comply with the arm's length provisions of the transfer pricing regime and the substantial and formal obligations of the regime are met.

See also tax@hand - July 28, 2021

France

2022 finance law enacted

Date of Enactment: December 31, 2021
Effective Date: January 1, 2022

On December 31, 2021, France's 2022 finance law was published in the official journal without substantial modifications to the version adopted earlier in the month by the French parliament and was therefore enacted on that date.

The article summarizes some of the law's key provisions, some of which are as follows:

- Corporate income tax rate reduced to 25% for fiscal years beginning on or after January 1, 2022
- Temporary tax depreciation of goodwill
- Introduction of Collaborative Research Tax Credit (CICO)
- Extension of duration of Young Innovative Enterprises (JEI) status
- Modifications to the Innovation Tax Credit (CII)

See also tax@hand - January 3, 2022 and tax@hand - December 1, 2021

Germany

COVID-19: Relief measures to boost liquidity further extended

Date of Enactment: December 8, 2021
Effective Date: December 8, 2021

On December 8, 2021, the German Ministry of Finance (MOF) published a decree announcing the extension of certain tax-related measures that aim to boost liquidity, which were originally provided for in a March 19, 2020, decree and extended by a December 22, 2020, decree and a March 18, 2021, decree. The original corporate income tax payment measures described in these decrees expired on September 30, 2021 (for deferral/suspension of payments) and are set to expire on December 31, 2021 (for installment payment plans) but have been extended by the new decree until March 31, 2022 (for deferral/suspension of payments) or June 30, 2022 (for installment payment plans). The original advance payments of corporate income tax measures described in these decrees are set to expire on December 31, 2021, but have been extended to June 30, 2022.

Under the extended measures, taxpayers have the option of applying to defer making corporate income tax payments, with the suspension of enforcement measures and without being charged interest, for taxes that become due on or before January 31, 2022. Taxpayers that are "directly and seriously affected" by COVID-19 may apply for such a deferral/suspension until January 31, 2022, and the deferral/suspension for approved applicants will be granted until March 31, 2022.

See also tax@hand - December 13, 2021

Greece

Strategic investment framework amended to comply with BEPS anti-abuse rules

Date of Enactment: December 2, 2021
Effective Date: January 1, 2022

On December 2, 2021, the Greek government passed legislation amending the framework for strategic investments to comply with the anti-abuse rules of the OECD's base erosion and profit shifting (BEPS) project [L. 4864/2021, Government Gazette 237/A/02-12-2021). The new law amends article 71A of the Greek Income Tax Code (Law 4172/2013 (ITC)) and will apply to profits generated as from January 1, 2022.

Article 71A of the ITC is amended to comply with the Organization for Economic Co-operation and Development's (OECD's) anti-abuse rules against the erosion of states' domestic tax base and the profit-shifting practices of multinational enterprises (BEPS).

See also tax@hand - December 3, 2021

Ministry of Finance issues list of noncooperative states for fiscal year 2020

Date of Enactment: November 29, 2021
Effective Date: November 29, 2021

Greece's Ministry of Finance issued a decision on November 23, 2021, listing the jurisdictions that are deemed to be noncooperative for tax purposes for fiscal year (FY) 2020 (Decision no. A. 1246/2021). Expenses paid to entities resident in the noncooperative countries are not tax deductible, unless the taxpayer proves that there is no tax avoidance or tax evasion involved and the expenses are usually scrutinized by the Greek tax authorities. However, a deduction is not precluded in the case of EU member states and European Economic Area (EEA) countries, provided that there is a legal basis for the exchange of information between Greece and that state.

See also tax@hand - December 1, 2021

India

Certain nonresidents to be exempt from filing income tax returns as from AY 2021-22

Date of Enactment: October 11, 2021
Effective Date: October 11, 2021

On October 11, 2021, India's Central Board of Direct Taxes (CBDT) issued Notification No. 119/2021, providing an exemption to certain nonresidents from filing income tax returns in India as from assessment year (AY) 2021-22, subject to the fulfillment of specified conditions. The notification is effective as from the date of issuance and has been issued by the CBDT in accordance with powers granted under section 139(1C) of the Income-tax Act, 1961 (ITA).

See also tax@hand - October 25, 2021, and No. 119/2021

Indonesia

Law on harmonization of tax regulations enacted

Date of Enactment: October 29, 2021
Effective Date: January 1, 2022

On October 29, 2021, the Draft Law on Harmonization of Tax Regulations (Harmonisasi Peraturan Perpajakan) was signed by the Indonesian president and enacted as Law Number 7 of 2021. The law harmonizes various fiscal laws and regulations and introduces a new carbon tax and voluntary disclosure program. Key provisions include the retention of the 22% corporate income tax rate.

See also tax@hand - November 23, 2021, and tax@hand - October 27, 2021

Italy

Law decree significantly revises patent box regime

Date of Enactment: October 21, 2021
Effective Date: October 22, 2021

On October 21, 2021, Italy's Fiscal Decree 2022 (decree) was published in the official gazette. Among other measures, article 6 of the decree substantially revises the patent box regime legislation. The new patent box regime will allow eligible taxpayers to claim a super tax deduction equal to 90% of their R&D costs in addition to the current 100% deduction, resulting in an overall deduction of 190% of eligible R&D expenses. This replaces the current patent box regime, which allows taxpayers to exempt from corporate income tax (IRES) and regional income tax (IRAP) up to 50% of their income deriving from the direct or indirect exploitation of intangibles. The new regime entered into force on October 22.

See also tax@hand - October 25, 2021

Malaysia

Date of Enactment: December 31, 2021
Effective Date: January 1, 2022

Finance Bill 2021 includes various tax measures beyond those in 2022 budget speech

On December 31, 2021, Malaysia's Finance Bill 2021 was published as the Finance Act 2021, which came into operation on January 1, 2022. In a media release dated December 30, 2021, the Malaysian Ministry of Finance (MOF) announced certain policy changes to measures included in the Finance Act 2021. The MOF announced that certain foreign-source income (FSI) received by resident taxpayers will continue to be exempt from income tax from January 1, 2022, until December 31, 2026, subject to the conditions in guidelines to be issued by the Inland Revenue Board of Malaysia. The MOF also announced that the stamp duty of 0.15% imposed on contract notes from January 1, 2022, until December 31, 2026, for trading of shares listed on the Bursa Malaysia stock exchange will be limited to a maximum of MYR 1,000 for each contract note and any excess amounts charged will be remitted.

See also tax@hand – January 6, 2022, tax@hand - December 1, 2021, tax@hand - November 3, 2021, and Highlights of Budget 2022 - Part II

Spain

2022 General State Budget introduce minimum corporate income tax

Date of Enactment: December 28, 2021
Effective Date: January 1, 2022

On December 29, Law 22/2021, of December 28, was published in the Official State Gazette on the General Budget for the year 2022. It contains measures that will be applicable as from January 1, 2022, including some tax changes that are expected to increase tax collection.

Among other measures, the budget law for 2022 introduced a new alternative minimum tax regime that is effective for tax periods beginning on or after January 1, 2022, and that applies to taxpayers that had net turnover in the prior year of at least EUR 20 million or that are part of a tax consolidated group. The minimum tax generally is calculated as the lower of (i) 15% of the taxable base, or (ii) the amount resulting after deducting certain tax credits established to promote investments by port authorities and foreign tax credits from 25% of the taxable base (provided the relevant company is subject to the 25% general corporate income tax rate). In the case of newly incorporated entities that comply with certain requirements, instead of the 15% and 25% rates for (i) and (ii), the relevant rates are (i) 10% and (ii) 15%; in the case of credit institutions and certain entities in the hydrocarbon sector, the relevant rates are (i) 18% and (ii) 30%. The minimum tax regime is not applicable to some types of entities, such as Spanish real estate investment trusts (SOCIMIs), SICAVs (capital investment companies), pension funds, etc. There are also other special provisions or exceptions that may apply (e.g., regarding certain Canary Islands tax benefits).

This minimum taxation is also introduced in the Non-Resident Income Tax for income obtained in Spain through a permanent establishment.

See also tax@hand - January 4, 2022, and tax@hand - October 15, 2021

Enacted Tax Law Changes That Are Now Effective: October 1, 2021 to December 31, 2021

The following section includes a summary of major international income tax law changes enacted before October 1, 2021, but are first effective in the period October 1, 2021, to December 31, 2021.

Per a review of jurisdictions that are generally monitored in this publication, there were no major international income tax law changes enacted before October 1, 2021, but that are first effective in the period October 1, 2021, to December 31, 2021.

Enacted Tax Law Changes That Are Effective Beginning January 1, 2022

The following section includes a summary of major international income tax law changes enacted before October 1, 2021, but effective beginning January 1, 2022.

Colombia

Tax reform legislation includes increase in corporate income tax rate as from 2022

Date of Enactment: September 14, 2021
Effective Date: January 1, 2022

On September 14, 2021, the latest tax reform legislation (Law 2155 of 2021) was enacted that introduces some significant amendments to Colombia's tax regime, including an increase in the general corporate income tax (CIT) rate, changes to employment tax incentives, an increase in the rate of "normalization tax," and the extension of certain VAT exemptions. The reform also introduces new measures and amends existing measures to counteract tax evasion and addresses a number of tax administrative issues.

The CIT rate will be increased from 31% in 2021 to 35% as from 2022. The rate was due to have been reduced to 30% for 2022 and subsequent years in line with the progressive reduction in CIT rates introduced by the previous reform enacted as Law 2010 of 2019 (Economic Growth Law) on December 27, 2019. The CIT rate applicable to financial institutions with annual income of at least 120,000 UVT (tax value units, the value of which is COP 36,308 for 2021) is fixed at 38% from 2022 to 2025.

See also [tax@hand - September 20, 2021]

Czech Republic

Nonresident exemption from interest income on Eurobonds reintroduced

Date of Enactment: September 30, 2021
Effective Date: January 1, 2022

On September 30, 2021, the Czech government published an amendment to the Income Tax Act (which was included with published amendments to the Banking Act) to reintroduce the exemption for interest income derived by tax nonresidents from bonds issued abroad by taxpayers with a registered seat in the Czech Republic ("Eurobonds") effective as from January 1, 2022.

In order to prevent abuse, the wording of the new exemption provisions (as compared to the original exemption provisions) contains an exclusion from the exemption in the case of interest paid to a nonresident that is a related party of the issuer or that has created a legal arrangement with the issuer primarily for the purpose of reducing the tax base or increasing tax losses. Furthermore, when paying exempt interest in excess of CZK 300,000 from Eurobonds to nonresidents, the payer still must submit a withholding tax report (oznámení o příjmech plynoucích do zahraničí) to the tax authorities pursuant to section 38da of the Income Tax Act no later than January 31st of the following calendar year.

See also [tax@hand - October 7, 2021]

On the Horizon

The following developments had not yet been enacted as of December 31, 2021, 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

Extension of loss carry-back measure introduced in parliament

On November 25, 2021, the Australian government introduced the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 into the House of Representatives. A key matter in the bill relates to the establishment of the regulatory and tax frameworks for corporate collective investment vehicles (CCIVs) commencing on July 1, 2022.

Another key measure contained in schedule 6 of the bill extends the temporary loss carry-back rules for a further 12 months, as announced by the government in the Federal Budget 2021-22. Currently, the temporary loss carry-back rules apply to tax losses for the 2019-20, 2020-21, or 2021-22-income years, with the normal rules for losses to apply from the 2022-23 income year.

Schedule 6 to the bill amends the Income Tax Assessment Act 1997 to allow corporate tax entities with an aggregated annual turnover of less than AUD 5 billion to claim a loss carry-back tax offset in the 2022-23 income year. The loss carry-back rules are extended in their current form with the same eligibility requirements.

Companies that do not elect to carry back losses under this measure can still carry losses forward as normal and the normal rules for losses will apply from the 2023-24 income year.

See also tax@hand - November 25, 2021

Bill containing temporary full expensing extension and superannuation reforms introduced

On October 27, 2021, the Australian government introduced the Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Bill 2021 into the House of Representatives. The bill includes a number of measures previously announced in the Federal Budget 2021-22 and Federal Budget 2019-2 such as extending the temporary full expensing regime by 12 months, until June 30, 2023. Businesses with aggregated turnover below AUD 5 billion (and corporate tax entities that meet the alternative eligibility test) may deduct the full cost of eligible depreciating assets of any value that are first held, and first used or installed ready for use for a taxable purpose between the 2020 budget time and June 30,2023.

See also tax@hand - October 27, 2021

Cyprus

Action plan announced to enhance business activities

On October 15, 2021, the Cyprus government presented its action plan for attracting companies to operate or expand their activities in Cyprus, in an attempt to make the island a sustainable business and trade center for the broader region and Europe. Measures include a new business facilitation unit; various enhancements to and relaxations of the policies for visa, work permit, and citizenship applications; and tax incentives for companies and employees.

Unless otherwise stated, the provisions will be implemented as from January 1, 2022.

See also tax@hand - October 19, 2021

Germany

New government publishes draft coalition agreement including broad tax policy goals

On November 24, 2021, the "traffic-light" coalition between Germany's Social Democratic Party (SPD), the Free Democratic Party (FDP), and the Green Party successfully finalized its negotiations and released its draft coalition agreement. The 177-page draft agreement sets out the future government's policy goals, including those relating to tax policy, and how it intends to achieve these objectives. The draft agreement was confirmed by all three political parties in the beginning of December 2021 without any further changes.

The most significant income tax policy statements for businesses in the draft coalition agreement are a "super deduction", and the loss carryback provisions.

A "super deduction" (seemingly in the form of accelerated depreciation) should be introduced for investments in climate protection and in digitization. Qualifying investments in specified fixed assets should be deductible at an increased rate during 2022 and 2023.

The loss carryback provisions should be enhanced. The increased amount available to be carried back for corporate income tax purposes (EUR 10 million for losses incurred in 2021 and 2022) should be retained for losses incurred during 2023 and the loss carryback period should be extended to the two preceding financial years (under current rules, losses only may be carried back for one year). There seems to be an error in the coalition agreement which refers to the extension of the "loss carry-forward" to the preceding two financial years. No carryback of losses is permitted for local trade tax purposes.

See also tax@hand - November 25, 2021, and tax@hand - October 18, 2021

Hong Kong

Government commits to tax changes in response to inclusion on EU "state-of-play" list

On October 5, 2021, the Council of the European Union approved updates to the EU list of noncooperative tax jurisdictions and the inclusion of Hong Kong on annex II, which is the "state-of-play" document with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles.

As a result of the foreign-source income exemption regimes review, the EU considers harmful Hong Kong's territorial system of taxation. The EU has granted Hong Kong until December 31, 2022, to amend its regime, and Hong Kong has confirmed it will do so. As a result of Hong Kong's willingness to respond to the EU's concerns, defensive measures by the EU have been suspended subject to the passing of those amendments

See also tax@hand - October 7, 2021

Japan

Tax incentives and growing technology sector encourage start-ups

In December 2019, as part of the fiscal 2020 tax reform, the government announced an open innovation tax incentive that allows companies to deduct from their taxable income 25% of share purchase amounts in start-ups (for partnerships and other similar business arrangements). Those eligible are large companies that purchase JPY 100 million or more (and small companies that purchase JPY 10 million or more) in start-up shares.

See also tax@hand - October 4, 2021

United Kingdom

Key measures from the Autumn Budget 2021/Finance (No2) Bill

On October 27, 2021, the UK Chancellor of the Exchequer, Rishi Sunak, delivered his third budget and the corresponding Finance Bill was published on November 4, 2021. For the avoidance of doubt, none of the new measures outlined below or in this Act have yet been enacted unless otherwise stated. Based on previous Budgets, we would expect enactment to occur in the first Quarter of 2022.

As mentioned in the previous addition, in 2020 the Chancellor announced that new rules would be introduced requiring large companies to notify HMRC of uncertain tax positions, where the amount of tax at stake is at least £5m and the tax treatment meets one of defined criteria. Draft legislation was published in July 2021, and certain changes have been announced to revise the proposed rules. Specifically, the number of "triggers" for uncertainty will be reduced from three to two: i) that a provision has been made in the accounts for the uncertainty, or ii) that the position taken by the business is contrary to HM Revenue & Customs' (HMRC's) known interpretation (as stated in the public domain or in dealings with HMRC). A third trigger is still being considered for possible inclusion in the rules at a later date, but the rules initially will apply only to the first two triggers. The legislation will be effective from April 1, 2022.

A few key measures under the budget and bills are:

- A proposed technical change to the rules governing the UK's hybrid and other mismatches. Specifically, on items pertaining to certain types of entities that are seen as transparent in their home jurisdictions, including US Limited Liability Corporations, in the same way as it does to partnerships.
- The UK corporation tax rate will increase to 25% for companies with profits over GBP 250,000 as from April 1, 2023. The surcharge on banking companies is set to decrease from 8% to 3% as from April 1, 2023. This rate, combined with the headline rate of corporation tax, means that banks will be taxed at a combined rate of 28% on their profits as from April 2023.
- Legislation regarding the reform of the UK R&D tax regime has not yet been released, however if enacted, the following changes are expected to come into effect from April 2023
  - expanding the definition of qualifying expenditure to include data and cloud computing costs;
  - refocusing support towards R&D activities taking place in the UK;
  - improving compliance and reduce abuse. Legislation has not yet been released, however if enacted, the changes are expected to come into effect from April 2023.
- An extension to the temporary Annual Investment Allowance (AIA) limit of £1m, for expenditure incurred on the provision of qualifying plant and machinery. This was expected to reduce on December 31, 2021, but will now be extended to March 31, 2023.

See also tax @ hand – December 3, 2021, tax@hand - October 28, 2021, and tax@hand - October 27, 2021

United States

Build Back Better Act clears House

On November 19, 2021, the US House of Representatives approved the Build Back Better Act (H.R. 5376), the USD 1.75 trillion tax-and-spending package that President Biden and congressional Democrats hope to move through Congress under filibuster-proof budget reconciliation protections.

Proposed corporate and international tax reforms include a 15% minimum tax on the “adjusted financial statement income” of certain large corporations, a 1% excise tax on certain publicly traded corporations that buy back stock from their shareholders, additional limitations on the deduction for business interest, and new limitations on the deduction by publicly held corporations for excess employee remuneration.

The approved legislation, like the prior bill, also would tighten current-law tax rules governing the treatment of global intangible low-taxed income, the deduction for foreign-derived intangible income, and the determination of foreign tax credits, and make changes to the base erosion and anti-abuse tax.

The legislation also proposes, among other things, a new federal tax credit to encourage the rehabilitation of deteriorated homes in distressed communities, and provisions to promote infrastructure development among US Indian tribes.

The Build Back Better Act remained stalled in the US Senate the week of 17 January 2022 as the chamber focused its attention on voting rights legislation, but President Biden told reporters during a 19 January press conference marking the end of his first year in office that he is “confident” that “big chunks” of his signature USD 1.75 trillion tax-and-spending package can be enacted into law ahead of the 2022 midterm elections (held in November).

See also tax@hand – January 21, 2022

Did you know

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

Australia

Full Court confirms payments to employees do not qualify for immediate deduction

On November 12, 2021, the Australian Full Federal Court released its judgment in Clough Limited Commissioner of Taxation [2021] FCAFC 197. The matter relates to whether payments of approximately AUD 15 million made by the taxpayer as employer for the cancelation of employee entitlements under an employee option plan and an employee incentive scheme were deductible pursuant to section 8-1 of the Income Tax Assessment Act (ITAA) 1997.

The Full Court held that the payments did not fall within the positive limbs of section 8-1 and were payments on capital account under section 8-1(2)(a). Although the payments did not qualify for immediate deduction under section 8-1, the Full Federal Court decision did not disturb the Commissioner’s concession that the payments were deductible over five years under section 40-880 of the ITAA 1997.

See also tax@hand - November 12, 2021

Brazil

Federal Supreme Court rules interest on late tax refunds is not taxable

On September 24, 2021, the Brazilian Federal Supreme Court (STF), in Extraordinary Appeal No. 1,063,187 with general repercussions (meaning it is binding on the lower courts), ruled that certain interest received by a taxpayer on a late tax refund from the National Treasury should not be included in the calculation basis of the corporate income tax (IRPJ) or the social contribution on net profit (CSLL). The interest was calculated based on the Brazilian federal funds rate (or SELIC rate). Although the STF did not specify a time period to which this decision applies (e.g., pending cases only), the National Treasury may argue such a limitation exists.

See also tax@hand - October 14, 2021

Finland

Supreme Administrative Court rules on scope of interest deduction limitation rules

On September 10, 2021, the Finnish Supreme Administrative Court (SAC) issued an important ruling (SAC:2021:123) on the application of the interest deduction limitation rules. The court concluded that payments based on interest derivative contracts are within the scope of the interest deduction limitation rules. In addition, the court provided some clarifications relating to the definition of related parties for purposes of the application of the interest deduction limitation rules. The decision is especially relevant for entities with interest derivative contracts and for certain joint venture (JV) structures with 50/50 ownership. Based on SAC 2021:123, the Finnish Tax Administration published on November 23, 2021 a new guideline where the definition of “borrowing costs” is explicitly aligned with Article 2 of the EU ATAD.

See also tax@hand - October 7, 2021

France

Supreme administrative court rules on foreign tax credits for certain capital gains

On November 15, 2021, the French Supreme Administrative Court (Conseil d'Etat) canceled the French tax authorities' (FTA) guidelines denying a tax credit in France for the amount of foreign tax paid under a tax treaty on capital gains derived from the sale of qualifying shareholdings (CE, n°454105).

The court ruled that the 12% "add-back" must be seen as a way to tax capital gains at a reduced rate rather than a means of neutralizing the deduction of expenses incurred for the purpose of acquiring/sustaining a tax-exempt income. As a result, double taxation can be established, and foreign tax paid on the capital gains may be credited against French corporate income tax.

See also tax@hand - November 16, 2021

Tax deduction for payment of US punitive damages recognized by administrative court

On October 5, 2021, France's administrative court of appeals in Versailles (Cour administrative d'appel de Versailles) ruled that punitive damages paid by a French company are deductible from its taxable income (CAA de Versailles, 1ère chambre, 05 Octobre 2021, 20VE00034). Such damages are distinct from non-deductible penalties and fines described in article 39.2 of the French Tax Code (FTC). This decision could still be overruled by the French supreme administrative court (Conseil d'État), which could reject the Versailles court's legal approach and be more moralist, to be in line with the "punitive" objective of such damages in the US.

See also tax@hand - October 6, 2021

India

Interest on loan for acquisition of land held as inventory is deductible

On October 5, 2021, India's Madras High Court issued a ruling that a taxpayer was eligible to claim a deduction for interest paid on a loan to acquire land for a real estate project, even though no revenue had been earned from the project, since it was a continuation of the taxpayer's construction business, the land was held as inventory, and the taxpayer had undertaken substantial activities on the land.

See also tax@hand - November 3, 2021

Italy

Public consultation document addresses uncertainties regarding anti-hybrid rules

On October 18, 2021, the Italian tax authorities published draft guidelines that are open for public consultation until November 19, 2021, to address numerous uncertainties surrounding the Italian anti-hybrid legislation. Aside from the possibility to provide comments during the open consultation phase, taxpayers (including multinationals, particularly those operating in the US, and investment funds) with operations in Italy should assess their current structures as soon as possible to identify possible impacts as from fiscal year (FY) 2020 (and potentially as early as FY 2017 in the case of certain tax attributes) and ensure that they have sufficient documentation to support the positions taken so that they are prepared in the event of a tax audit.

See also tax@hand - November 18, 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 (CIT) 33% for taxable year 2019, to 32% for 2020, 31% for 2021, and 30% for taxable year 2022 and thereafter. However, the latest tax reform legislation (Law 2155 of 2021) enacted on September 14, 2021 increases the rate from 31% in 2021 to 35% as from 2022. 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%–2% 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. For 2022, 25%, 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.
Netherlands	15%–25%	15%–25.8%	January 1, 2022	The corporate income tax rate up to a taxable amount of €395,000 is 15% (2021: €245,000) and the rate for taxable profit exceeding €395,000 will be 25.8% (2021: 25%).

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.

Deloitte tax@hand—An app that delivers focused news and tax information.

Download Deloitte Tax@hand for iOS (App Store), Android (Google play) or BlackBerry (BlackBerry World) or visit the Tax@hand website, www.taxathand.

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.

Click to subscribe to receive *World Tax Advisor* directly via email.

Transfer Pricing Alerts—The latest updates in transfer pricing from around the world.

Click to subscribe to receive an email when a new Transfer Pricing Alert is issued.

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.

Contact Us

Robert Tache
Partner, Deloitte Tax LLP
Phone: +1 305 372 3230
E-mail: rtache@deloitte.com

Ana Lam
Senior Manager, Deloitte Tax LLP
Phone: +1 305 808 2336
E-mail: walam@deloitte.com

Created by CoRe Creative Services. RITM0909015