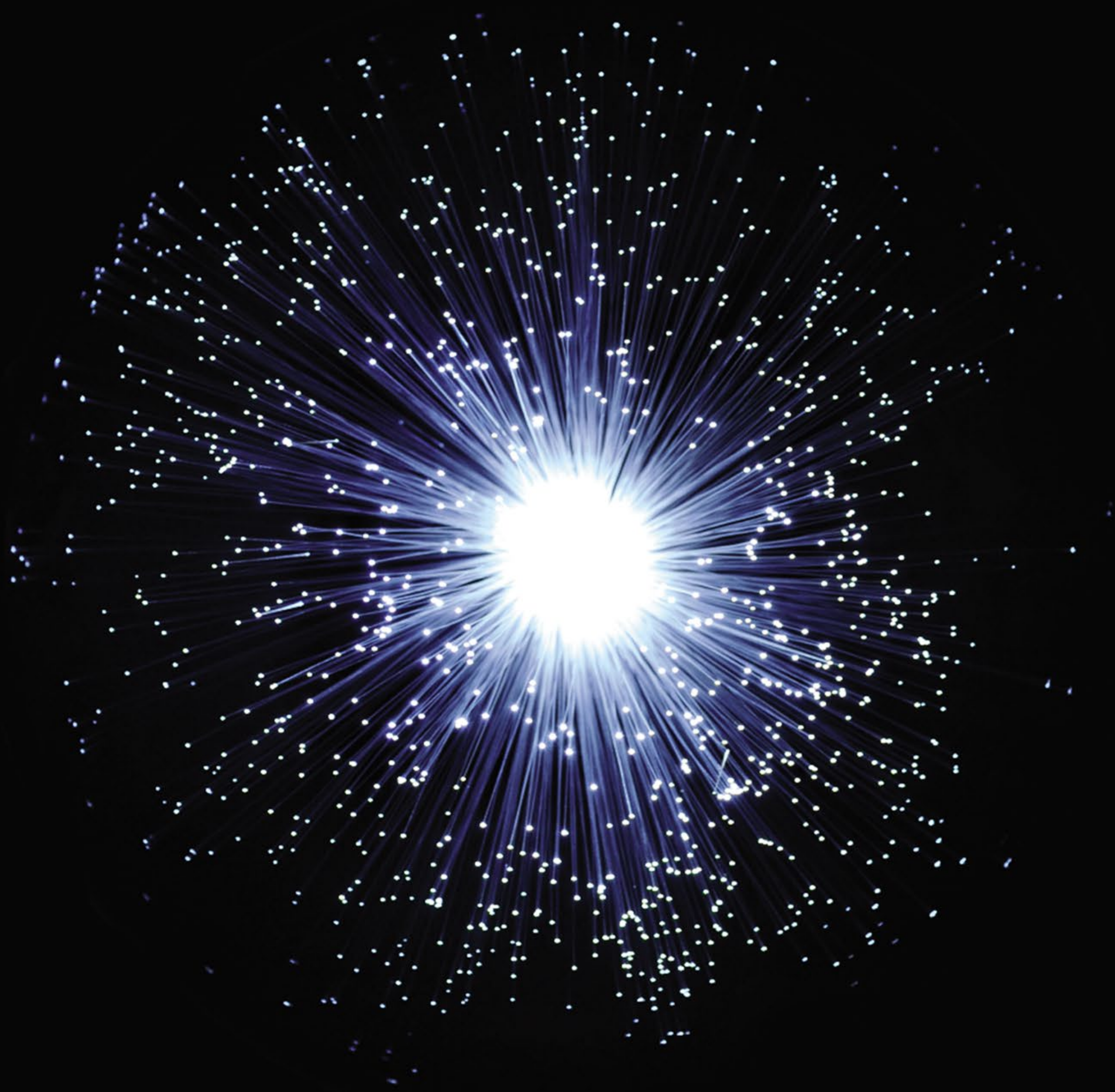

Global Tax Developments Quarterly

Accounting for Income Taxes

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

January 1, 2022–March 31, 2022
April 19, 2022
Issue 2022-1

Contents

Introduction

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

The following section includes a summary of major international income tax law changes enacted during the period January 1, 2022 to March 31, 2022.

Cyprus

Date of Enactment: March 18, 2022
Effective Date: January 1, 2017

Period for which tax incentive available for investment in innovative SMEs extended

On March 10, 2022, the Cyprus parliament voted for an extension through June 30, 2024 of the tax incentive for investing in innovative small and medium-sized enterprises (SMEs) which was introduced in the Cyprus Income Tax law (ITL) in 2017 as from January 1, 2017, replacing the previous incentive that was available to investors through December 31, 2016. The amending ITL was published in the official gazette on March 18, 2022.

See also tax@hand - March 21, 2022

Japan

Date of Enactment: March 22, 2022
Effective Date: April 1, 2022

2022 tax reform proposals announced

The 2022 tax reform proposals were enacted by Japan’s National Diet on March 22, 2022. With the objectives of a “positive cycle of growth and distribution" and the “development of a new society after COVID-19,” the major tax changes include significant enhancements to tax incentives for wage increases and expansion of tax incentives for promoting open innovation. The tax reform is expected to encourage the creation of new business industries and to allow existing businesses to innovate.

Although the 2022 tax reform proposals do not provide specific details, the government intends to introduce measures related to digital taxation and global minimum taxation, which are currently being worked on by the OECD and the G20. Under the proposal, for FYs beginning on or after April 1, 2022, the reduced rates of 0.4% and 0.7% would no longer apply, and the standard single rate of 1% would be applicable.

See also tax@hand - December 23, 2021

Malaysia

Rules issued on tax incentives for manufacturers of pharmaceutical products

Date of Enactment: February 17, 2022
Effective Date: Year of assessment 2021

On February 17, 2022, the Malaysian government gazetted the "Income Tax (The Incentive for Manufacturers of Pharmaceutical Products Scheme) Rules 2022" (P.U.(A) 34/2022) to implement the tax incentives for manufacturers of pharmaceutical products (including COVID-19 vaccines) as announced in the 2021 national budget. The incentives include a corporate income tax rate of 0% to 10% for qualifying companies for 10 years, and a 10% income tax rate for the subsequent 10 years (the general corporate income tax rate in Malaysia is 24%). The rules are effective as from year of assessment (YA) 2021.

See also tax@hand - March 2, 2022

Rules issued on double deduction for expenses related to sponsoring scholarships

Date of Enactment: March 7, 2022
Effective Date: Year of assessment 2022

On March 7, 2022, the Malaysian government gazetted the "Income Tax (Deduction for the Sponsorship of Scholarship to Malaysian Student Pursuing Studies at Technical and Vocational Certificate, Diploma, Bachelor's Degree, Master's Degree or Doctor of Philosophy Levels) Rules 2022" (P.U.(A) 49/2022) to implement an extension and expansion of the double deduction (i.e., a corporate income tax deduction of 200% of qualifying expenditure) for companies sponsoring scholarships, as announced in the 2022 national budget. The double deduction is expanded to include qualifying expenditure for scholarships relating to all fields of study at the technical or vocational certificate level or at the diploma, bachelor's degree, master's degree, or doctor of philosophy level. The rules, which aim to develop more highly skilled talent in Malaysia, are effective as from year of assessment (YA) 2022.

See also tax@hand - March 17, 2022

Enacted Tax Law Changes That Are Now Effective: January 1, 2022 to March 31, 2022

The following section includes a summary of major international income tax law changes enacted before January 1, 2022, but are first effective in the period January 1, 2022, to March 31, 2022.

France

2022 finance law enacted

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

On December 30, 2021, the President of the French Republic promulgated the finance law for 2022. The law was published in the Official Journal of December 31, 2021 without substantial modifications to the version adopted earlier in the month by the French parliament and was therefore enacted on that date.

Some of the law's key provisions related to Corporate income tax measures include:

- CIT rate reduced to 25% for fiscal years (FYs) beginning on or after January 1, 2022;
- Temporary tax depreciation of goodwill acquired as of January 1, 2022 and until December 31, 2025;
- Introduction of Collaborative Research Tax Credit; and
- Modifications to the innovation tax credit (CII).

See also tax@hand - January 3, 2022

Italy

2022 budget law enacted, including modifications to tax incentives

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

Italy's 2022 budget law, published in the official gazette on December 30, 2021, introduces several tax provisions that will affect both Italian individuals and companies and that generally apply as from January 1, 2022. Changes have been made to certain tax incentives (including some changes intended to encourage investment) and the sugar and plastic taxes, among other things. In addition, there are retroactive changes that affect companies that elected in fiscal year (FY) 2021 to step up the inside basis of trademarks and goodwill in the 2020 financial statements for book and tax purposes.

See also tax@hand - January 5, 2022

Korea

Tax law revisions (January 2022)

Date of Enactment: December 21, 2021
Effective Date: January 1, 2022

A new penalty tax for negligence in submitting expense statements regarding passenger vehicles for business use applies to fiscal years started after January 1, 2022. The penalty tax will equal 1% of the amount included in deductible expenses or the amount for which the corporation submits a false statement (section 74-2).

See also tax@hand - January 7, 2022

Luxembourg

Reverse hybrid rules in force as from fiscal years closing in 2022

Date of Enactment: December 20, 2019
Effective Date: January 1, 2022

With effect from fiscal years closing in 2022, reverse hybrid rules apply to reverse hybrid entities, defined as entities incorporated or established in Luxembourg that are treated as transparent for Luxembourg tax purposes (e.g., an SCS or SCSp), but that are viewed as Luxembourg taxable persons by one or more nonresident associated enterprises holding in the aggregate, directly or indirectly, at least 50 percent of the voting rights, capital ownership or profit interest in such hybrid entity.

In such a situation, an entity incorporated or established in Luxembourg is considered a Luxembourg resident and its income is subject to corporate income tax to the extent it is not otherwise taxed under the laws of Luxembourg or any other jurisdiction.

The reverse hybrid mismatch rule does not apply to a collective investment vehicle, defined as an investment fund or vehicle that is widely held, holds a diversified portfolio of securities and is subject to investor-protection regulation in the country in which it is established (e.g., UCIs, SIFs).

See also Law implementing ATAD 2 entered into force | Deloitte Luxembourg | Tax | News

Malaysia

Policy changes announced on taxation of foreign-source income

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

On December 31, 2021, Malaysia's Finance Bill 2021 was gazetted 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.

See also tax@hand - January 7, 2022

Netherlands

Ministry of Finance publishes tax plan for 2022

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

New legislation in respect of NOL carryforward changes has entered into force for financial years beginning on or after January 1, 2022. However, the modification to the NOL carryforwards is considered substantively enacted as per May 21, 2021 (date of Decree) and formally enacted as per June 4, 2021. 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). These new rules will apply to all tax losses arising as of 1 January 2022, as well as tax loss carryforwards still available at that date.

See also tax@hand - September 22, 2021

Spain

2022 budget law introduces minimum corporate income tax regime

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

Law No. 22/2021 of December 28, 2021, on the general budget for the year 2022, was published in the Spanish official state gazette on December 29, 2021. The law contains measures that are applicable as from January 1, 2022, including some tax changes that are expected to increase tax collection. In general, there were no significant changes between the tax measures included in the budget bill published in the official gazette on October 15, 2021, and those enacted in the budget law for 2022.

Also, the budget law for 2022 introduces 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%.

See also tax@hand - January 11, 2022

Ukraine

President signs law on “Diia City” special tax regime for IT businesses

Date of Enactment: December 20, 2021
Effective Date: January 1, 2022

Following the adoption of a special legal regime for the information technology (IT) industry in Ukraine, referred to as “Diia City,” the Ukraine president signed a law on December 20, 2021, that provides a special tax regime for Diia City residents and their employees, independent contractors, and investors (Law No. 1946-IX). A majority of the provisions mentioned below will come into effect as from January 1, 2022.

Corporate income tax
Diia City residents may choose one of two tax regimes. The standard corporate income tax (CIT) rate of 18% on adjusted profits; or

A special tax regime with no corporate income tax on adjusted profits, but, rather, a CIT rate of 9% on certain payments (except for payments to other Diia City residents subject to the special tax regime and certain other exceptions), which include the following:

- Payment of dividends to shareholders;
- Capital distributions for a participant's withdrawal, liquidation, or share buybacks that exceed the amount of the investment;
- Payment of interest, commissions, other remuneration, compensation, penalties, and fines;
- Free-of-charge provisions of property, work, services, or their sale without receipt of funds within 365 days (if funds are received in future periods, tax liability may be reduced accordingly);
- Provisions of financial aid (i.e., interest free loans) that are not refundable or remain not refundable within 12 calendar months (in case of repayment in future periods, the tax liability may be reduced accordingly);
- Royalty payments exceeding the amount of royalty income increased by 4% of net sales revenue; however, for royalties paid to nonresidents in low-tax jurisdictions, non-beneficial owners of income, and mutual investment funds, and for intellectual property rights having originated in Ukraine, the full amount of the royalty payments;
- Investments in assets made outside of Ukraine (e.g., legal entities, shares, property);
- Payments for property, works, and services purchased from individual contractors and businesses on the simplified tax system that exceed the threshold based on total expenses for the previous tax period (50% of total expenses for 2024 and 20% of total expenses for 2025 and onward);
- Contributions to the share capital of a legal entity, a joint venture, or a trust management fund; and
- Cash transfers to the company's own foreign bank accounts.

See also tax@hand - December 21, 2021

Tax code amendments affect broad range of taxes

Date of Enactment: December 20, 2021
Effective Date: January 1, 2022

On December 20, 2021, Ukraine’s president signed into law Draft Law No. 5600 on Amending the Tax Code of Ukraine and Certain Legislative Acts of Ukraine Aimed at Ensuring Balanced Fiscal Revenue. The new law introduces substantial changes to the tax legislation and is effective generally as from January 1, 2022. The amendments cover a broad range of income and indirect taxes and include restrictions on the use of income tax losses by large corporate taxpayers.

Corporate income tax

- Restriction on the utilization of tax losses for large taxpayers. Effective as from 2022, tax loss carryforwards for large taxpayers will be limited to 50% of the tax losses reported in the previous year. However, the accumulated tax losses may be carried forward indefinitely until their full deduction, subject to the aforementioned limitation on the deductible amount for each particular year. As such, any tax losses for 2021 may be carried forward in full, and any tax losses reported before 2022 may be carried forward without restrictions only in tax reporting for 2021. However, if tax losses carried forward from previous years do not exceed 10% of taxable profits for the current reporting period, the taxpayer may reduce the amount of profit/loss before tax for the current reporting period in full.

- Non-repayable financial assistance is not deductible. A taxpayer will not be allowed to deduct any non-repayable financial assistance (e.g., goods and services) provided to a related party if the recipient reported tax losses in the previous reporting year.

- Corporate income tax exemption for green tariff power supply activities. From January 1, 2022 through December 31, 2023, green tariff power producers have the right not to include income/expenses related to such power supplies in the calculation of corporate income tax liabilities (i.e., the profit from such activities will be not taxable).

See also tax@hand - December 29, 2021

Temporary tax, currency, and labor provisions introduced

Date of Enactment: Various
Effective Date: Various

Key tax, currency control, and labor regulations were introduced in Ukraine in March 2022 in response to the ongoing conflict with Russia. These regulations typically apply from announcement and are expected to remain in effect while martial law is in force in Ukraine.

No penalties should apply for failure to pay taxes and duties or file tax returns and reports, where circumstances mean taxpayers are prevented from compliance. Taxpayers must bring their affairs up to date, e.g., pay the taxes and file the returns, within three months after martial law is lifted.

Until martial law is lifted, no new tax audits should be initiated and ongoing tax audits will be suspended. However, exceptions apply to desktop (i.e., virtual) audits to confirm VAT refunds and audits aimed at verification of cash handling procedures and compliance with labor legislation, which will continue during martial law.

As from 1 April 2022 and while martial law is in force, corporate income taxpayers with annual turnover not exceeding UAH 10 billion (approximately USD 340 million) may elect to be subject temporarily to the 2% unified tax in lieu of corporate income tax. The unified tax will be calculated based on annual income without regard to expenses or other deductions. Companies that register for the unified tax also are relieved of the requirement to accrue VAT on their supplies. As such, the unified tax effectively substitutes for both corporate income tax and VAT.

See also tax@hand - March 22, 2022

United States

Emerging ASC 740 Issues – Section 174 Considerations

Date of Enactment: December 22, 2017
Effective Date: January 1, 2022

The 2017 Tax Act (P.L. 115-97, the "Tax Cuts and Jobs Act" or "TCJA") requires taxpayers to capitalize research and experimental ("R&E") expenditures effective for taxable years beginning after December 31, 2021. The issue of whether R&E expenditures incurred by a service provider on behalf of, and at the economic risk of, a customer ("Funded R&E") fall within the definitional scope of section 174 has taken on particular significance under the new section 174 mandatory capitalization regime. In connection with the section 174 mandatory capitalization regime introduced by TCJA, Congress also made "conforming changes" to section 280C. For taxable years beginning prior to January 1, 2022, taxpayers are required to reduce the amount of qualified research expenses otherwise allowable for deduction in the year by the amount of the section 41 research credit claimed with respect to that year. Alternatively, taxpayers can elect a reduced research credit in lieu of making this section 280C adjustment pursuant to section 280C(c)(2).

Entities should consider the R&E capitalization and related changes mentioned above, along with their intended tax return filing positions, when computing the annual effective tax rate ("AETR") for the first quarter the tax law is effective, analyzing uncertain tax positions, adjusting current and deferred taxes and preparing disclosures.

See also Tax Cuts and Jobs Act of 2017

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

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

Per a review of jurisdictions that are generally monitored in this publication, there were no major international income tax law changes enacted before January 1, 2022, but that are first effective beginning April 1, 2022.

On the Horizon

The following developments had not yet been enacted as of March 31, 2022, 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

Intangible asset depreciation changes introduced into parliament

On February 9, 2022, the Australian government introduced the Treasury Laws Amendment (Enhancing Tax Integrity and Supporting Business Investment) Bill 2022. The most significant proposed amendment would provide taxpayers with the choice to self-assess for income tax purposes the taxable effective life of certain intangible depreciating assets they start to hold on or after July 1, 2023, rather than using the statutory effective life currently specified in the law. This bill is expected to lapse upon the calling of the federal election but may be re-introduced in some form after the election.

See also tax@hand - February 8, 2022

Patent box legislation introduced into parliament

On February 10, 2022, the Treasury Laws Amendment (Tax Concession for Australian Medical Innovations) Bill 2022 was introduced into the Australian parliament. The legislation follows the announcement in the Federal Budget 2021-22 of a limited patent box regime to subject corporate income derived from eligible Australian patents in the medical and biotechnology sectors to tax at a concessional rate of 17% as from July 1, 2022. This bill is expected to lapse on the calling of the federal election but may be re-introduced after the election.

Also announced in Australia's Federal Budget 2022-23 was the expansion of Australia’s proposed patent box regime to encompass both the low emissions technology sector (as originally foreshadowed) and the agricultural sector. Proposed legislation for the two new sectors will apply as from July 1, 2023 in respect of eligible income streams from patents issued or granted after March 29, 2022.

See also tax@hand - February 9, 2022, and tax@hand - March 30, 2022

Digital Games Tax Offset draft legislation released

On March 21, 2022, the Australian government released draft legislation and explanatory material to implement a new Digital Games Tax Offset (DGTO) as part of the government’s digital economy strategy. The impetus behind the DGTO is to strengthen Australia’s digital games industry and make it a more attractive and competitive destination for international games development. It also will support inbound investment and create a range of highly skilled, transferable jobs.

See also tax@hand - March 21, 2022

Crypto tax terms of reference released

On March 21, 2022, the Australian government announced that it is progressing to the next stage of the most significant reforms to Australia’s payment systems in more than 25 years, created by new payment and crypto technologies. The government released the terms of reference for a review by the Board of Taxation into the appropriate policy framework for the taxation of digital transactions and assets such as crypto. The review is being conducted on the basis that it will not increase the overall tax burden. The board has been asked to complete its review by December 31, 2022.

See also tax@hand - March 23, 2022

Canada

Draft legislation on limiting deductibility of interest and financing expenses

On February 4, 2022, the Department of Finance Canada released its long-awaited draft legislation to implement the earnings stripping rules previously announced in Budget 2021. The rules are intended to limit the amount of interest and financing expenses (net of interest and financing revenues) that may be deducted by corporations and trusts for Canadian tax purposes based on a permissible percentage (40% in 2023 and 30% as from 2024) of such taxpayers' earnings before interest, taxes, depreciation, and amortization (EBITDA), as determined using Canadian tax principles. Referred to as the Excessive Interest and Financing Expenses Limitation (EIFEL) rules, the proposed measures are broadly in line with the general framework for the legislation that was announced in the 2021 federal budget, as well as the approach set out by the OECD in its report on action 4 of its base erosion and profit shifting (BEPS) initiative.

See also tax@hand - March 17, 2022

Germany

MOF publishes draft of fourth COVID-19 tax aid bill

On February 3, 2022, the German Ministry of Finance (MOF) published a draft of the "Fourth bill on tax relief measures relating to the COVID-19 crisis" that includes several tax measures to aid taxpayers during the ongoing pandemic. The draft bill is the first tax-related draft bill that has been published since the new German government has been in place, following the federal elections in September 2021. The most important measures that are proposed are the following:

- The increased loss carryback amount of EUR 10 million (for individual filers and businesses) that currently is available for losses incurred in 2020 and 2021 would be extended to apply for losses incurred in 2022 and 2023 as well;
- For moveable business assets, the accelerated depreciation method that was introduced in 2020 for assets acquired in 2020 and 2021 would be extended to apply for assets that are acquired in 2022. The depreciation method for such assets is a declining-balance method and the applicable depreciation percentages are 2.5 times the regular straight-line depreciation percentages under the ordinary rules, capped at a 25% annual percentage.
- The reinvestment period that allows for tax-neutral treatment of capital gains from the sale of certain business assets (as provided in section 6b of the Income Tax Code (ITC)) would be extended by another year if the related tax-free reserve otherwise would be eliminated in fiscal year 2022 (generally, a four-year reinvestment period applies). Another one-year extension also would apply for another provision that allows for a deduction of future investment expenses for certain small and medium-sized businesses (as provided in section 7g of the ITC; ordinarily, a general three-year reinvestment period applies).

See also tax@hand - February 8, 2022

Korea

New tax credit available for R&D spending on carbon neutrality technology

For R&D spending related to "new growth and original technologies," including carbon neutrality technology, Korea's government will offer up to a 40% tax credit for small and medium-sized companies and up to a 30% tax credit for large and middle-standing companies. The R&D tax credit advance ruling process has been included and is effective from fiscal years started after January 1, 2022.

See also tax@hand - January 11, 2022 and tax@hand - February 1, 2022

Norway

Proposed legislation would tax nonresidents on certain continental shelf activities

On February 21, 2022, Norway's Ministry of Finance published a consultation paper proposing legislation that would tax nonresidents on activities on the Norwegian continental shelf related to mineral exploration, renewable energy sources, and carbon capture and storage. Consultation responses are due by May 21, 2022.

See also tax@hand - February 28, 2022

Singapore

Tax highlights of Budget 2022 for companies

Singapore's Minister for Finance, Mr. Lawrence Wong, delivered the Singapore Budget 2022 on February 18, 2022, with the theme "Charting our new way forward together." The budget proposals will be incorporated into the Income Tax Amendment Bill once passed by parliament and presidential assent is obtained. Typically, the bill is enacted into law in the fourth quarter of the year.

Some of the key tax highlights of the budget for companies include:

- The corporate income tax rate would remain at 17% for year of assessment 2022 with no corporate income tax rebate proposed; and
- A minimum effective tax rate (METR) regime is being considered to top up the Singapore effective tax rate of qualifying multinational enterprise (MNE) groups to 15% in response to the OECD Pillar Two initiative. It would apply to MNE groups operating in Singapore with annual revenue of at least EUR 750 million, as reflected in the consolidated financial statements of the ultimate parent entity. The Inland Revenue Authority of Singapore (IRAS) will study this further and consult with industry stakeholders on the design of an METR regime. The Ministry of Finance will continue to monitor international developments closely before making any decision on the implementation of an METR.

See also tax@hand - February 23, 2022

Taiwan

Draft amendment to Mergers and Acquisition Act passed by Executive Yuan

On December 30, 2021, Taiwan's Executive Yuan approved a draft amendment to certain articles of the Business Mergers and Acquisitions (M&A) Act, and it will submit the draft amendment to the Legislative Yuan for deliberation. The M&A Act has been amended twice since becoming effective in 2002, the last time being on July 8, 2015. The latest draft amendment passed by the Executive Yuan aims to strengthen the protection of shareholders' rights and interests, increase the flexibility and efficiency of M&A transactions, and create a friendlier M&A taxation environment.

See also tax@hand - January 5, 2022

United States

Still no clarity on details, timing of slimmed-down Build Back Better package

West Virginia Democratic Sen. Joe Manchin reiterated the week of 31 January 2022 that he will not support an expansive Build Back Better package and that any legislation the US Congress eventually sends to President Biden must be narrower and more focused than the measure that cleared the House in November 2021. But even though the White House and congressional Democratic leaders have acknowledged that the tax-and-spending bill will have to be substantially modified to address Manchin's concerns, precise details of just what a revised proposal might look like and when it might come to the floor in either chamber remain elusive.

See also tax@hand - February 5, 2022, tax@hand - January 21, 2022

FY 2023 budget plan continues White House focus on corporate, high wealth tax hikes

The White House released a fiscal year 2023 budget blueprint on March 28, 2022 that, as expected, echoes US President Joe Biden's longstanding calls for significant tax increases targeting large corporations and high-income individuals but also amplifies them.

Thus, for example, the administration has included a familiar proposal from its fiscal year 2022 tax-and-spending plan to increase the top income tax rate to 28% for corporations but also includes a new proposal that would repeal the current-law base erosion and anti-abuse tax (BEAT) and replace it with an undertaxed profits rule consistent with one described in the OECD's Pillar Two model rules.

Likewise, the White House has renewed its call for a top rate of 39.6% for individual taxpayers but also added a so-called "minimum tax on billionaires" of 20% on total income, generally inclusive of unrealized capital gains, for all taxpayers with wealth (i.e., the difference obtained by subtracting liabilities from assets) of an amount greater than USD 100 million. Moreover, the administration includes several new proposals that would tighten certain current-law tax rules related to estates, gifts, and trusts.

These and other proposals, which the Treasury Department describes in more granular detail in the "Green Book" that was released in conjunction with the budget, would increase federal receipts by more than USD 2.5 trillion (net) between 2023 and 2032, according to estimates from the Office of Management and Budget. That revenue, according to the administration, would be dedicated to paying for certain social spending priorities, offsetting the cost of tax relief for lower- and middle-income taxpayers, mitigating climate change, and shrinking the deficit.

See also tax@hand - March 30, 2022, tax@hand - March 28, 2022

Republican tax leaders raise additional concerns over global tax agreement

US Congressional Republican criticism of the Biden administration's approach to an overhaul of global tax rules continued the week of 4 April 2022 as Republican members of the Senate Finance Committee added to their recent exchange of letters with Treasury officials to decry the administration's "insufficient level of engagement and consultation" with Congress in negotiating the 2021 international tax agreement led by the OECD and G20; meanwhile, the top Republican taxwriters in both chambers pointed to recent news out of the EU as a reason to step back from implementing the pact.

See also tax@hand - April 9, 2022

Did you know

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

Germany

MOF does not apply 2016 federal tax court decision regarding DCL rules

On January 31, 2022, the German Ministry of Finance (MoF) published a decree dated January 14, 2022, regarding the non-application of a federal tax court decision dated October 12, 2016, related to the dual consolidated loss (DCL) rules of section 14 (1) No. 5 CITC. In its 2016 decision, the federal tax court stated that the existence of a loss for purposes of the DCL rules must be determined on a consolidated basis at the level of a German tax consolidated group and not at the level of the controlling/controlled entity on a stand-alone basis. The decree states that the MoF is not going to apply the decision of the federal tax court for cases other than the one that was decided back in 2016 and is still of the opinion that for purposes of the DCL rules the existence of a loss must be analyzed at the level of the controlling parent entity and its controlled subsidiaries on a stand-alone basis.

See also tax@hand - January 31, 2022

Hong Kong

Financial Secretary delivers 2022-23 budget speech

The Financial Secretary of the Hong Kong Special Administrative Region, Paul Chan Mo-po, delivered the 2022-23 budget (Budget) speech on February 23, 2022. This is the final budget prepared by Mr. Chan for the current government, and it includes proposals for tax relief for individuals, businesses, and the maritime sector; tax incentives for family offices, the Guangdong-Hong Kong-Macao Greater Bay Area (GBA), and the innovation and technology industry; and the implementation of a global minimum tax regime.

See also tax@hand - February 28, 2021

India

Bank software expenditure is deductible as revenue expense

In a decision published on January 3, 2022, the Bangalore Bench of India's Income-tax Appellate Tribunal held that expenditure incurred on core banking software by a taxpayer engaged in the banking business was a revenue expense as the software only enabled the bank to conduct its business more profitably without affecting its profit-making functions, which consisted of receiving deposits and lending/investing them for profit.

See also tax@hand - January 4, 2022

Highlights of Union Budget 2022

On February 1, 2022, India's finance minister presented the Union Budget 2022. The budget sets out a blueprint from India @75 to India

@100, as India enters the 25-year lead up to completing 100 years of independence. Although the budget contained no changes to corporate or personal income tax rates, there were a number of key tax proposals, including a new tax on virtual digital assets, extended incentives for units in the International Financial Services Centre, an extended qualifying period for eligible start-ups/new manufacturing companies, a cap on the surcharge applicable to long-term capital gains, and the introduction of an optional updated income tax return facility.

See also tax@hand - February 2, 2022

Indonesia

Final income tax rates for construction services updated

On 21 February 2022, the Indonesian government issued Regulation Number 9 of 2022 (PP-9) to update the final income tax rates for construction services that were previously regulated under Regulation Number 51 of 2008 (as amended by Regulation Number 40 of 2009). The range of the final income tax rates changes from 2%-6% to 1.75%-6%, depending on the type of construction services provided and the service provider's business classification and qualification certificate issued by certain authorized regulatory bodies. PP-9 comes into effect as from 21 February 2022.

See also tax@hand – March 31, 2022

Italy

Transfer of tax attributes may be limited in case of indirect change of ownership

The Italian tax authorities clarified, through a tax ruling (No. 39) dated January 20, 2022, that in the case of a change of the indirect owner of the majority of the shares of an Italian company, the limitations on the transfer of tax attributes provided by article 84(3) of the Italian tax code may be applicable. The tax authorities' clarifications add an additional level of complexity to business reorganizations and acquisitions resulting in an indirect transfer of an Italian company, and the tax authorities' position on the application of article 84(3) could be applied retroactively to indirect transfers that occurred in fiscal years prior to the publication of the tax ruling.

See also tax@hand - February 7, 2021

New Zealand

When is interest not interest but is income?

In 2005, New Zealand's Commissioner of Inland Revenue lost two "income under ordinary concepts" cases in the High Court. In *CIR v. Buis and Burston* (2005) 22 NZTC 19,278 (*Buis*), the taxpayers received "interest" on back payments of earnings-related compensation from ACC. While the payments were called "interest" under the then Accident Rehabilitation and Compensation Insurance Act 1992 (now the Accident Compensation Act 2001), as they were not a payment in connection with "money lent" they were not covered by the specific interest income provisions of the then Income Tax Act 1994 (now the Income Tax Act 2007).

In December 2021 Inland Revenue issued a new draft Question We've Been Asked (QWBA) for consultation, PUB00414 "Can a payment that compensates for the time value of money be taxable income if it is outside the statutory definition of 'interest'?" This QWBA sets out that the Commissioner now considers that the judgment in *Buis* can be read consistently with the Commissioner's existing position on how section CA 1(2) applies. The Commissioner's interpretation of the law has not changed; all that has changed is her view on whether *Buis* is consistent with that interpretation.
Just because a payment you have received has been called an "interest" payment does not necessarily mean that it is income. If the payment is not connected to "money lent" and instead is in relation to a damages claim, a penalty or similar, the underlying transaction needs to be considered, to determine if it is in fact income and if it is taxable.

See also tax@hand - February 13, 2022

Singapore

IRAS publishes advance ruling on whether income derived by trust is exempt

On January 3, 2022, the Inland Revenue Authority of Singapore (IRAS) published Advance Ruling Summary No.1/2022. The ruling addresses the issue of whether the gross proceeds derived from the disposal of certain investments fall within the scope of "specified income" under section 13X (section 13U as from December 31, 2021) of the Income Tax Act (ITA). Section 13X provides that specific income from designated investments, including gains derived from the disposal of investments, is tax-exempt subject to the relevant conditions being satisfied.

See also tax@hand - February 1, 2022

Superseded rules for calculating depreciation of plant and machinery revoked

On December 3, 2021, Singapore issued the Income Tax (Machinery and Plant Depreciation Rates) (Revocation) Rules 2021 that revoke the Income Tax (Machinery and Plant Depreciation Rates) Rules ("the rules") as from December 8, 2021. The rules prescribed the rates for calculating the annual allowance (AA) under section 19(2) of the Income Tax Act (ITA) using the reducing balance method, in accordance with which the AA is calculated by applying a fixed percentage to the book value of the assets each year.

See also tax@hand - February 17, 2022

Switzerland

Crypto taxation: Tax authorities provide additional clarity

In December 2021, the Swiss Federal Tax Administration as well as the Association of Swiss Tax Administrations published their updated workpapers and guidelines on the taxation of crypto coins and projects. The new guidelines are based on real life cases that have been presented to and discussed with the authorities up to December 2020.

The guidelines are structured around particular types of tokens and the fiscal framework. Apart from the traditional payment tokens, the guidelines outline the tax treatment of several types of tokens such as debt tokens, asset backed tokens as well as utility tokens. Further, the guidelines do also include comments around the tax treatment of non-fungible tokens.

See also tax@hand - January 28, 2022

Thailand

Extension of certain tax incentives for business operators in special economic zones

The Thai government has announced that it will extend the period of certain tax exemptions and tax reductions, along with certain other tax incentives for business operators located in the special economic development zones (SEZs) in Narathiwat province, Pattani province, Yala province, Songkhla province (only for the Jana district, Thepha district, Na Thawi district, and Saba Yoi district), and Satun province for three additional years, covering the period from January 1, 2021 to December 31, 2023. Several royal decrees issued in November 2021 (Nos. 727, 728, 729, 730, and 731) provide for the extension of various incentive measures.

See also tax@hand - December 24, 2021

Rules provided for additional deduction for investments in computer software by SMEs

A notification from the Director-General of the Thai Revenue Department on income tax (No. 417) issued on December 30, 2021, provides rules and criteria for the additional deduction for corporate income tax purposes that is allowed by a royal decree (No. 725) that was issued on November 7, 2021, with respect to investment expenditure incurred to purchase or develop computer software or license fees for the right to use computer software. The additional tax deduction of 100% (i.e., a total deduction of 200%) is available for amounts paid from January 1, 2021 to December 31, 2022 by companies or juristic partnerships whose registered capital on the last day of a relevant accounting period does not exceed THB 5 million and whose gross income in that accounting period does not exceed THB 30 million. The additional deduction is equal to the amount of the actual expenses incurred, up to THB 100,000 for each period.

See also tax@hand - January 5, 2022

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 2022, 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 and historical rates see Global Tax Rates

Jurisdiction	Combined national/local rate (incl. surcharges, etc.)		Date the combined national/local rate enacted	Notes
	2021	2022	National and Local	
Colombia	31%	35%	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	26.5%–27.4% with surtax (revenue below € 250M) 27.5%–28.4% with surtax (revenue above € 250M)	25%-25.83% with surtax	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.
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%.

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

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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.

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