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Accounting for Income Taxes

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

July 1, 2022–September 30, 2022
October 17, 2022
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MAKING AN IMPACT THAT MATTERS since 1845

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Introduction

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Unless otherwise indicated, the content in this document is based on information available as of September 30, 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: July 1, 2022 to September 30, 2022

The following section includes a summary of major international income tax law changes enacted during the period July 1, 2022 to September 30, 2022.

Australia

Greens flex their power in the Senate on tax transparency

Date of Enactment: August 9, 2022
Effective Date: August 10, 2022

On July 27, 2022, the Australian government introduced the Treasury Laws Amendment (2022 Measures No. 1) Bill 2022 which subsequently received Royal Assent on August 9, 2022. The bill contains several uncontroversial measures carried over from the last parliament.

During the passage of the bill, Senator McKim (Greens) proposed two successful unrelated amendments to the bill with respect to the following:

- Australian Taxation Office (ATO) annual tax transparency reporting (disclosure of taxable income, tax paid): Lower total income reporting threshold at AUD 100 million total income for all corporate tax entities. This will lower the threshold of reporting for Australian resident private companies down from AUD 200 million to AUD 100 million and remove the distinction between Australian resident and foreign resident private companies for the purpose of corporate tax transparency. The amendment applies in relation to an entity for the 2022-23 income year and each later income year. It is expected that reporting would commence for the additional entities in December 2024.
- Repeal of ASIC Corporations (Exempt Proprietary Companies) Instrument 2015/840 which will abolish the "grandfathered" list of private companies which have been exempt from having to lodge financial reports with the regulator. The removal of the lodgement exemption had been proposed in the previous parliament in respect of several bills but was not accepted by the Coalition Government. The exemption will continue to apply to a company in relation to a financial year that ends before commencement day (August 10, 2022).

This represents a significant victory for the Greens and minor parties in the Senate which have had limited success in the previous term in achieving their tax and transparency policy goals under the previous government.

See also tax@hand - August 12, 2022

Cyprus

Tax deduction for research and development expenses increased

Date of Enactment: July 20, 2022
Effective Date: July 20, 2022

In an effort to attract new investments and businesses in Cyprus, an enhanced tax deduction for research and development (R&D) expenses was incorporated into article 9(1)(d) (available in Greek only) of the Cyprus Income Tax law (ITL). This development is one of the tax incentives included in the action plan that was announced in October 2021. The Cyprus parliament voted on the amending ITL law on July 7, 2022. The law was published in the official gazette on July 20, 2022 and is effective as from that date.

See also tax@hand - July 25, 2022

France

2022 amended finance law and "purchasing power law" enacted

Date of Enactment: August 17, 2022
Effective Date: August 17, 2022

During summer 2022, the French parliament adopted a "purchasing power package," consisting of the 2022 amended finance law and a "purchasing power law," both of which were published in the official journal on August 17, 2022.

The below summarizes some of the laws' key provisions.

Adjustment to the temporary tax depreciation of goodwill (amortissement du fonds commercial)

The 2022 finance law confirmed that, as a principle, depreciation of goodwill is not deductible; however, it allowed an exception for goodwill acquired between January 1, 2022 and December 31, 2025.

The 2022 amended finance law amends this mechanism by introducing an anti-abuse clause and clarifying how the rule applies in the context of the specific merger regime.

The new law provides for an additional anti-abuse rule that disallows the temporary tax depreciation when goodwill is acquired by a related company. In particular, the benefit of the temporary tax depreciation is not available for the transfer of goodwill between two companies when:

- One of them holds—directly or through a third party—a majority of the shares of the other, or exercises decision-making power over the other; or
- Both are controlled by the same third company or the same individual.

In addition, the law specifies that, in the event of a merger under the specific merger regime, the gain arising from the transfer of depreciable goodwill cannot be deferred and is taxable immediately (although payment is spread over five years).

Both of these provisions apply to goodwill acquired as from July 18, 2022.

Extension of the exceptional purchasing power bonus

The purchasing power law provides for an extension of the exceptional purchasing power bonus exempted from taxes and social security contributions that had been established initially in 2018.

Prior to the amendment, the exemption from tax and social security contributions applied to bonuses paid between June 1, 2021 and March 31, 2022. The 2022 amended law converts the former exceptional purchasing power bonus into a “value sharing” bonus, extends it, and triples it (i.e., the bonus now is capped at EUR 3,000 or EUR 6,000, depending on the situation).

However, the bonus’ full tax exemption (exemption from income tax, social security contributions, and social security taxes) applies only to bonuses paid between July 1, 2022 and December 31, 2023. Afterward, only the exemption from social security contributions will remain.

See also tax@hand - August 22, 2022

Hong Kong

Tax concessions for shipping-related activities passed into law

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

Hong Kong SAR’s Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-related Activities) Ordinance 2022 was passed into law and then later gazetted on July 22, 2022. The legislation provides profits tax concessions for certain ship agents, ship managers, and ship brokers (collectively "shipping commercial principals") and applies retroactively to amounts received or accrued on or after April 1, 2022.

Under the legislation, subject to certain conditions, the profits derived by a qualifying shipping commercial principal from carrying out a qualifying activity in Hong Kong SAR are subject to:

- A profits tax rate of 8.25%;
- If the qualifying activity is carried out for an associated ship lessor or ship leasing manager that is entitled to a concessionary tax rate of 0% or 8.25%, the same concessionary tax rate (i.e., 0% or 8.25%) that applies to the qualifying shipping commercial principal; and
- If the qualifying activity is carried out for an associated ship operator or ship owner whose income is exempt from tax, the same income exemption that applies to the qualifying shipping commercial principal.

See also tax@hand - July 25, 2022

Malaysia

Policy changes on taxation of foreign-source income legislated

Date of Enactment: July 19, 2022
Effective Date: January 1, 2022

On July 19, 2022, the Malaysian government gazetted the “Income Tax (Exemption) (No. 5) Order 2022” (P.U.(A) 234/2022) and the “Income Tax (Exemption) (No. 6) Order 2022” (P.U.(A) 235/2022) to legislate the income tax exemptions for certain foreign-source income (FSI) received by Malaysian tax residents, in line with the announcement made by the Ministry of Finance (MOF) via a media release on December 30, 2021 (available in the Bahasa Malaysia language only). Both orders are deemed to be effective from January 1, 2022, to December 31, 2026 and are relevant to Malaysian tax residents that receive income in Malaysia from outside of Malaysia as from January 1, 2022.

The orders provide some clarifications on which Malaysian tax residents may qualify for an income tax exemption and on certain conditions for an exemption to apply. Additional guidance is expected to be issued by the Inland Revenue Board (IRB) of Malaysia on the tax treatment of income received from outside of Malaysia.

See also tax@hand - July 27, 2022

Thailand

Extension of additional tax deduction for purchases of COVID-19 antigen test kits

Date of Enactment: July 18, 2022
Effective Date: July 19, 2022

A Thai royal decree (No. 752) issued on July 18, 2022 (following the April 26, 2022 approval of a draft royal decree by the Thai cabinet) provides a company or juristic partnership with an additional corporate income tax deduction of 50% (i.e., a total deduction of 150%) for expenses incurred to purchase COVID-19 antigen test kits for its employees and staff. The additional deduction previously was available for purchases made up to March 31, 2022, and Royal Decree No. 752 retroactively extends the additional deduction to apply to purchases made from April 1, 2022 to December 31, 2022.

See also tax@hand - July 20, 2022

Tax exemptions provided for sales of assets to REITs under buy-back arrangements

Date of Enactment: July 18, 2022
Effective Date: July 19, 2022

A Thai royal decree (No. 753) issued on July 18, 2022 (following the May 10, 2022 approval of a draft royal decree by the Thai cabinet) provides exemptions from corporate income tax, VAT, specific business tax, and stamp duty for a company or juristic partnership with respect to certain sales of assets to the trustee of a real estate investment trust (REIT) under “buy-back” arrangements (i.e., arrangements under which the company or juristic partnership agrees to subsequently repurchase the assets).

The royal decree also provides exemptions from VAT, specific business tax, and stamp duty for the trustee of the REIT in respect of the related “sell-back” transactions. The aim of the exemptions is to allow entities to increase liquidity, in light of the economic downturn caused by the COVID-19 pandemic. The royal decree entered into force on July 19, 2022 (the date following the date of its publication in the government gazette).

See also tax@hand - July 21, 2022

Tax incentive provided to encourage donations to medical foundations

Date of Enactment: July 18, 2022
Effective Date: July 19, 2022

A Thai royal decree (No. 754) issued on July 18, 2022 (following the April 26, 2022 approval of a draft royal decree by the Thai cabinet) provides individuals, companies, and juristic partnerships with an additional income tax deduction of 100% (i.e., a total deduction of 200%) for donations (either in cash or in property) in support of public health made to the Phramongkutklao Hospital Foundation, Tropical Medicine Hospital Foundation, Siriraj Hospital Cancer Foundation, Rajabithi Hospital Foundation, Somdej Phra Pinklao Foundation, or the Queen Sirikit Hospital Foundation via the electronic donation (e-Donation) system from April 26, 2022 to December 31, 2022. The decree also provides an exemption from income tax, VAT, specific business tax, and stamp duty for individuals, companies, and juristic partnerships with respect to income derived from a transfer of property or a sale of goods, or with respect to the execution of an instrument, in connection with such donations, in accordance with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department.

See also tax@hand - July 21, 2022

Further extension of tax incentive for COVID-19 donations to prime minister's office

Date of Enactment: July 18, 2022
Effective Date: July 19, 2022

A Thai royal decree (No. 751) issued on July 18, 2022 (following the April 26, 2022, approval of a draft royal decree by the Thai cabinet) grants a further extension of the income tax deduction and VAT exemption for donations that are made by individuals, companies, and juristic partnerships via the electronic donation system to the prime minister's office to support COVID-19 measures. The royal decree provides for both an income tax deduction and a VAT exemption for donations of money and assets, but provides only for a VAT exemption in the case of donations of inventory.

The income tax deduction and VAT exemption previously were available for donations made up to March 5, 2022, under certain conditions and have been retroactively extended to apply to donations made from March 6, 2022 up to December 31, 2023, in accordance with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department.

See also tax@hand - July 20, 2022

United States

Inflation Reduction Act becomes law

Date of Enactment: August 16, 2022
Effective Date: Various

US President Biden on August 16, 2022 signed into law the Inflation Reduction Act of 2022, the roughly USD 740 billion tax-and-spending package that includes a new book-minimum tax on certain large corporations, an excise tax on stock buybacks, a significant funding boost for Internal Revenue Service enforcement efforts, and a long-term extension of the Superfund excise tax, plus incentives to address climate change mitigation and clean energy and provisions to promote health care affordability.

The Inflation Reduction Act moved through Congress under fast-track budget reconciliation rules that allowed Democratic leaders to avert certain procedural hurdles in the Senate and essentially obviated the need for Republican support—a dynamic that was reflected in the final vote tallies. The measure cleared the Senate on August 7, 2022, by a margin of 51-50, with all 50 Democrats aligned in the "aye" column, all 50 Republicans voting "no," and Vice President Kamala Harris breaking the tie. It was approved in the House on August 12, 2022, by a strict party-line vote of 220-207.

See also tax@hand - August 16, 2022, tax@hand - September 2, 2022

"CHIPs" bill with tax break for domestic semiconductor makers becomes law

Date of Enactment: August 9, 2022
Effective Date: January 1, 2023

On August 9, 2022, US President Biden signed into law bipartisan legislation designed to boost domestic semiconductor manufacturing and encourage US research activities. However, while the measure provides an investment tax credit intended to promote domestic production of semiconductors, it does *not* include a provision that would retroactively permit expensing for research expenditures under tax code section 174.

See also tax@hand - August 13, 2022

Enacted Tax Law Changes That Are Now Effective: July 1, 2022 to September 30, 2022

The following section includes a summary of major international income tax law changes enacted before July 1, 2022, but are first effective in the period July 1, 2022, to September 30, 2022.

Per a review of jurisdictions that are generally monitored in this publication, there were no major enacted international income tax law changes that are now effective between July 1, 2022 and September 30, 2022.

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

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

On the Horizon

The following developments had not yet been enacted as of September 30, 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

Government consults on MNE tax integrity and tax transparency measures

On August 5, 2022, the Australian Treasury released a consultation paper "Government election commitments: Multinational tax integrity and enhanced tax transparency." The consultation paper follows the Labor Party's pre-election announcement in April 2022, on "Labor's Plan to ensure Multinationals Pay Their Fair Share of Tax."

The consultation paper seeks to consult on the implementation of the government's proposals to:

- Amend Australia's existing thin capitalization rules to limit interest deductions for multinationals (MNEs) by introducing an EBITDA (earnings before interest, taxes, depreciation and amortization) interest restriction rule;
- Introduce a new rule limiting MNEs' ability to claim tax deductions for payments relating to intangibles and royalties that lead to insufficient tax paid; and
- Ensure enhanced tax transparency by MNEs through measures such as
  - Public reporting of certain tax information on a country-by-country basis; including mandating aspects of the voluntary tax transparency code;
  - Reporting of material tax risks to shareholders; such as transactions in tax havens or high-risk arrangements under a practical compliance guideline. and
  - Requiring tenderers for Australian government contracts over AUD 200,000 to disclose their country of tax domicile.

Following consideration of responses to the consultation paper, the government will issue and consult further on exposure draft legislation prior to introducing any legislation into parliament.

See also tax@hand - August 8, 2022; tax@hand - July 19, 2022 and tax@hand June 7, 2022

Brazil

New rules proposed for financial institutions on the deduction of losses from NPLs

On July 6, 2022, the Brazilian government published a provisional measure (PM 1,128/2022) providing proposed new rules for financial institutions on the deduction of losses from nonperforming loans (NPLs). The proposed rules would provide specific criteria for each type of loan, creditor (including those that are in a bankruptcy process), and guarantee.

The proposed rules deviate substantially from the current limitations under Law 9,430/1996 and aim to follow the recent acceptance by the Brazilian Central Bank (BACEN) of the International Financial Reporting Standards (IFRS) 9 rules (BACEN Resolution 4,966/2021), which include different impairment requirements relating to the accounting for credit losses on financial assets.

See also tax@hand - July 19, 2022

Colombia

New government's tax reform bill contains revenue raising measures

The minister of finance in Colombia's new government presented a tax reform bill to Congress on August 8, 2022. The primary focus of the proposed reforms is to generate revenue to help fund the government's plans for programs to promote equality and social justice, while also achieving a more equitable tax system. Key proposals include a tax on exports of oil and other important commodities, an increase in the capital gains tax rate for companies, an increased rate of tax on dividends paid to nonresidents, the abolition of the "mega investments" regime, effective tax increases for more affluent individuals, the introduction of a new annual wealth tax, modifications to the carbon tax, and an extension to the scope of taxation of permanent establishments.

Congress must now review the proposed bill which is expected to result in a number of amendments. If approved, the changes generally would apply as from January 1, 2023. This article provides an overview of the most significant proposals in the bill.

See also tax@hand - August 17, 2022

Greece

Call for proposals under "Manufacturing—Supply Chain" state aid scheme announced

On July 22, 2022, the Greek Ministry of Development and Investments published the first call for proposals on the "Manufacturing—Supply chain" state aid scheme under new Development Law 4887/2022 (Gov. Gazette 74086 B' / 22-07-2022). Applications may be submitted from July 27, 2022, through October 31, 2022.

The following article provides a brief summary of the aid scheme.

See also tax@hand - July 25, 2022

Luxembourg

Super deduction proposed for R&D, digital transformation, environmental transition

On July 4, 2022, Luxembourg's Chamber of Commerce submitted a proposal to the Minister of Finance allowing certain taxpayers to claim an additional 50% to 100% super deduction (SD) on their eligible research and development (R&D) expenses and costs associated with their digital transformation and ecological and environmental transition. This proposed measure aims to provide an optional tax incentive to companies and should help attract investment into Luxembourg.

The proposed period for the application of the SD would be from the year 2022 through 2026, with a proposed extension for an additional five-year period.

Additionally, the Chamber of Commerce is proposing to add an additional layer of exemption with a proposal to combine the SD with the net wealth tax exemption on related assets.

See also tax@hand - July 14, 2022

Mexico

2023 economic package submitted to Chamber of Deputies

Mexico's federal executive branch submitted the 2023 Economic Package (in Spanish only) for review to the Chamber of Deputies on September 8, 2022.

The package comprises the General Economic Policy Criteria, the Federal Revenue Law (LIF), the Federal Expenditure Budget, and the Fees Law. However, as previously announced, given the absence of an omnibus tax bill, there will be no change to the Income Tax Law, Value-Added Tax Law, Excise Tax Law, or Federal Tax Code (CFF), and certain tax surcharges, incentives, and exemptions will remain in effect, as further discussed in the article. If approved by Congress, the proposals will become effective on January 1, 2023.

A summary of the most relevant reforms is detailed in the article.

See also tax@hand - September 9, 2022

Netherlands

Ministry of Finance publishes tax plan for 2023

On September 20, 2022, the Dutch Ministry of Finance published the government's tax plan for 2023. The proposals and announced measures included in the tax plan that are most relevant for international companies include:

- Changes to the corporate income tax "step-up" rate and bracket;
- An increase in the general real estate transfer tax rate;
- The tightening of the "30% facility," an amendment to the Mining Act; and
- Changes to the regime for fiscal investment institutions.

The bill will be discussed by parliament, but it is expected to be finalized by the end of 2022 and take effect as from 2023.

See also tax@hand - September 21, 2022

United Kingdom

"L-day" 2022: Draft legislation and other announcements

In line with the UK government's framework for tax policy making, July 20, 2022 was "Legislation Day" or "L-Day," the day on which His Majesty's Revenue and Customs (HMRC) publishes pieces of draft legislation for technical consultation, with a view to their inclusion in the Finance Bill 2022-23. Although the focus of L-Day is on draft legislation for preannounced policy changes (for example tax policies announced by Prime Minister Liz Truss during the Conservative Party leadership campaign), HMRC also announced new consultations and published summaries of the responses to previous consultations.

Significant measures for which draft legislation was issued include the introduction of the new multinational top up tax in line with OECD Pillar Two minimum tax rules, changes to research and development tax relief, and new transfer pricing documentation requirements for UK businesses.

See also tax@hand - July 26, 2022

Key tax measures in mini-budget 2022

On September 23, 2022, the UK Chancellor of the Exchequer Kwasi Kwarteng announced his Growth Plan for the UK, introducing some of the most significant tax changes in a generation and going much further than the pledges Prime Minister Liz Truss made during her leadership campaign. One of these announcements is in regard to certain business tax changes.

The planned increase in corporation tax to 25% from April 2023 will not go ahead. The corporation tax rate will remain at 19% with the aim of encouraging investment and stimulating growth in the UK. The scheduled change to the rate of the bank corporation tax surcharge also will be canceled and remain at 8%, keeping the combined rate of tax on profits paid by banks and building societies at 27%. The planned increase in diverted profits tax to 31% also will be canceled. This will remain at 25% to retain the current 6% differential with the main corporation tax rate. As at the date of this publication, the cancellation of the 25% rate has not been enacted, substantively or by Royal Assent, for UK GAAP and US GAAP reporting respectively.

To further encourage growth, the government will make the current level of annual investment allowance of GBP 1 million per annum permanent. The temporary level was due to expire after 31 March 2023 when it would have reduced to GBP 200,000. The permanent increase means that businesses will be able to deduct 100% of the costs of qualifying plant and machinery up to GBP 1 million in the first year.

It was also announced that the 1.25% national insurance contribution (NIC) rise for employers, employees, and the self-employed will be reversed with effect from November 6, 2022. The health and social care levy which would have replaced the 1.25% NIC rise from April 6, 2023 also will be canceled. The changes will be legislated for in the Health and Social Care Levy (Repeal) Bill which has been introduced into parliament.

For more detailed commentary and analysis, visit Deloitte UK's dedicated mini-budget 2022 website.

See also tax@hand - September 23, 2022

United States

JCT projects USD 1.7 trillion net revenue gain under Biden's FY 2023 budget proposal

The tax provisions in the fiscal year 2023 budget blueprint that US President Biden sent to Congress in March 2022 would, if enacted into law, result in a net increase in federal receipts of just over USD 1.7 trillion between fiscal years 2023 and 2032, according to a revenue estimate released by the Joint Committee on Taxation (JCT) staff on July 25, 2022.

Significantly, however, the estimate does not include revenue from the administration's proposed new income tax on certain ultra-wealthy individuals, as the JCT noted that it currently has insufficient details to score that provision.

See also tax@hand - July 30, 2022

Government funding dominates fall congressional agenda but some tax changes possible

With the Inflation Reduction Act (P.L. 117-169) now signed into law, the US Congress is returning from its August recess to face a formidable to-do list that likely will be dominated by efforts to keep the government's doors open for fiscal year 2023, which begins on October 1, 2022. Tax policy will also be on the agenda, though, as lawmakers seek to advance assorted tax-relief proposals that fell through the legislative cracks over the past year, renew a handful of expired and expiring tax "extenders" provisions, and possibly enact an additional round of retirement security reforms.

But with the legislative calendar compressed because of the upcoming midterm congressional elections in early November, it appears likely that Congress will opt for a short-term government funding patch in September and defer action on a more durable funding measure, as well as any tax items on which the two chambers can reach an agreement, until a post-election lame duck legislative session.

See also tax@hand - September 10, 2022

Did you know

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

France

Foreign tax credits may offset tax due on dividend lump sum add-back

On July 5, 2022, France's Supreme Administrative Court (Conseil d'Etat) canceled the French tax authorities' (FTA) guidelines that stated that the add-back of a 5% lump sum on dividends that are tax exempt under the participation exemption regime could not be treated as a tax paid on part of the dividends, thus denying the use of foreign tax credits to offset the tax due on the lump sum (Conseil d'Etat, n°463021).

Based on this decision, provided certain conditions are met, French companies that did not claim foreign tax credits for the tax imposed on the portion of foreign dividends eligible for the participation exemption regime are entitled to claim a refund. Due to the statute of limitations, claims must be filed with the FTA before December 31, 2022, for dividends received in fiscal year 2019.

See also tax@hand - July 6, 2022

Greece

2022-2027 regional aid map amended

on January 6, 2022, The European Commission approved, under the EU state aid rules and within the framework of the revised Regional Aid Guidelines, Greece's regional aid map (RAM) for the period from January 1, 2022 through December 31, 2027.

See also tax@hand - July 15, 2022

DRD issues guidance on tax depreciation of renewable energy source installations

Greece's Dispute Resolution Directorate (DRD) provided significant guidance regarding the tax depreciation of renewable energy source (RES) installations in decisions no. 4064/2022 and 4077/2022, published in August 2022. The conclusions reached by the DRD regarding the applicable tax depreciation rates for photovoltaic parks were quite notable, in particular with respect to the application of the 4% rate for non-building facilities and the 10% rate for machinery and mechanical equipment.

See also tax@hand - September 1, 2022

Hong Kong

Pillar Two implementation deferred

On August 15, 2022, Hong Kong SAR's Secretary for Financial Services and the Treasury (FSTB) issued a letter to various stakeholders that announced the government would defer the implementation of a global minimum tax regime in Hong Kong SAR.

The implementation of the IIR will be deferred to 2024 at the earliest. The original plan was to implement the IIR in 2023.

See also tax@hand - August 19, 2022

India

ITAT rules income from equipment manufactured and sold abroad is not taxable

The Dehradun Bench of India's Income-tax Appellate Tribunal (ITAT) published a decision on May 23, 2022, providing that income received for the supply of equipment and other accessories is not taxable in India if all the activities such as the transfer of title and risk, receipt of consideration, and delivery of the goods take place outside India.

See also tax@hand - July 6, 2022

Supreme Court ruling confirms dual conditions for withdrawing exemption claim

India's Supreme Court published a decision on July 11, 2022 that a claim for exemption for certain profits derived by a newly established 100% export oriented unit (EOU) under section 10B of the Income-tax Act, 1961 (ITA) may only be withdrawn by a taxpayer when the two conditions specified under section 10B(8) are satisfied.

These conditions are that the taxpayer must provide the declaration to the assessing officer (AO) in writing and file the declaration before the due date for filing the relevant return of income.

See also tax@hand - July 20, 2022

Italy

Supreme Court issues decisions on Italian taxation of outbound dividend distributions

On July 6, 2022, the Italian Supreme Court issued six decisions regarding outbound dividend distributions made by Italian companies to US investment funds, in which the court took the position that US investment funds should be granted the same tax treatment applicable to Italian investment funds, in line with EU principles (in particular, the principle of the free movement of capital). According to the Supreme Court, the discrepancy between the withholding tax rate applicable under the Italy-US tax treaty to distributions to US investment funds and the domestic rate of taxation applicable to distributions to Italian investment funds constituted discrimination and was incompatible with EU law, even with respect to distributions to entities established in a non-EU jurisdiction. As discussed further in the article, in light of the Supreme Court's decisions, investment funds and companies resident in non-EU jurisdictions providing for an adequate exchange of tax information with Italy may wish to consider filing a refund request in relation to Italian withholding tax imposed on dividends, provided the statute of limitations has not yet expired.

See also tax@hand - July 27, 2022

Japan

Tax reform could impact direct investment in real property by foreign investors

The scope of the Japanese earnings stripping rules was expanded to cover direct investment in Japanese real property by foreign investors for fiscal years commencing on or after April 1, 2022. This change could adversely affect the after-tax profitability of such an investment. This article discusses such a potential impact with an illustrative example.

See also tax@hand - September 6, 2022

New Zealand

Asset stripping arrangements and Inland Revenue's tax recovery provisions

The New Zealand Inland Revenue on July 25, 2022 published a Technical Decision Summary (TDS 22/14) summarizing a decision issued on March 9, 2022 in which the Tax Counsel Office (TCO) found a sole director/shareholder of a company (in liquidation) personally liable, as agent, for the tax liabilities of the company under section HD 15 of the Income Tax Act 2007 (ITA) and section 61 of the Goods and Services Act 1985 (GSTA) (referred to together as the recovery provisions). The recovery provisions are intended to counter asset stripping arrangements in companies, as discussed in the article.

See also tax@hand - August 9, 2022

Snapshot of recent developments

The article discusses recent developments on the following subjects:

- Negotiations concluded on New Zealand-European Union free trade deal
- Inland Revenue statements and guidance

See also tax@hand - August 12, 2022

Singapore

IRAS publishes advance ruling on tax treatment of nonresident company's activities

The Inland Revenue Authority of Singapore (IRAS) has published Advance Ruling Summary No. 10/2022 which addresses whether, through its Singaporean activities, a nonresident company has a taxable source of income in Singapore (under the provisions of section 10(1), read with section 12(1) of the Income Tax Act (ITA)), and determines the withholding tax treatment of technical service fees payable by customers in Singapore to the nonresident. The ruling was published on June 1, 2022.

The IRAS publishes summaries of advance rulings to enhance taxpayers' understanding of the IRAS' interpretation and application of the tax legislation in specific scenarios. The summaries are published in a redacted form that does not identify the applicant, the arrangement, any other parties to the arrangement, the date of the transaction, or the transaction values.

See also tax@hand - August 16, 2022

Thailand

Criteria set forth for determining eligibility for tax incentives provided in SEZs

Royal Decree No. 731 provides that companies or juristic partnerships that do not have their place of business in an SEZ may be entitled to claim an additional tax deduction of 100% (i.e., a total deduction of 200%) for expenditure relating to investments in shares or a partnership interest (either for an increase of capital or for the establishment of an entity) and investments for the establishment of companies or juristic partnerships that have their place of business in an SEZ. Notification No. 426 sets forth the criteria for determining the eligibility for the additional deduction, as follows:

- The company or juristic partnership must not have operated within the SEZs for at least one year before making such investments; and
- The company or juristic partnership must not sell or transfer the shares in a company that operates in an SEZ, except under certain circumstances.

See also tax@hand - July 16, 2022

United Kingdom

New prime minister announced: Likely tax policy implications

On September 5, 2022, it was announced that Liz Truss had won the UK Conservative Party leadership contest and hence became the new UK prime minister. Throughout her campaign, tax policy was at the forefront and Truss has been very consistent on her key policy promises of halting the corporation tax rise, reversing the national insurance increase, and suspending green levies. These policy decisions have now been formally announced and the main question is when the law change will happen.

Truss has also promised to review a number of elements of the tax system, including its overall complexity, how it deals with couples, boosting freeports, and inheritance tax. We await more details on these pledges in the coming weeks and, in addition to new promises, there are over 70 major tax policy decisions in the pipeline that will need addressing. On November 23, 2022 the UK Chancellor will set out the 'Medium-Term Fiscal Plan' and there will be a Budget in the Spring of 2023.

See also tax@hand - September 5, 2022

United States

JCT releases federal tax system overview

The staff of the US Joint Committee on Taxation (JCT) released a new report on June 28, 2022 describing the operation of the federal tax system as in effect for 2022.

The JCT report takes a broad look at the various elements of federal tax law, including individual and corporate income taxes, estate and gift taxes, payroll taxes, social insurance taxes, and certain excise taxes. It does not describe provisions as they may be in effect for future years nor does it discuss the scheduled termination of various temporary provisions in the tax code, such as those affecting individuals, estates, and passthrough businesses that were enacted in the Tax Cuts and Jobs Act of 2017 (P.L. 115-97) and are scheduled to expire after 2025.

See also tax@hand - July 16, 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 see 2022 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
	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.

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.

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