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Global Tax Developments Quarterly
Accounting for Income Taxes

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

October 1, 2022–December 31, 2022
January 13, 2023
Issue 2022-4

Contents

Introduction

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Applicable US GAAP guidance

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

Enacted Tax Law Changes: October 1, 2022 to December 31, 2022

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

Brazil

Guidance issued on temporary 0% tax rate for tourism industry

Date of Enactment: December 21, 2022
Effective Date: March 18, 2022

On December 21, 2022, the Brazilian government issued a provisional measure (PM 1,147/2022) amending Law No. 14,148/2021, which introduced the Emergency Program for the Recovery of the Events Sector ("PERSE") and established a 0% rate for corporate income taxes (IRPJ and CSLL) and federal gross revenue taxes (PIS and COFINS) for a period of five years as from March 18, 2022. The PM reinforces certain limitations and guidance on the practical application of the reduced rate provided in a normative ruling (NR 2,114/2022) issued by the Brazilian tax authorities on October 31, 2022. The changes seek to clarify that the tax benefits were intended to apply only to revenues that were negatively affected by the COVID-19 pandemic, thereby avoiding a broader interpretation of the original law and compromising the public budget.

Although provisional measures are effective as soon as they are published, the House of Representatives and Senate still must vote on the provisional measure within four months from the date the measure is published. A provisional measure will remain in force for two months but will expire automatically if it is not extended for an additional two-month period or if the House of Representatives and Senate do not vote on the provisional measure within the four-month period.

See also tax@hand - December 28, 2022 and tax@hand - November 4, 2022

Colombia

Wide-ranging tax reform enacted

Date of Enactment: December 13, 2022
Effective Date: Various

On December 13, 2022, the Colombian President Gustavo Petro enacted Law 2277 of 2022 (available in Spanish only), which contains the tax reform proposals previously approved by congress. The purpose of the amendments is to promote equality and social justice, as well as to consolidate adjustments to the tax system. The reform includes significant changes to the income tax regime applicable to corporate entities and individuals, modification of the carbon tax regime, and the enhancement of measures to encourage tax compliance. For international corporate taxpayers, key measures include an increase in the withholding tax rate applicable to dividends paid to nonresidents and branch remittances, the introduction of a new 15% minimum effective tax rate, an increase in the corporate income tax surcharge payable by companies in certain sectors, and the introduction of the concept of significant economic presence (SEP).

Most changes will enter into force as from the date of enactment of the legislation; however, some changes that alter substantial matters concerning periodic taxes enter into force as from 1 January 2023, and certain other provisions enter into force on a date specified in the legislation.

See also tax@hand – December 15, 2022

France

2023 finance bill adopted by Parliament

Date of Enactment: December 31, 2022
Effective Date: January 1, 2023

On December 31, 2022, France's 2023 finance bill was published in the official journal.

The below summaries a few of the law's key tax provisions, some of which are the same as those included in the draft bill released in September 2022.

- Temporary solidarity contribution for fossil fuel sector
- Cap on market revenue of electricity producers
- Amendments to the digital services tax (DST)
- Five-year depreciation period for fixed assets extended to EU public subsidies for research and development
- Tax framework for captive reinsurance companies located in France
- Removal of the added value contribution (CVAE) over two years and CET cap adjustment

See also tax@hand – December 29, 2022 and tax@hand - October 20, 2022

Germany

Upper house approves amended extraterritorial taxation rules

Date of Enactment: December 16, 2022
Effective Date: December 20, 2022

The German upper house of parliament (Bundesrat) on December 16, 2022 approved the Annual Tax Act 2022 after the lower house of parliament (Bundestag) provided its approval on December 2, 2022. The law includes a significant reduction of the scope of German extraterritorial taxation of royalty payments between nonresidents (referred to as offshore receipts in respect of intangible property or ORIP) and intellectual property (IP) transfers by nonresidents (referred to as extraterritorial capital gains taxation or ETT) where German-nexus IP exists solely as the result of the registration of rights in a German public book or register.

The bill must still be signed by the president and published in the federal gazette before becoming effective (which are seen as mere formalities).

See also tax@hand - December 16, 2022 and tax@hand - December 5, 2022

Hong Kong

Legislative Council passes FSIE regime, government provides updates

Date of Enactment: December 14, 2022
Effective Date: January 1, 2023

On December 14, 2022, Hong Kong SAR's Legislative Council passed the Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Bill 2022 regarding the foreign-source income exemption (FSIE) regime, which provides that specified foreign-source income will be deemed taxable in Hong Kong SAR, unless certain conditions are met. The FSIE regime will be effective as from January 1, 2023.

In general, under the FSIE regime, a covered taxpayer is an entity that is part of a multinational enterprise group that carries on a business in Hong Kong SAR. Covered income includes foreign-source interest, dividends, disposal gains on equity interests, and income from intellectual property (IP) that is received in Hong Kong SAR.

See also tax@hand – December 8, 2022, tax@hand - November 14, 2022 and tax@hand - November 2, 2022

Ireland

Finance Bill 2022 published

Date of Enactment: December 15, 2022
Effective Date: January 1, 2023

On October 20, 2022, Ireland's finance minister published Finance Bill 2022. The measures contained in Finance Bill 2022 are reflective of the key challenges outlined in Budget 2023, with the focus on inflation and the rising cost of living, the housing crisis, as well as climate change and sustainability.

Coupled with other EU proposals, such as the "unshell" directive and the debt equity bias reduction allowance currently being discussed at the EU level, 2023 is expected to be dominated by public consultation in this area.

A detailed discussion of Finance Bill 2022 is available on Deloitte Ireland's website.

See also tax@hand - October 24, 2022

Italy

2023 budget law enacted, including certain measures relevant to multinational groups

Date of Enactment: December 29, 2022
Effective Date: January 1, 2023

Italy's 2023 budget law was published in the Italian official gazette on December 29, 2022, and its provisions generally entered into force on January 1, 2023 and generally are applicable as from the same date. The budget law contains several tax provisions that could be relevant to multinational groups with Italian activities, such as provisions relating to the definition of a permanent establishment, the tax treatment of certain inbound dividends, the introduction of rules relating to the taxability of certain capital gains from transfers of participations in companies whose value principally is derived from Italian immovable property ("land-rich rules"), and the settlement of certain assessment procedures with the Italian tax authorities. Among other things, the budget law also includes provisions allowing a significant reduction in administrative penalties in certain cases where taxpayers voluntarily correct tax violations; establishing the temporary solidarity contribution for 2023 that applies to surplus profits of Italian entities operating in certain industries; and amending the computation of the solidarity contribution for 2022 (which may require certain entities to pay additional tax for 2022).

See also tax@hand – January 9, 2023

Korea (ROK)

2023 tax reform law includes significant changes for corporations

Date of Enactment: December 31, 2022
Effective Date: January 1, 2023

On December 23, 2022, the Korean National Assembly officially passed the 2022 Tax Revision Bill originally announced by the Ministry of Economy and Finance in July 2022. Below are the main provisions relevant to foreign-based corporations:

- Reduction of corporate tax rates for each bracket;
- Increase of the limit for the use of carried forward net operating losses (NOLs);
- Addition to procedural requirements for application of tax exemption/non-taxation;
- Reduction and extension of the taxation for promoting investment and mutually beneficial cooperation;
- Introduction of integrated employment tax credit;
- Expansion of tax credit for national strategic technology; and
- Introduction of global minimum tax.

See also tax@hand – December 25, 2022

Netherlands

2023 Tax Plan

Date of Enactment: December 21, 2022
Effective Date: January 1, 2023

On December 20, 2022, the Senate adopted the 2023 Tax Plan package and a number of other bills related to the government's tax policy. The bills were published in the Dutch Government Gazette on December 21, 2022 and entered into force on January 1, 2023. Some of the main items of the bills that have been enacted and entered into force as per January 1, 2023 are:

- The corporate income tax rate up to a taxable amount of €200,000 is 19% (2022: €395,000 and 15%) and the rate for taxable profit exceeding €200,000 will be 25.8% (2022: €395,000 and 25,8%).
- The general property transfer tax rate will be increased to 10.4% as of January 1, 2023, up from 8%. This rate applies to the acquisition of all property, except for homes that serve as the acquirer's primary residence. The latter is generally subject to a rate of 2%.
- Entities that are subject to corporate income tax and that engage in investments can opt for the regime of the fiscal investment institution (fiscale beleggingsinstellingen, fbi's), provided certain conditions are met. The taxable results of a fiscal investment institution are subject to a zero rate. In order to benefit from the regime, as of 2024 it is no longer allowed to directly invest in property (either located in the Netherlands or abroad).
- As part of compensating Dutch households for the increased energy costs, the Dutch government introduced an additional cijns. Cijns is a fee based on the turnover generated with the production and exploration of oil and gas in the Netherlands. The temporary cijns rate of 65% will apply to turnover specifically generated with natural gas at a higher price than EUR 0.50 per m3 during 2023 and 2024. Turnover relevant to the cijns also includes the result of legal transactions aimed at hedging price risks run in relation to hydrocarbons extracted or to be extracted (hedge contracts). This ensures that for the purpose of cijns the turnover actually realized by the license holders is taxed.
- The introduction of a 'solidarity contribution', also referred to as Windfall tax, for EU companies and permanent establishments active in the oil, natural gas, coal and refinery sectors. Companies subject to corporate income tax, which generate at least 75% of their turnover (for foreign taxpayers this regards the turnover of their Dutch branch) in a financial year starting in 2022, will be subject to a solidarity contribution of 33% of the excess profit they generate. This involves companies engaged in hydrocarbon extraction, mining, petroleum refining, or manufacturing coke oven products. A surplus profit arises if the profit in the (financial) year 2022 exceeds by 20% the reference profit (the average taxable profit in the four financial years preceding the financial year starting in 2022, with a minimum of zero). The contributor must pay the solidarity contribution due by filing a tax return within 17 months of the end of the tax period. Additional assessments and penalties are possible up to seven years after the end of the calendar year in which the tax debt arose. A liability clause has also been provided for. The tax explicitly only applies to the (financial) year 2022. For the years 2023 and 2024, a temporary increase in the cijns is provided for.

See also NL tax article – December 23, 2022 and NL tax article – December 23, 2022

Enacted Tax Law Changes That Are Now Effective: October 1, 2022 to December 31, 2022

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

Enacted Tax Law Changes That Are Effective Beginning January 1, 2023

The following section includes a summary of major international income tax law changes enacted before October 1, 2022, but effective beginning January 1, 2023.

Greece

Details of implementation of "superdeduction" for eligible expenses of SMEs published

Date of Enactment: September 28, 2022
Effective Date: January 1, 2023

On September 28, 2022, Joint Ministerial Decision No. 139818 EX 2022 (Government Gazette B'5083/28-09-2022) was published, specifying the conditions, procedures, and types of eligible costs for Greek small and medium-sized enterprises (SMEs) to claim a "superdeduction" for 200% of expenditure on green initiatives, energy efficiency, and digitization when calculating their taxable profits. The joint ministerial decision enters into effect as from the date of publication and implements the provisions of article 22E of Law 4172/2013, as added by article 86 of Law 4941/2022 (A' 113), passed by the Greek parliament on June 16, 2022, and published in the government gazette on the same date.

Based on the existing corporate income tax rate of 22%, a tax benefit of 22% on green, energy, and digitization expenses is expected. The incentive also applies to allow depreciation of twice the standard rate on assets acquired by SMEs with the aim of strengthening the green economy, improving energy efficiency, and digitization, provided the SME does not claim an enhanced depreciation deduction in accordance with article 24 and paragraph d' and e' of article 22B of the Income Tax Code.

The superdeduction applies only to expenses incurred and assets purchased during fiscal years 2023, 2024, and 2025.

See also tax@hand - October 11, 2022

United States

Year-end guidance on Inflation Reduction Act, other significant tax law changes

Date of Enactment: August 16, 2022
Effective Date: January 1, 2023

Recent tax alerts from Deloitte Tax LLP (Deloitte) discuss 2022 year-end guidance from the US Treasury Department and Internal Revenue Service (IRS) covering issues arising from the Inflation Reduction Act (P.L. 117-169), other significant tax law changes that took effect in 2022 or are scheduled to take effect in 2023, and issues related to the foreign government income exemption and the definition of domestically controlled qualified investment entities (QIEs). This article gives a brief overview of the following:

- Corporate minimum tax;
- Excise tax on stock buybacks;
- Mandatory capitalization of research expenditures;
- Reduced reporting threshold for third-party payment processors;
- Digital asset information reporting; and
- Proposed regulations under sections 892 and 897.

See also tax@hand – January 7, 2023 and tax@hand – December 24, 2022

On the Horizon

The following developments had not yet been enacted as of December 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.

Argentina

New regime to promote investments to increase exports in knowledge economy enacted

On October 6, 2022, Argentina's Federal Executive published Decree No. 679/2022 (available only in Spanish) enacting a new promotional regime for investments in exports of "knowledge economy" activities and issued new guidelines for the regime for the promotion of the knowledge economy.

The regime will include investments in infrastructure, capital goods, and human capital intended for new projects or the expansion of existing ones, provided they involve the development of activities of the knowledge economy according to article 2 of Law No. 27,506.

See also tax@hand - October 13, 2022

Australia

Highlights of Federal Budget October 2022

On October 25, 2022, the Australian Treasurer Jim Chalmers delivered a plan primarily focused on delivering the new government's core election promises.

Set against a backdrop of rapidly escalating economic risks—a deteriorating global growth outlook, rising inflation, and structural spending pressures—this budget has been a delicate balancing act of cost-of-living support, investment in the economy, and fiscal constraint. The key announcements are summarized in the article.

See also tax@hand - October 25, 2022

New omnibus tax bill introduced into parliament

On November 23, 2022, the Australian government introduced Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 into the House of Representatives containing a number of previously announced measures.

The bill introduces the following taxation related measures:

- Digital games tax offset
- Taxation of digital currencies
- Reducing the compliance burden of record keeping for fringe benefits tax
- Skills and training boost
- Technology investment boost
- Taxation of military superannuation benefits

These measures are expanded upon in the article.

See also tax@hand - November 23, 2022

Revised DGTO legislation now before parliament

On November 23, 2022, the Australian government introduced into parliament the Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 ("the bill") and explanatory memorandum which contain the provisions for the new Digital Games Tax Offset (DGTO). The government recently had confirmed its support for the DGTO measure that was announced by the former Morrison government.

The move has been strongly welcomed by the Australian video games industry and the Interactive Games and Entertainment Association (IGEA).

Once the final DGTO measures have commenced after Royal Assent, a new division 378 of the Income Tax Assessment Act 1997 (ITAA 1997) will take effect for eligible expenditure incurred after July 1, 2022, the date from which the measures were originally announced to take effect.

The measures in the bill include a number of features that were contained within the draft legislation released for consultation in March 2022, which are summarized in the article.

See also tax@hand - November 24, 2022

Belgium

Finance minister prepares first set of tax measures as part of broader tax reform

The Belgian finance minister in mid-October 2022 produced proposals for the first phase of measures intended to form part of the "broader tax reform" mandated following the government agreement on the Federal Budget 2023. The measures are intended to strengthen the purchasing power of consumers and increase the employment rate, and would be implemented over a three-year period. The second phase measures of the broader tax reform are to be prepared by September 2023.

The intention is for the government to discuss and reach a political agreement on the measures during November and December 2022. This article provides an overview of the most significant business, individual, and indirect tax measures as currently proposed but it is important to keep in mind that these may be amended or ultimately not adopted.

See also tax@hand - October 27, 2022

Recent direct tax developments relevant to the real estate sector

In October 2022, various Belgian state bodies adopted bills or announced proposals containing tax measures that will be relevant for taxpayers active in the real estate sector in Belgium.

This article focuses on direct tax matters and summarizes key elements from the Federal Budget 2023, the expected adoption of a broader tax reform, and the proposed bill amending the assessment and investigation periods for tax purposes.

See also tax@hand - November 25, 2022

Canada

2022 Fall Economic Statement tax highlights

Canada's Deputy Prime Minister and Minister of Finance, the Honorable Chrystia Freeland, presented the 2022 Fall Economic Statement in the House of Commons on November 3, 2022. Draft legislation was also released to advance certain measures from Budget 2022, in addition to select measures from the Fall Economic Statement.

The article provides a summary of the tax highlights contained in the Fall Economic Statement.

See also tax@hand - November 7, 2022

Ireland

Finance minister announces Budget 2023

On September 27, 2022, Ireland's finance minister announced Budget 2023, which includes a range of tax measures intended to support individuals and businesses during the current economic uncertainty. The finance minister also focused on the imminent changes to the international corporate tax landscape and their potential effects on foreign direct investment and innovation in Ireland.

This stems from the introduction of international tax reform from the ongoing work of the OECD/G20 Inclusive Framework on BEPS on a two-pillar solution to address the tax challenges arising from the digitalization of the economy. In general, "Pillar One" involves the reallocation of taxable profits and "Pillar Two" involves the implementation of a minimum effective corporate tax rate of 15%.

See also tax@hand - October 6, 2022

Japan

2023 Japan Tax Reform Proposals

On December 16, 2022, proposals for the 2023 tax reform were announced by the ruling parties and were posted on the LDP's website. (Japanese/PDF)

The proposals include amendments to tax incentives for promoting open innovation to allow M&As which involve existing shares to be eligible for the incentives, and revisions to the R&D tax credits which add costs for highly skilled researchers to the scope of eligible R&D costs in order to incentivize businesses to spend more for R&D.

In the area of international tax, a global minimum tax, which is conceptually aligned with the OECD's Pillar Two initiative, will be implemented from fiscal years beginning on or after 1 April 2024 to ensure a level playing field by reducing international corporate tax competition.

In addition, the proposals include several tax measures to secure stable funds for an increase in defense spending, to include:

- A new 4%–4.5% special levy on corporate tax in or after FY 2024
- A deduction of JPY 5 million from corporate tax as a tax base will be available to small and medium-sized enterprises.

It should be emphasized that these proposals have not been enacted and could change prior to becoming law.

See also Japan Tax & Legal Inbound Newsletter – December 23, 2022

Luxembourg

2023 budget law submitted to parliament

On October 12, 2022, Luxembourg's finance minister presented the draft 2023 budget law to parliament, including direct and indirect tax measures. As indicated in the draft law, the government currently does not have sufficient visibility and budgetary margin to implement the major tax reform that had been expected.

However, the draft budget law would provide some relief measures and clarify certain tax provisions, such as the reverse hybrid rule (article 168quater of the Luxembourg Income Tax Law (LITL)).

The main proposals are described in the article.

See also tax@hand - October 13, 2022

New Zealand

Excess tax for excess profits

While a capital gains tax is off the table for New Zealand's Labour Party, and probably a wealth tax as well, the Green Party is back with a new proposal: an "excess profits tax." The benefit of an excess profits tax is that it is not directly levied on voters; instead, businesses are the intended recipient of this new tax.

The Green Party has issued a discussion document in order to start a conversation about tax.

The discussion document sets the problem definition as follows: "Successive governments have failed to ensure we have a fair tax system, which in turn means there is not enough revenue to provide the standard of public services New Zealanders deserve.... The aim of excess profits taxes is to level the playing field, so that big businesses are not able to profit in excess when so many people are struggling.... The Green Party considers that record profits during a time of economic hardship for many New Zealanders are immoral and unsustainable."

See also tax@hand - November 7, 2022

Trinidad and Tobago

Tax measures in 2022/2023 national budget include new tax amnesty

Trinidad and Tobago's finance minister delivered a presentation on the 2022/2023 national budget, titled "Tenacity and Stability in the Face of Global Challenges," on September 26, 2022. The minister's presentation highlighted proposed measures intended to be introduced in fiscal year 2022/2023.

A tax amnesty in relation to various types of direct and indirect taxes is proposed to apply from November 14, 2022 to February 17, 2023; otherwise, the tax-related measures described in the article would generally apply from January 1, 2023, unless otherwise noted.

See also tax@hand - October 1, 2022

United Kingdom

Corporation tax to increase to 25% as from 1 April 2023

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

The prime minister also announced the appointment of Jeremy Hunt MP as the chancellor of the exchequer, replacing Kwasi Kwarteng MP.

See also tax@hand - October 17, 2022

Key tax announcements in Autumn Statement for 2022

On November 17, 2022, the UK Chancellor of the Exchequer Jeremy Hunt presented his Autumn Statement for 2022. The focus was on "stability, growth, and public services" to rebuild the public finances. As expected, it was a tax raising statement with significant reforms to the tax system announced, along with some new energy taxes. The government used inflation to its advantage, freezing thresholds and cutting allowances to raise taxes without raising rates, using the concept of fiscal drag.

These articles provide a summary of the main tax announcements. For more detailed commentary and analysis, visit Deloitte UK's dedicated Autumn Statement 2022 website.

OECD Pillar Two implementation

The government has reaffirmed its commitment to implement the G20/OECD's Pillar 2 framework in the UK.

For accounting periods beginning on or after 31 December 2023, the UK will introduce an income inclusion rule (IIR) which will require large UK headquartered multinational groups to pay a top up tax where their foreign operations have an effective tax rate of less than 15% in any country in which they operate. These rules will also apply to UK subsidiaries of foreign groups, in relation to the foreign operations held by those UK subsidiaries, where there is not an IIR in the country in which the parent is located.

The chancellor also announced that the UK will introduce a supplementary qualified domestic minimum top up tax (QDMTT) rule which will require large groups, including those operating exclusively in the UK, to pay a top up tax where their UK operations have an effective tax rate of less than 15%. The government announced that it also intends to implement a backstop undertaxed profits rule, as envisaged in the OECD framework, but confirmed that this will have effect no earlier than accounting periods beginning on or after 31 December 2024.

See also tax@hand- November 18, 2022; tax@hand - December 2, 2022 and Royal Assent Update

United States

Emerging ASC 740 issues: Recent tax legislation

Two recent pieces of US tax legislation have significant tax-related provisions. The CHIPS Act of 2022 (the "CHIPS Act," P.L. 117-167), creates a new advanced manufacturing investment credit under new Internal Revenue Code (IRC) section 48D and was signed into law by President Biden on 9 August 2022. The Inflation Reduction Act (the "IRA," P.L. 117-169), signed into law by President Biden on 16

August 2022, has a number of tax-related provisions, including (i) a 15% book minimum tax ("corporate AMT") on "adjusted financial statement income" (AFSI) of applicable corporations (*see* Tax Alert dated 10 August 2022: *US International Tax Alert - Corporate AMT Included in Inflation Reduction Act of 2022*); (ii) a plethora of clean energy tax incentives in the form of tax credits, some of which include a direct-pay option or transferability provisions (*see* Tax Alert dated 12 August 2022: *Clean energy credits and incentives in the Inflation Reduction Act of 2022 – details and observations*); and (iii) a 1% excise tax on certain corporate stock buybacks *(see* Tax Alert dated 12 August 2022: Excise tax on repurchases of stock).

See also tax@hand - November 9, 2022 tax@hand - December 3, 2022

Did you know

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

Australia

Treasury consultation on global agreement on corporate taxation

On October 4, 2022, the Australian Treasury released a consultation paper titled Global agreement on corporate taxation: addressing the tax challenges arising from the digitalization of the economy.

The purpose of the consultation paper is to seek views from interested parties on how Australia can best engage with the two-pillar solution to address the tax challenges arising from the digitalization of the economy developed by the OECD Inclusive Framework on Base Erosion and Profit Shifting ("inclusive framework"), including the Pillar Two model rules and commentary. The consultation closed on November 1, 2022. Specifically, consultation will help inform consideration of domestic implementation issues, such as interactions with Australia's existing corporate tax system, ways to minimize compliance costs, and the implementation of a domestic minimum tax. The feedback also may influence various ongoing negotiations on design elements.

See also tax@hand - October 4, 2022

A focus on new RDTI opportunities and complexities

With Australia's revised R&D Tax Incentive (RDTI) provisions in force as from income years ended June 30, 2022, and no further changes in the October 2022 Federal Budget, some of the lesser-known complexities and opportunities have begun to emerge. These opportunities are summarized in the article.

See also tax@hand - November 2, 2022

Belgium

Limits on applying R&D tax credit with wage withholding tax exemption for researchers

Although Belgian legislation does not prohibit the application of a combination of research and development (R&D) incentives in respect of the same activities or assets, certain restrictions apply for taxable periods ending on or after April 1, 2022.

New legislation on the reduction of labor costs as part of the "mini tax shift" was published in Belgium's official journal on March 31, 2022 and includes provisions intended to prevent companies "double-dipping" by claiming both the R&D tax credit and the partial wage withholding tax exemption for researchers in respect of the same costs.

See also tax@hand - November 21, 2022

Brazil

Provisional measure extends certain CFC benefits

The Brazilian government issued Provisional Measure 1,148/22 on December 21, 2022, which extends certain benefits in regard to the controlled foreign company (CFC) rules under Law 12,973/14.

Provided certain requirements are met, Brazilian taxpayers have the option to make an irrevocable election each calendar year to consolidate the profits and losses of CFCs. This election was available through 2022, and the new provisional measure extends the benefit through 2024.

See also tax@hand - December 22, 2022

European Union

EU formally adopts Pillar Two directive

On December 16, 2022, the Council of the European Union issued a press release confirming the formal adoption by written procedure of four pieces of legislation, including the Pillar Two directive on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the EU.

The adoption is the final step in the Council's legislative process for these pieces of legislation. The Pillar Two directive will enter into force on the day following that of its publication in the Official Journal of the European Union and will have to be transposed into member states' national law by the end of 2023. The income inclusion rule will apply to years beginning as from December 31, 2023 and the undertaxed profits rule will apply a year later, for years beginning as from December 31, 2024.

See also tax@hand - December 16, 2022, tax@hand - December 20, 2022 and tax@hand - December 13, 2022

Finland

Finnish SAC rules that US fund in form of Delaware statutory trust is tax exempt

On November 15, 2022, Finland's Supreme Administrative Court (SAC) ruled that a US investment fund having the legal form of a Delaware statutory trust qualified as tax exempt in Finland based on provisions of the Treaty on the Functioning of the European Union (TFEU) relating to the free movement of capital, despite the fact that Finnish tax legislation requires an investment fund to be contractual based to be eligible for a tax exemption from corporate income tax and withholding tax.

As described in the article, the SAC's decision clarifies that the legal form of a foreign investment fund, in itself, does not justify different tax treatment from a Finnish investment fund. Based on the decision, it also may be easier for certain other foreign collective investment vehicles to qualify for a tax exemption in Finland.

See also tax@hand - November 17, 2022

Hong Kong

Court of Appeal rules upfront lump sum spectrum utilization fees nondeductible

On November 3, 2022, Hong Kong SAR's Court of Appeal (CA) ruled in China Mobile Hong Kong Company Limited v. Commissioner of Inland Revenue [2022 HKCA 1637] that upfront lump sum spectrum utilization fees (SUFs) paid by the taxpayer to the Telecommunications Authority were capital in nature and hence not deductible for profits tax purposes, thereby upholding the judgment of the Court of First Instance (CFI).

This article summarizes the facts of the case and highlights the key points in the CA's judgment.

See also tax@hand - November 17, 2022

Malaysia

Guidelines issued on tax treatment of foreign-source income received in Malaysia

Following the gazette of 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) on July 19, 2022 to legislate the income tax exemption for certain foreign-source income (FSI) of Malaysian tax residents, the Inland Revenue Board (IRB) of Malaysia issued technical guidelines currently available only in the Bahasa Malaysia language) on September 29, 2022 on the tax treatment of FSI received in Malaysia, which are effective as from January 1, 2022.

The guidelines aim to enhance taxpayers’ understanding of the IRB’s interpretation and application of the tax legislation with respect to the FSI received by residents in Malaysia, as well as the conditions to qualify for an exemption from tax that are imposed by the Minister of Finance (MOF). The areas clarified in the guidelines include the circumstances in which income derived from a source outside Malaysia is considered to be brought into Malaysia. Additional guidance is expected to be issued by the IRB on certain issues for which the treatment appears to be unclear in the guidelines.

The IRB has since issued the revised technical guidelines on December 29, 2022 to provide clarification on the imposition of additional conditions to qualify for tax exemption on foreign source dividend income received by the relevant persons in Malaysia.

See also tax@hand - October 19, 2022

Singapore

IRAS updates guidance on mergers and acquisitions scheme

The Inland Revenue Authority of Singapore on October 31, 2022 published an updated version of its e-Tax Guide Income Tax & Stamp Duty: Mergers and Acquisitions Scheme (Sixth Edition). The most significant amendments include clarification of the additional conditions for claiming merger and acquisition (M&A) tax benefits based on the 20% shareholding threshold and an updated definition of “local employee.”

The M&A scheme seeks to encourage Singapore companies, particularly small and medium-sized enterprises, to grow through strategic acquisitions. Under the scheme, a Singapore company which makes a qualifying acquisition of the ordinary shares of another company may, subject to conditions, enjoy the following tax benefits:

- An M&A allowance on the purchase consideration; and
- A double tax deduction on transaction costs incurred in respect of the qualifying share acquisition.

See also tax@hand - October 31, 2022

IRAS publishes advance ruling on tax treatment of liquidation proceeds

The Inland Revenue Authority of Singapore (IRAS) has published Advance Ruling Summary No. 17/2022 holding that, having regard to the specific facts of the case, liquidation proceeds are capital in nature and hence not subject to tax. The ruling was published on November 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 - November 1, 2022

IRAS publishes advance ruling on tax treatment of IP transfer

The Inland Revenue Authority of Singapore (IRAS) has published Advance Ruling Summary No. 16/2022 holding that, having regard to the specific facts of the case, consideration received for the transfer of improvements to licensed intellectual property (IP) related to the business in a jurisdiction outside Singapore ("territory X") should be treated as a capital receipt and hence not subject to tax. The ruling was published on October 3, 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 - November 9, 2022

Taiwan

Executive Yuan approves draft amendments to Statute for Industrial Innovation

On November 17, 2022, Taiwan's Executive Yuan approved the draft amendments to the Statute for Industrial Innovation, which would provide to eligible companies more favorable tax credits for investment in R&D and equipment. The amendments aim to ensure the continuing development of next generation strategically important industries and technologies in Taiwan and seek to strengthen the resilience and international competitive advantage of the entire industry chain, including semiconductors. The amendments have been sent to the Legislative Yuan for further review.

The key points of the draft amendments are summarized in the article.

See also tax@hand - November 24, 2022

United States

Congress approves omnibus funding package with retirement security provisions

The US Congress has approved a roughly USD 1.7 trillion omnibus spending package that would fund federal departments and agencies for the remainder of fiscal year 2023 and avert a partial shutdown of government operations once the current stopgap measure keeping the government's doors open expires at midnight on December 23, 2022.

The omnibus measure is likely to be the last major bill to move in the closing days of the 117th Congress, and various constituencies on Capitol Hill had hoped in the aftermath of the 2022 midterm elections that it would provide a vehicle for a robust set of tax provisions such as a delay in mandatory amortization of research expenses, relief from tighter limitations on business interest expense deductions, and an extension of some now-expired enhancements to the child tax credit.

But prospects for a broad bipartisan deal on taxes appeared to dwindle over the previous few weeks and the omnibus measure as introduced includes only a limited tax title (Division T) focusing primarily on retirement security provisions that build on earlier retirement legislation—dubbed the "SECURE Act"—that was enacted in 2019.

See also tax@hand - December 28, 2022

Treasury, IRS release proposed foreign tax credit regulations

On November 18, 2022, the US Treasury Department and Internal Revenue Service released much-anticipated proposed regulations regarding the foreign tax credit. These regulations would revise final regulations published in the Federal Register on January 4, 2022 that are effective for taxable years beginning on or after December 28, 2021 (TD 9959). The proposed regulations are scheduled to be published in the Federal Register on November 22, 2022 and are generally proposed to apply to taxable years ending on or after the date the regulations are filed with the Federal Register (November 18, 2022). Taxpayers generally can elect to apply the proposed regulations retroactively to taxable years beginning on or after December 28, 2021 and ending before November 18, 2022, provided that they consistently apply all of the proposed regulations to such taxable years.

The proposed regulations would provide a narrow exception to the “reattribution asset” rule under Treas. Reg. section 1.861-20(d)(3)(v)(B) related to certain disregarded sales or exchanges of property, but primarily address creditability issues under Treas. Reg. sections 1.901-2 and 1.903-1. Specifically, the proposed regulations would revise the “cost recovery requirement” under Treas. Reg. section 1.901-2(b)(4) and the source-based attribution rule for withholding taxes imposed on royalties under Treas. Reg. sections 1.901-2(b)(5)(i)(B) and 1.903-1(c)(2).

The overall impact of these changes is to provide taxpayers additional assurance that certain foreign income and withholding taxes are creditable. This article provides a summary of the provisions of the proposed regulations.

See also tax@hand - November 21, 2022

Vietnam

Pillar Two considerations in Vietnam

The article discusses what certain Vietnamese-based corporations that have foreign operations and foreign-based multinational enterprises (MNEs) that have operations in Vietnam should consider in regard to the OECD “Pillar Two” global minimum tax rules.

Since the introduction of Pillar Two, there have been discussions surrounding how and when countries will apply the global minimum tax rules. The EU’s response and the progress in the IF's implementation plan are expected to induce countries toward the decision of domestic policy reform to manage upcoming changes in the global tax landscape.

Although Vietnam is not a member of the OECD, it is a member of the IF. Hence, there is an expectation that Vietnam will support Pillar Two and implement the global minimum tax rules. As such, the government should consider the amendment of domestic tax laws in line with global trends. The government is expected to release draft measures soon.

See also tax@hand - January 4, 2023

Example Disclosures

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

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

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

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

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

Quick Reference Guide for Income Tax Rates

The following section includes a summary of combined tax rates applicable in jurisdictions with rate changes in 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
	2022	**2023**	**National and Local**	
Colombia	31%	35% 15% (Note 1 below). 40% with financial institution surcharge (Note 2 below). 50% (maximum) with coal and crude oil surcharge (Note 3 below). 38% with hydroelectric generation surcharge (Note 4 below).	Dec 27, 2019 Dec 13, 2022 (in force as of Jan 1, 2023).	On December 13, 2022, the Colombian President Gustavo Petro enacted Law 2277 of 2022 (available in Spanish only), which contains the tax reform proposals previously approved by congress. For international corporate taxpayers, key measures include an increase in the withholding tax rate applicable to dividends paid to nonresidents and branch remittances, the introduction of a new 15% minimum effective tax rate, an increase in the corporate income tax surcharge payable by companies in certain sectors. Most changes will enter into force as from the date of enactment of the legislation; however, some changes that alter substantial matters concerning periodic taxes enter into force as from January 1, 2023, and certain other provisions enter into force on a date specified in the legislation.
Korea (ROK)	10%–25%	9%–24%	Dec 31, 2022 (in effective as of Jan 1, 2023)	The tax rate (excluding local tax) is 9% on the first KRW 200 million of taxable income, 19% on taxable income over KRW 200 million up to KRW 20 billion, 21% on taxable income over KRW 20 billion up to KRW 300 billion, and 24% on taxable income over KRW 300 billion, reduced from 10%, 20%, 22% and 25% respectively, as of January 1, 2023.
Netherlands	15%–25.8%	19%–25.8%	January 1, 2023	The corporate income tax rate up to a taxable amount of €200,000 is 19% (2022: €395,000 and 15%) and the rate for taxable profit exceeding €200,000 will be 25.8%.
United Kingdom	19%	25%	April 1, 2023	From 1 April 2023 the Corporation Tax rate changes to: • 19% for taxable profits below £50,000 (small profit rate) • 25% for taxable profits above £250,000 (main rate)

Colombia Note 1:

A new net tax rate (TDD per its acronym in Spanish) will be introduced, under which Colombian companies, including free trade zone users, will be subject to a minimum 15% effective tax rate, calculated based on financial net profit, in accordance with the OECD Pillar Two global minimum tax rules. TDD is determined by dividing net tax (ID per its acronym in Spanish) by net profit (UD per its acronym in Spanish). The legislation will define and determine the method of calculation of both ID and UD. If the TDD is less than 15%, an additional "top-up" tax (IA per its acronym in Spanish) must be calculated so that the TDD equals at least 15%.

Colombia Note 2:

The corporate income tax surcharge for financial institutions; insurance and reinsurance companies; stock exchange brokerage firms; agricultural and livestock brokerage firms; agricultural, agroindustrial, or other commodities exchanges; and stock market infrastructure, with annual taxable income of at least 120,000 tax units (UVT, the value of which is COP 38,004 for 2022), will be increased to 5% (from 3%) from 2023 through 2027, resulting in a CIT rate of 40%. In the previous tax reform legislation (Law 2155 of 2021, enacted on 14 September 2021) the rate had been fixed at 38% from 2022 through 2025.

Colombia Note 3:

Domestic companies, foreign companies, and permanent establishments of foreign companies with a taxable income of more than 50,000 UVT, involved in the extraction of hard coal, coal lignite, or crude oil, will be subject to a surcharge of up to 15% on their CIT rate for an indefinite period, depending on the nature of the activity and the price of the natural resource. Differential rates apply for each resource, e.g., 10% for coal.

Colombia Note 4:

From 2023 through 2026, companies that engage in hydroelectric energy generation, with taxable income of at least 30,000 UVT, will be subject to a CIT rate of 38%. This provision will not apply to small hydroelectric power plants with an installed capacity not exceeding 1,000 kilowatts.

Additional Resources

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

Accounting for Income Taxes—Global Tax Developments archive

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

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

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

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

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

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