Global Tax Developments Quarterly

Accounting for Income Taxes

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

January 1, 2023–March 31, 2023
April 20, 2023
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Contents

Introduction

Unless otherwise indicated, the content in this document is based on information available as of March 31, 2023. Accordingly, certain aspects of this document may be updated as new information becomes available. Financial statement preparers and other users of this document should take actions to remain abreast of and carefully evaluate additional events that may be relevant to accounting for income taxes matters.

Applicable US GAAP guidance

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

Enacted Tax Law Changes: January 1, 2023 to March 31, 2023

The following section includes a summary of major international income tax law changes enacted during the period January 1, 2023 to March 31, 2023.

Indonesia

Tax incentives and facilities to promote investment in new capital city announced

Date of Enactment: March 6, 2023
Effective Date: March 6, 2023

In February 2022, the Indonesian government issued Law Number 3 of 2022 in relation to the plan to move Indonesia's capital city from Jakarta to a new city called Ibu Kota Nusantara (subsequently referred to in this article as IKN). To expedite the construction and development process, the government decided to provide various incentives and facilities for investments and business activities in IKN through the issuance of Regulation Number 12 (PP-12) on March 6, 2023. Further implementing regulations are awaited to give effect to the provisions of PP-12.

PP-12 serves as a teaser to the various incentives and facilities related to the development of IKN, which include:

- Business license;
- Ease of doing business; and
- Investment facilities.

The incentives and facilities are provided for investments and business activities carried out in both IKN and the partner regions (Daerah Mitra), i.e., certain areas in Kalimantan Island that will be developed as economic superhubs for IKN.

A few of the tax facilities provided in PP-12, and covered in this article, are:

- A reduction in the corporate income tax (CIT) rate;
- Super tax deduction facilities for certain activities or expenditure;
- Final income tax of 0% on certain gross income for micro, small, and medium-sized enterprises (usaha mikro, kecil, dan menengah (UMKM)); and
- An income tax exemption on the transfer of rights over land and/or buildings.

See also [tax@hand - March 28, 2023]

Japan

2023 tax reform proposals announced

Date of Enactment: March 28, 2023
Effective Date: Various

On December 16, 2022, Japan's ruling party announced (in Japanese) the 2023 tax reform proposals, which aim to increase investment in markets, industries, and people, and implement tax and other policies to redistribute wealth so that as many people as possible can enjoy the benefits of growth. To this end, the proposals include amendments to tax incentives for promoting open innovation to allow mergers and acquisitions that involve existing shares to be eligible for the incentives, and revisions to the research and development (R&D) tax credits that 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 Pillar Two initiative, would be implemented for fiscal years beginning on or after April 1, 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. The details of these measures will be further discussed in 2023 and implemented in stages as from fiscal year 2024.

See also tax@hand - January 10, 2023

Qatar

Scope of corporate income tax extended and global minimum tax rate adopted

Date of Enactment: February 2, 2023
Effective Date: February 2, 2023

Law No.11 of 2022 published in Qatar's official gazette on February 2, 2023 and effective as from that date, introduces some significant amendments to Qatar's Income Tax Law No. 24 of 2018 (ITL), including the adoption of the minimum global tax rate and the extension of the scope of corporate income tax to include income derived from certain sources outside Qatar.

This article highlights the key amendments and provides some preliminary observations from Deloitte Qatar, to include but not limited to the following:

- The adoption of global anti-base erosion (GloBE) rules and 15% minimum global tax rate;
- The extension of the sources of taxable income and foreign tax credit relief; and
- The introduction of new definitions and amendments to existing definitions.

Further guidance and clarification from the General Tax Authority (GTA) are expected in due course.

See also tax@hand - February 11, 2023

United Kingdom

Finance Act 2023 receives royal assent

Date of Enactment: January 10, 2023
Effective Date: Various

The UK "Autumn Finance Bill 2022," the brief finance bill introduced in November 2022 to enact a small number of key tax changes announced in November's Autumn Statement, received royal assent on January 10, 2023 and has become Finance Act 2023.
The act comprises 12 sections in total and includes changes to the energy profits levy as from January 1, 2023, changes to corporation tax research and development relief rates as from April 1, 2023, and the reduction of the income tax additional rate threshold as from April 6, 2023.

A further finance bill will be introduced following the Spring Budget scheduled for March 15, 2023. That bill is expected to include clauses for other Autumn Statement announcements that referred to enactment via the "Spring Finance Bill 2023."

See also tax@hand - January 13, 2023

Enacted Tax Law Changes That Are Now Effective: January 1, 2023 to March 31, 2023

The following section includes a summary of major international income tax law changes enacted before January 1, 2023, but are first effective in the period January 1, 2023, to March 31, 2023.

Per a review of jurisdictions that are generally monitored in this publication, there were no major international income tax law changes enacted before January 1, 2023, but that are first effective in the period January 1, 2023, to March 31, 2023.

Enacted Tax Law Changes That Are Effective After March 31,2023

The following section includes a summary of major international income tax law changes enacted before April 1, 2023, but effective after March 31, 2023.

Vietnam

2022 Petroleum Law includes tax incentives

Date of Enactment: November 14, 2022
Effective Date: July 1, 2023

Vietnam's Petroleum Law (no. 12/2022/QH15) was officially approved at the 4th Session, 15th National Assembly on November 14, 2022. It contains 11 chapters and 69 articles and is effective as from July 1, 2023. A draft decree providing implementation guidance is currently under discussion and is expected to be released prior to July 1, 2023.

The new law, which includes tax incentives, will positively support investors and increase the efficiency in governmental management of petroleum-related activities in Vietnam, as well as:

- Provide more attractive investment incentives in petroleum projects;
- Re-enforce regulations on petroleum contracts in a more convenient and flexible manner for the investor (e.g., by increasing the petroleum contract period);
- Introduce a new mechanism on full exploitation in petroleum projects;
- Clarify regulations on the approval orders of stages in the petroleum contract;
- Add a new regulation on developing a synchronous chain in petroleum projects to improve the efficiency of the project; and
- Stipulate regulations on accounting, auditing, and finalizing work in accordance with the characteristics of petroleum activities and international petroleum industry practices.

These positive changes should create a more convenient and attractive investment environment that supports the investor by enhancing the efficiency of petroleum investment activities.

See also tax@hand - February 1, 2023

On the Horizon

The following developments had not yet been enacted as of March 31, 2023, 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.

Colombia

Draft decree clarifies new income tax rates on dividends and share dividends

On February 23, 2023, Colombia's Ministry of Finance published a draft decree clarifying the application of various tax reform measures enacted by Law 2277 of 2022 (available in Spanish only), specifically changes to the so-called "special income tax" rate and withholding tax rate applicable to dividends (including share dividends), and the repeal of the mega investments regime. Public comments on the draft decree could be made through March 10, 2023, with the decree expected to enter into force shortly afterwards, with only minor (if any) amendments.

Law 2277 of 2022 increased the withholding tax rate on dividends paid by Colombian companies to Colombian resident entities out of profits taxed at the corporate level to 10% (from 7.5%), resulting in an effective tax rate of 41.5%. The withholding tax rate on dividends paid by Colombian companies to nonresidents was increased from 10% to 20%, resulting in an effective tax rate of 48%. For dividends paid to resident individuals, a new progressive rate was adopted that may vary between 0% and 15% depending on the amount of the dividend.

The draft decree is intended to replace the regulatory provisions governing the income tax and withholding tax treatment of dividends, and to determine the treatment of dividends received by mega investors that had signed tax stability contracts as at December 31, 2022.

See also tax@hand - March 9, 2023

Germany

Draft legislation published to implement EU Pillar Two directive

On March 20, 2023, the German Ministry of Finance published draft legislation on the domestic implementation of the EU directive on ensuring a global minimum level of taxation for multinational enterprise (MNE) groups and large-scale domestic groups in the EU ("Pillar Two" directive). The draft legislation is open for public comments until April 21, 2023.

A few take aways from the published draft legislation are:

- Germany is among the first EU member states to publish draft legislation to implement into domestic law the Pillar Two directive. As expected, the draft legislation closely reflects the Pillar Two directive, which is based on the Pillar Two Model Rules ("Model Rules") of the OECD/G20 Inclusive Framework on BEPS (inclusive framework). The Pillar Two directive contains certain adjustments from the Model Rules to ensure conformity with primary EU law (i.e., domestic groups also being in-scope).
- The draft legislation contains an income inclusion rule (IIR) (Primärergänzungssteuer), an undertaxed profits rule (UTPR) (Sekundärergänzungssteuer), and a qualified domestic minimum top-up tax (QDMTT) (nationale Ergänzungssteuer).
- The IIR and QDMTT are expected to apply for fiscal years starting after December 30, 2023. The UTPR is expected to apply for fiscal years starting after December 30, 2024.

See also tax@hand – March 22, 2023

Ghana

Maintaining the balance in the proposed income tax reform

A key theme in Ghana's 2023 budget statement was the country's fiscal challenges, and the government's actions both before and after the presentation of the budget have been geared towards achieving economic recovery and stability. The government has produced a seven-point agenda for economic recovery, with a focus on maximizing domestic tax revenue. This drive is evident in various recent developments including amendments to reform the VAT regime, measures to curb noncompliance with electronic VAT invoicing rules, and proposals to reform aspects of the income tax regime.

As parliament considers additional proposals to help the government increase income tax receipts, it is important for policy makers to balance the tax burden, so that businesses are not overtaxed in the search for revenue. This article highlights a number of aspects of the proposed reforms that could potentially be amended during the parliamentary process to help achieve this.

See also tax@hand - February 14, 2023

Hong Kong

Financial Secretary delivers 2023-24 budget speech

On February 22, 2023, the Financial Secretary of Hong Kong SAR, Paul Chan Mo-po, delivered the 2023-24 budget speech. This is the first budget the Financial Secretary has prepared for the current-term government led by John Lee Ka-chiu, the Hong Kong SAR Chief Executive.

With respect to businesses, some of the key tax proposals include the introduction of a patent box regime, clarification on the treatment of certain onshore capital gains, enhancement of the aircraft leasing preferential tax regime, implementation of the global minimum tax regime, and the introduction of a mechanism to facilitate companies to re-domicile to Hong Kong SAR.

See also tax@hand - March 1, 2023

Isle of Man

2023-24 Budget contains minimal tax changes

The Isle of Man Budget for 2023-24 was presented by the Minister for Treasury on February 21, 2023. The budget contained no changes to corporate income tax.

See also tax@hand - February 24, 2023

Norway

Government committee publishes report recommending various tax changes

On December 19, 2022, a committee appointed by the Norwegian government published a report that evaluates Norway's taxation regime in the context of both domestic and international developments. The report covers direct and indirect taxes for corporations and individuals. Although detailed, the report mostly recommends amendments to existing rules rather than introducing reforms. Although the overall revenue effects of the recommendations in the short term are estimated to be at the same level as today, it is projected that tax revenues will increase in the long term if the recommendations are implemented.

The article summarizes the key recommendations made by the committee. However, the committee only provided evaluations and recommendations, so the report itself does not create new law. It remains to be seen whether these recommendations lead to changes in the current tax laws in Norway.

See also tax@hand - January 10, 2023

OECD

Comments published on compliance and tax certainty aspects of global minimum tax

As part of 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 and globalization of the economy, the OECD issued an announcement on February 16, 2023 on the publication of responses to its December 20, 2022 invitation for public comments on two consultation documents relating to certain aspects of the Pillar Two global minimum tax: the global anti-base erosion (GloBE) information return and tax certainty. A public consultation meeting on these topics will be held virtually on March 16, 2023 and is open to the public and the media.

More than 80 responses on each consultation document were published from a variety of stakeholders, including feedback from businesses, industry and trade associations, and professional services organizations. The public comments are available through the OECD website and can be downloaded in zip files.

See also tax@hand - February 17, 2023

Spain

Consultation launched on transposition of EU directive on global minimum tax

On March 7, 2023, the Spanish government released a document (available in the Spanish language only) for public consultation on the transposition into Spanish domestic law of the EU directive (2022/2523) that aims to ensure a global minimum level of taxation for multinational groups and large-scale purely domestic groups in the EU with annual revenue of at least EUR 750 million.

The EU unanimously adopted the directive on December 15, 2022. EU member states must transpose the directive into their domestic law by December 31, 2023 and generally must apply the provisions included in the directive as from January 1, 2024. The directive sets forth a system consisting of two interconnected rules: the income inclusion rule (IIR) and the undertaxed profit rule (UTPR), through which a “top-up tax” would be collected when the effective tax rate due on the income of a multinational enterprise group in a given jurisdiction is below 15%. The directive generally follows the provisions included in model rules published by the OECD in December 2021, although there are certain differences and additions specifically related to the European market.

See also tax@hand - March 14, 2023

United Kingdom

Government launches consultation on single research and development tax regime

HM Treasury and HM Revenue & Customs on January 13, 2023 launched a new consultation in relation to the UK’s regimes for tax relief for research and development (R&D) expenditure. In line with comments made in November’s Autumn Statement, and following changes to R&D rates that will take effect as from April 1, 2023, the government is actively examining the case for replacing the two separate relief regimes currently in operation—the R&D Expenditure Credit (RDEC) scheme and the small and medium enterprises (SME) scheme—with “one single, simplified R&D tax relief scheme.” The consultation closes on March 13, 2023.

It is proposed that the design of any merged scheme would be based closely on the existing RDEC scheme—in particular, involving the payment of an "above-the-line" R&D credit to taxpayers rather than enhanced tax deductions. Feedback is also sought on matters including:

- Rules for subcontracted expenditure;
- Caps based on companies’ pay as you earn and national insurance bills;
- Whether there should be differentiated rates of support within the regime; and
- Potential minimum thresholds.

A final decision on whether to merge the schemes has not yet been taken. If a decision to proceed is made, this would be announced at a future fiscal event along with the applicable rates. The government’s intention is that, if implemented, any new regime would be in place as from April 1, 2024.

See also tax@hand - January 20, 2023

United States

White House releases FY 2024 budget proposal, "Green Book"

US President Biden released a fiscal year 2024 budget blueprint on March 9, 2023 that, as he promised in his State of the Union message and other recent speeches, calls for significant tax increases—many drawn from previous budget plans—targeted at large corporations and high-income individuals.

Along with the budget blueprint, the White House also released what is known as the "Green Book," which provides more granular details from the Treasury Department on the administration's tax and revenue proposals and their projected impact on federal receipts.

See also tax@hand - March 9, 2023, tax@hand - March 11, 2023 and tax@hand - February 11, 2023

Did you know

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

Barbados

Deloitte Barbados Budget Review & Insights

Noting that the main focus was to engineer and unlock growth, the Prime Minister announced in her Budget speech for the fiscal year 2023-2024, the creation of a National Growth Council, a Fiscal Council along with a National Strategic Council under the mantra of 'Barbados Delivers'. Notwithstanding that the critical issues facing the Barbados economy include but are not limited to:

- The ongoing management of the debt to GDP ratio
- The creation of jobs
- Enhancing revenue collection
- Boosting and maintaining economic growth

The article provides a summary of the Barbados Budget for Fiscal year 2023-2024.

See also Deloitte Barbados Budget Review & Insights - March 1, 2023

Bermuda

Amended economic substance guidance notes released

On January 30, 2023, the Office of the Registrar of Companies ("Registrar") circulated an industry notice advising of an amendment to Bermuda's economic substance (ES) guidance notes that includes changes effective as from January 30, 2023 that are relevant to entities claiming to be tax resident in another "no or only nominal tax" jurisdiction.

The amendment to the ES guidance notes follows an industry notice issued by the Registrar on August 18, 2022 advising of the OECD's guidance regarding entities claiming to be tax resident in another no or only nominal tax jurisdiction. This industry notice also noted that entities claiming to be tax resident in Guernsey, the Isle of Man, or Jersey can be accepted for the exclusion from the ES requirements only when sufficient proof exists that the entity is resident in the jurisdiction for corporate income tax purposes and is subject to the relevant corporate income tax law.

See also tax@hand - February 23, 2023

European Union

European Commission publishes January 2023 infringements package

On January 26, 2023, the European Commission released its January 2023 infringements package indicating cases where the Commission is pursuing legal action against EU member states for failing to comply with their obligations under EU law.

The article provides a summary of the countries and cases the commission has decided to either pursue or to close infringement proceedings against.

See also tax@hand - January 27, 2023

Finland

SAC rulings issued on eligibility of non-Finnish investment funds for tax exemption

Finland's Supreme Administrative Court (SAC) published three decisions in December 2022 relating to the circumstances in which non-Finnish investment funds may qualify for an exemption from corporate income tax and withholding tax in Finland. In decision KHO 2022:139, published on December 12, 2022, the SAC ruled that a non-Finnish real estate fund was eligible for a tax exemption, despite the fact that it had fewer than 10 unitholders. As described in the article, based on the court's decision, it may be possible for a broader group of non-Finnish real estate funds to qualify for a tax exemption in Finland. In addition, the SAC published decisions KHO 2022:138 and KHO 2022:142 (on December 12, and December 14, 2022, respectively), which clarify the conditions under which a non-Finnish investment fund may be considered comparable to a Finnish investment fund, among other things.

See also tax@hand - January 9, 2023

France

Interest paid to shareholders: Fourth 2022 quarterly interest rate limit published

On December 28, 2022, France's Official Journal published the fourth 2022 quarterly average floating rate for bank loans/credit facilities with maturities exceeding two years, which is used to calculate the annual maximum interest rate on loans from direct shareholders: the average floating rate is set at 3.36% for the fourth quarter of 2022.

According to article 39-1, 3° of the French Tax Code (FTC), interest paid or accrued in relation to loans from direct shareholders is subject to a maximum interest rate limitation corresponding to the average floating rate on bank loans with maturities exceeding two years. A debtor's maximum deductible tax rate for a particular fiscal year is based on the four quarterly average floating rates determined during the debtor's fiscal year.

See also tax@hand - January 3, 2023

Germany

Tax authorities publish guidance on DAC 7 implementation law

On February 2, 2023, the German tax authorities published a set of frequently asked questions (FAQs) regarding certain reporting obligations for digital platform operators, which were implemented into domestic law in December 2022 under the Platform Tax Transparency Act and are based on Council Directive (EU) 2021/514 of March 22, 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation (referred to as "DAC 7"). The rules are effective as from January 1, 2023.

The rules extend to digital platforms existing EU tax transparency rules governing the exchange of information and administrative cooperation between member states, and introduces an obligation for digital platform operators to collect and report information on income derived by sellers offering certain services through those platforms.

An English translation of the FAQ's was published by the MOF on March 31, 2023.

See also tax@hand - February 7, 2023

Updated guidance published on R&D tax incentive

On February 7, 2023, the German Ministry of Finance on published updated guidance on the research and development (R&D) tax incentive introduced in 2019 with effect as from January 1, 2021, which replaces the original guidance published on November 11, 2021. The updated guidance incorporates practical experience gained by the tax authorities and addresses frequent issues experienced by taxpayers in regard to the R&D tax incentive.

The R&D tax incentive consists of a research allowance that amounts to 25% of eligible expenses for qualifying R&D projects. The maximum annual incentive is EUR 500,000 (through June 30, 2026, EUR 1 million) per company, per year, which means the maximum amount of qualifying expenses is EUR 2 million (through June 30, 2026, EUR 4 million) per company, per year.

See also tax@hand - February 8, 2023

Conditions clarified for tax-free repayment of capital by EU subsidiaries

In a decree dated November 28, 2022 (and published in January 2023), the Frankfurt regional tax office clarified that the option to prove through certain specified documentation the tax-free repayment of capital by an EEA subsidiary to a German corporate shareholder (as set forth in a Ministry of Finance (MOF) decree dated April 21, 2022) is not available to EU subsidiaries. The Frankfurt regional tax office decree explains that even though every EU member state is at the same time a member of the EEA, the reference to EEA subsidiaries as used in the MOF decree applies only to subsidiaries that are resident in EEA countries that are not at the same time EU member states (i.e., Iceland, Liechtenstein, and Norway).

The Frankfurt regional tax office decree further clarified that in order for a payment by an EU subsidiary to a German shareholder to be treated as a tax-free repayment of capital, the EU subsidiary's only option is to follow the formal application procedure pursuant to section 27(8) CITC as provided in the MOF decree. If such approval is granted and the German corporate shareholder is in possession of the relevant approval certificate, the payment will be treated as a tax-free repayment of capital.

In cases where the repayment of capital cannot be proven or an approval certificate is not obtained, then the payment would be deemed a taxable dividend and subject to tax at the level of the German corporate shareholder under the "5% add-back rule," which would result in an effective tax rate of approximately 1.5%.

See also [tax@hand - February 17, 2023]

Tax Haven Defense Act to apply to jurisdictions newly added to annex I of EU list

On February 14, 2023, the EU added four new jurisdictions to annex I of the list of noncooperative jurisdictions for tax purposes: British Virgin Islands, Costa Rica, Marshall Islands, and Russia. Since the EU list was first published in December 2017, it has been subject to several updates, and annex I now consists of the following 16 jurisdictions: American Samoa, Anguilla, Bahamas, British Virgin Islands, Costa Rica, Fiji, Guam, Marshall Islands, Palau, Panama, Russia, Samoa, Trinidad and Tobago, Turks and Caicos Islands, US Virgin Islands, and Vanuatu.

With Russia now included on annex I, the importance of such measures has increased, as there are still significant relationships between German and Russian businesses, despite various EU sanctions introduced because of the war in Ukraine. The article discusses certain German tax and reporting measures that should be considered when doing business with entities and individuals residing in jurisdictions included on annex I.

See also [tax@hand - February 24, 2023]

Hong Kong SAR

Hong Kong SAR remains on EU "grey list" due to scope of FSIE regime

On February 14, 2023, the EU issued a revised list of noncooperative jurisdictions for tax purposes. Hong Kong SAR is still on annex II of the revised list (annex II is referred to as the "grey list") notwithstanding that it implemented the foreign-source income exemption (FSIE) regime at the beginning of this year.

The article discusses the reason for remaining on the EU grey list, impact to FSIE regime, and timing of the amendment of Hong Kong's FSIE regime.

See also [tax@hand - February 21, 2023]

Global minimum tax implementation timelines could affect top-up tax liabilities

On February 22, 2023, the Hong Kong SAR government announced that, from 2025, Hong Kong SAR would implement the OECD's Pillar Two (or global anti-base erosion ("GloBE")) rules and a qualified domestic minimum top-up tax (QDMTT). This implementation timeline is significant as it is one year later than many other jurisdictions, including the UK, most of Europe, Japan, and Korea, all of which are expected to implement the GloBE rules as from 2024.

On February 14, 2023, Singapore also announced that it would implement the GloBE rules and a QDMTT as from 2025. Singapore, therefore, is likely to implement these measures in the same year as Hong Kong SAR. Other jurisdictions, such as Mainland China, have yet to release a timeline, and it remains to be seen whether others, such as the US, will implement at all the GloBE rules and a QDMTT.

See also [tax@hand - March 20, 2023]

Consultation on tax certainty enhancement scheme for onshore capital gains launched

Further to the announcement by the Financial Secretary in his 2023-24 budget speech that Hong Kong SAR plans to enhance tax certainty around onshore gains on the disposal of equity interests, the Hong Kong SAR government in March 2023 released a consultation paper on the proposed tax certainty enhancement scheme. The government is seeking comments on the proposals from stakeholders, including professional practitioners and institutions, and will take into account the views obtained in drafting the amendment bill. The intention is to introduce the amendment bill for reading in the Legislative Council in the second half of 2023, with the scheme applying as from January 1, 2024.

See also tax@hand - March 28, 2023

India

Tax highlights of Union Budget 2023 for foreign investors

On February 1, 2023, India's Minister of Finance, Nirmala Sitharaman, presented the Union Budget 2023. The budget is intended to build on the foundations laid in the previous budget and the blueprint drawn for India@100. The focus is on seven priorities: (i) inclusive development; (ii) reaching the last mile; (iii) infrastructure and investment; (iv) unleashing the potential; (v) green growth; (vi) youth power; and (vii) financial sector. Detailed coverage and commentary on the budget, including the sectoral and industry-specific implications, is available from Deloitte India's dedicated website.

Once signed by the president, the bill will become law. While approving the bill in Parliament, the Finance Minister has modified few amendments which were earlier proposed and have also introduced new amendments which were not a part of the original finance bill.

One of the crucial amendments to the Finance bill has been that the government has doubled the tax rate for income in the nature of royalty and FTS earned by a non-resident from 10% to 20% (plus surcharge and cess) with effect from April 1, 2023 onwards. There was no mention about this in the original finance bill. Thus, the said incomes would now attract a higher tax rate unless treaty benefit can be availed for a reduced tax rate.

The article and alert provide an overview of the key direct and indirect tax proposals in the budget relevant to foreign taxpayers, together with a summary of other significant proposed tax measures. All are applicable as from April 1, 2023 (i.e., financial year 2023-24, assessment year 2024-25) unless otherwise stated. The objective of the proposals as outlined by the minister of finance is to maintain continuity and stability of taxation, further simplify and rationalize various provisions to reduce the compliance burden, promote the entrepreneurial spirit, and provide tax relief to individuals opting for the simplified tax regime introduced in 2022.

See also tax@hand - February 7, 2023 and Tax Alert

Malaysia

Tax highlights of Budget 2023 include proposal to tax certain capital gains

Malaysia's finance minister tabled the revised national Budget 2023, which includes some significant tax proposals, on 24 February 2023 (the previous version of the budget was tabled by the former government in October 2022). On 14 March 2023, the Finance Bill 2023, which includes some measures from the budget along with some additional measures, was presented for its first reading in parliament.

This article focuses on the key tax highlights of Budget 2023 and Finance Bill 2023 for companies. A publication available on Deloitte Malaysia's website provides more detailed coverage of the salient tax-related budget proposals in respect of corporate tax, tax incentives, indirect tax, individual tax, stamp duty, real property gains tax, petroleum tax, tax administration, and other measures.

See also tax@hand - March 29, 2023

Revised guidelines issued on tax treatment of foreign-source income

Through the issuance of revised technical guidelines on December 29, 2022 and a media release (available only in the Bahasa Malaysia language) on December 30, 2022, the Inland Revenue Board (IRB) of Malaysia imposed an additional condition (an economic substance requirement) to qualify for the tax exemption for foreign-source dividend income received in Malaysia by qualifying persons. This follows the September 29, 2022 issuance by the IRB of technical guidelines (available only in the Bahasa Malaysia language) explaining the application of the tax legislation with respect to foreign source-income (FSI) received in Malaysia by Malaysian tax residents, and the July 19, 2022 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) from the Minister of Finance establishing the conditions to qualify for a tax exemption. The additional condition for qualifying persons, i.e., the economic substance requirement, was imposed to reflect Malaysia's commitment toward compliance with international tax standards to avoid tax evasion and double non-taxation and is in accordance with conditions set by the EU.

According to the revised technical guidelines, foreign-source dividend income received by a qualifying person in Malaysia is exempt from tax only if the economic substance requirement is fulfilled, in addition to the conditions established under P.U.(A) 235/2022 (i.e., that foreign-source dividend income must be subject to tax in the jurisdiction of origin and that the headline tax rate in that jurisdiction must be at least 15%). Clarification on the economic substance requirement may be needed because the relevant thresholds are to be determined on a case-by-case basis, as stated in the revised technical guidelines, so the adequacy of economic substance may be subject to dispute. In addition, clarification is needed on whether the revised guidelines apply retroactively, as the IRB's December 30, media release indicates that qualifying persons that submitted their tax return for year of assessment (YA) 2022 on or before December 29, 2022 may be required to submit an amended return if they do not meet the economic substance requirement set forth in the revised guidelines (however, no penalties will be imposed).

See also tax@hand - January 18, 2023

Mexico

Mexico deposits MLI ratification instrument

The OECD announced on March 15, 2023 that Mexico has deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ((MLI), also referred to as the "BEPS Convention") with the OECD. Representatives covering a total of 100 jurisdictions have signed the MLI, and instruments of ratification, acceptance, or approval covering 80 jurisdictions have been deposited with the OECD.

Mexico's list of reservations and notifications to the MLI (i.e., its MLI position) upon the deposit of its ratification instrument identifies 61 tax treaties that it wishes to be covered by the convention. The MLI will enter into force for Mexico three months after the deposit of its instrument of ratification, i.e., on July 1, 2023.

The OECD announcement notes that the MLI now covers around 1,850 bilateral tax treaties: as of April 1, 2023, more than 1,100 treaties concluded among the 80 jurisdictions that have ratified, accepted, or approved the MLI will have been modified, with around 700 additional treaties to be modified once the MLI has been ratified by all signatories.

See also tax@hand - March 16, 2023

Singapore

Tax highlights of Budget 2023 for foreign investors

Singapore's Deputy Prime Minister and Minister for Finance, Mr. Lawrence Wong, delivered the Singapore Budget 2023 on February 14, 2023.

The article outlines some of the key tax highlights of the budget relevant to foreign investors, including the intention to implement the OECD/G20 Inclusive Framework on BEPS 2.0 Pillar Two measures (also known as the global anti-base erosion ("GloBE") rules) in 2025, together with a domestic top-up tax (DTT), to raise the effective tax rate for in-scope multinational enterprise (MNE) groups in Singapore to 15%. The budget also contains a number of proposals to review and update various industry development schemes in order to maintain Singapore's competitiveness in attracting and retaining investments.

The budget proposals will be incorporated into the Income Tax Act once the Amendment Bill is passed by parliament and presidential assent is obtained. Typically, the bill is enacted into law in the fourth quarter of the year.

See also tax@hand - February 21, 2023

United Arab Emirates

Federal Tax Authority confirms income amount subject to 0% corporate tax rate

On January 16, 2023, the Federal Tax Authority (FTA) of the United Arab Emirates (UAE) issued Cabinet Decision No. 116, which confirms the amount of taxable income subject to a 0% corporate tax rate. Furthermore, the FTA has opened the corporate tax registration portal to certain categories of taxpayers.

As background, the government introduced on December 9, 2022 a corporate tax law, which is effective for financial years starting on or after June 1, 2023.

See also tax@hand - February 1, 2023

United Kingdom

Spring Finance Bill 2023 published

The text of the UK Finance (No. 2) Bill 2023-24 (also referred to as "Spring Finance Bill 2023") was published on March 23, 2023, alongside explanatory notes and a press release from HM Treasury. The progress of the bill can be followed via the dedicated pages on parliament's website.

Part 3 (Multinational top-up tax) and part 4 (Domestic top-up tax) of the bill, together with supporting schedules 14 to 18, comprise the draft legislation required for the UK's implementation of an income inclusion rule and qualified domestic minimum top-up tax based on the OECD/G2O Inclusive Framework on BEPS global minimum tax rules ("Pillar Two").

See also tax@hand -March 24, 2023 and tax@hand - March 16, 2023

Draft legislation to implement Pillar Two global minimum tax rules published

On 23 March 2023, HM Treasury published draft legislation and an explanatory note in respect of the UK's domestic implementation of an income inclusion rule ("multinational top-up tax") and a qualified domestic minimum top-up tax, in line with the OECD/G2O Inclusive Framework on BEPS ("inclusive framework") global minimum tax rules ("Pillar Two").

This follows the statement on the components of global tax reform, agreed by more than 135 members of the inclusive framework in October 2021, and the subsequent publication by the inclusive framework of model rules for Pillar Two, commentary, safe harbors, and administrative guidance.

The draft legislation is included in Finance (No.2) Bill 2023-24 presented to the House of Commons on 23 March 2023 and which is proceeding through parliamentary processes. Once enacted, the multinational top-up tax and qualified domestic top-up tax will have effect in the UK in respect of accounting periods beginning on or after 31 December 2023.

See also tax@hand - March 24, 2023

United States

Prevailing wage and apprenticeship requirements in Inflation Reduction Act

On November 30, 2022, the US Treasury Department and Internal Revenue Service (IRS) issued Notice 2022-61,[1] which provides guidance on the prevailing wage and apprenticeship requirements applicable to many of the energy tax provisions (sections[2] 30C, 45, 45L, 45Q, 45U, 45V, 45Y, 45Z, 48, 48C, 48E, and 179D) modified or created by the Inflation Reduction Act of 2022 (IRA, P.L. 117-169).

The notice establishes the 60-day period described in the provisions, which means January 28, 2023 is the last day by which a taxpayer may begin construction of qualified facility, energy property, or energy project without having to meet the substantive prevailing wage and apprenticeship requirements to qualify for increased credit or deduction amounts. The notice provides relevant cross-references, definitions for various terms, and procedures in order for taxpayers to apply the substantive prevailing wage and apprenticeship requirements. In addition, the notice provides guidance for determining the beginning of construction or installation relevant to the prevailing wage and apprenticeship requirements and for other credit eligibility and qualification purposes, by reference to other IRS guidance previously issued. Finally, the notice states that the IRS and Treasury anticipate issuing proposed regulations or other guidance with respect to prevailing wage and apprenticeship requirements.

See also tax@hand - January 10, 2023

Tax considerations related to Turkish economy being classified as highly inflationary

This article discusses recent developments related to the classification of Turkey as a highly inflationary economy for entities whose functional currency has been the Turkish Lira (TRY). As discussed in the article, based on available data and as provided by Treas. Reg. section 1.985-1(b)(2)(ii)(D), Turkey is a country that is hyperinflationary for US federal income tax purposes and, as a result, calendar year-end taxpayers with qualified business units (QBUs) (i.e., controlled foreign corporations (CFCs) and section 987 QBUs) with TRY as their functional currency are required to adopt the United States Dollar Approximate Separate Transactions Method (DASTM) for the taxable year beginning in 2023.

See also tax@hand - February 9, 2023

Treasury, IRS release additional corporate AMT guidance focused on insurance industry

The Inflation Reduction Act, P.L. 117-169, signed into law by US President Biden on August 16, 2022, included a 15% corporate alternative minimum tax (CAMT) on “adjusted financial statement income” (AFSI) of applicable corporations. The CAMT is effective for taxable years beginning after December 31, 2022.

On December 27, 2022, the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) released Notice 2023-7,which announced their intention (i) to issue proposed regulations that will address the application of the CAMT consistent with that notice and (ii) to provide additional interim guidance intended to help avoid substantial unintended adverse consequences to the insurance industry from the application of the CAMT. (A prior tax alert discussing Notice 2023-7 can be found here.) On February 17, 2023, Treasury and the IRS released that additional interim guidance in the form of Notice 2023-20 (the “notice”).

In brief, the notice addresses certain issues related to the treatment under the CAMT of life insurance company separate account assets that are marked to market for financial statement purposes, the treatment of certain items reported in other comprehensive income (OCI), and the treatment of embedded derivatives arising from certain reinsurance contracts. The article discusses these concepts more thoroughly.

See also tax@hand - February 22, 2023

US Inbound Corner (February 2023)

The February 2023 edition of *US Inbound Corner* includes the following article:

- **Factoring of receivables for US inbound companies:** An inbound US operating company may consider factoring its third-party receivables to a foreign affiliate, due to the potential operational, treasury, and other benefits of the arrangement.
  This article discusses some of the potential benefits, considerations, and analyses associated with implementing intercompany cross-border accounts receivable factoring arrangements.

See also tax@hand - March 1, 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 2023, 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 2018 – 2022 Global Tax Rates

Jurisdiction	Combined national/local rate (incl. surcharges, etc.)		Date the combined national/local rate enacted	Notes
	2022	2023	National and Local	
Austria	25%	24%	February 14, 2022	See tax@hand June 2022
Korea	10% - 25%	9% - 24%	December 23, 2022	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. Corporate tax rates for each taxable income bracket are reduced by one percentage point. This amendment will be effective for fiscal years beginning on or after January 1, 2023. See also tax@hand - December 25, 2022
South Africa	28%	27%	February 23, 2022	Rate reduced from 28% for years of assessment ending on or after 31 March 2023. See also tax@hand - February 24, 2022
United Kingdom	19%	25%	January 1, 2022	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%. See also tax@hand - October 17, 2023

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

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

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

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

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

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

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