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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, 2023 – December 31, 2023
December 31, 2023
Issue 2023-4

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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, 2023 to December 31, 2023

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

Australia

Franked distributions funded by capital raisings measure receives royal assent

Date of Enactment: November 27, 2023
Effective Date: November 27, 2023

On November 15, 2023, the Australian Senate passed government amendments to schedule 5, Franked distributions funded by capital raisings measure in Treasury Laws Amendment (2023 Measures No. 1) Bill 2003. (Schedule 4 of the bill deals with off market share buy backs which are not addressed in this article).

On November 27, 2023, the bill, as modified by the Senate amendments, received royal assent.

The effect of the government's Senate amendments is that:

- Given royal assent on November 27, 2023, the measure will apply to distributions made on or after the following day, being November 28, 2023;
- A distribution is relevantly funded by a capital raising if that capital raising funds at least a substantial part of the distribution (rather than any part of the distribution); however, note Deloitte Australia's comments in the article on the relevant drafting on this matter;
- Only the part of the distribution that is substantially funded by the capital raising will be unfrankable; and
- Where a capital raising is in response to a regulatory requirement, direction, or recommendation from the Australian Prudential Regulation Authority (APRA) or the Australian Securities and Investments Commission (ASIC), the measure will not apply.

See also tax@hand - November 27, 2023

Belgium

Parliament approves draft bill implementing EU Pillar Two directive

Date of Enactment: December 14, 2023
Effective Date: Various

On December 14, 2023, the Belgian parliament approved the draft bill (Dutch | French) implementing the Pillar Two minimum effective tax rate of 15% for multinational enterprise groups or large domestic groups with consolidated annual revenues exceeding EUR 750 million.

The approved bill also includes the proposed update to the research and development tax credit regime to meet the global anti-base erosion (GloBE) rule definition of a "qualifying refundable tax credit" and the prepayment system for collection of certain of the new taxes payable.

See also tax@hand - December 19, 2023 and tax@hand - November 15, 2023

Parliament adopts law introducing model A CFC rules

Date of Enactment: December 21, 2023
Effective Date: Financial years ending on or after 12/31/2023

On December 21, 2023, the Belgian parliament adopted a bill that, among other measures, introduces model A CFC rules. The new rules apply as from tax year 2024 (i.e., financial years ending on or after December 31, 2023).

See also tax@hand - December 21, 2023

Brazil

New tax law modifies taxation of investment funds

Date of Enactment: December 12, 2023
Effective Date: January 1, 2024

Law 14,754/2023, which was published on December 12, 2023, by the Brazilian government, includes modifications to the taxation of investment funds. The new law imposes a 15% withholding tax on the accrued income of investment funds, as well as on income distributions and income from the amortization, redemption, or sale of shares (or "quotas") of such funds. The new law will apply as from January 1, 2024.

See also tax@hand - December 13, 2023

Czech Republic

Consolidation package heading for public finance

Date of Enactment: December 12, 2023
Effective Date: January 1, 2024

On January 1, 2024, the fiscal consolidation package (Print No. 488 of the Chamber of Deputies) that includes a number of tax measures intended to reduce the state budget came into effect. The most significant tax changes are summarized in the article, such as an increase in the corporate income tax rate to 21%.

See also Parliamentary Press 488 (psp.cz)(Czech), Czech president approves plan introducing budget cuts, taxes., and tax@hand - October 15, 2023

New tax treatment of stock acquired by employees through ESOP

Date of Enactment: December 12, 2023
Effective Date: January 1, 2024

The new rules regarding the tax treatment of certain stock acquired by employees was submitted on January 1, 2024 (see "State of procedure 474" available in the Czech language only). The amendment of the Income Taxes Act introduced favorable tax treatment that allows the deferral of payment of income tax and social security contributions for "non-cash" income related to the acquisition of stock (or certain other securities) in a corporation through an employee stock ownership plan (ESOP). The proposed changes are intended to make ESOPs more attractive to employees and employers, especially in the case of startups.

See also Parliamentary Press 474 (psp.cz) and tax@hand - November 8, 2023

France

France's 2024 finance law

Date of Enactment: December 30, 2023
Effective Date: Various

On December 30, 2023, France's 2024 finance law was published in the Official Journal (law 2023-1322 of December 29, 2023).

The France's 2024 finance law notably covered /included:

- some adjustments on the tax treatment of dividends (these measures apply to fiscal years ending on or after December 31, 2023)
- the implementation of the EU Pillar Two directive (The IIR and QDMTT are applicable as from January 1, 2024, and the UTPR is applicable as from January 1, 2025)
- a new tax on the exploitation of long-distance transport infrastructures (as from January 1, 2024)
- a new tax credit for investment in green industries (enterprises can submit early application as from 27 September 2023, and the tax credit will benefit projects approved through December 31, 2025)
- new rules for transfer pricing audit and transfer pricing documentation (these transfer pricing measures apply to fiscal years beginning on or after January 1, 2024)
- a postponement of the removal of the added value contribution (CVAE) (the CVAE will not be abolished in 2024. Instead, the 2024 finance law provides for its gradual phasing out, over four years, for a complete removal in 2027).

See also 2024 Finance Act - budget.gouv.fr and tax@hand - December 23, 2023

Germany

Upper house of parliament approves legislation to implement EU Pillar Two directive

Date of Enactment: December 27, 2023
Effective Date: January 1, 2024

On December 15, 2023, the German upper house of parliament approved legislation on the domestic implementation of Council Directive (EU) 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups (the "Pillar Two directive"). The lower house of parliament approved the legislation on November 10, 2023. The signature of the president and the publication in the federal gazette, which are required for the law to enter into force, occurred on December 27, 2023. The law will enter into force for fiscal years that start after December 30, 2023.

See also tax@hand - December 15, 2023 and Federal Law Gazette 2023 I No. 397 of 27.12.2023

Hong Kong

Draft law to refine FSIE regime for disposal gains submitted to Legislative Council

Date of Enactment: November 29, 2023
Effective Date: January 1, 2024

Hong Kong SAR's Legislative Council on November 29, 2023 passed the Inland Revenue (Amendment) (Taxation on Foreign-sourced Disposal Gains) Bill 2023 that refines Hong Kong SAR's foreign-sourced income exemption (FSIE) regime by expanding the scope of foreign-sourced disposal gains. Under the refined regime, the scope of foreign-sourced disposal gains is extended to cover all types of assets, except disposal gains derived by traders, and a new intragroup transfer relief for foreign-sourced disposal gains is introduced. The refined FSIE regime will apply as from January 1, 2024.

See also tax@hand - November 30, 2023

Law to introduce tax certainty enhancement scheme for onshore capital gains enacted

Date of Enactment: December 6, 2023
Effective Date: January 1, 2024

The Inland Revenue (Amendment) (Disposal Gain by Holder of Qualifying Equity Interests) Bill 2023 introducing the tax certainty enhancement scheme for onshore gains on disposal of equity interests was passed by the Hong Kong SAR Legislative Council on December 6, 2023 and consequently enacted.

Under the scheme, onshore disposal gains on equity interests held for at least 24 months by an investor entity that constitute not less than 15% of an investee entity's total equity interests will be regarded as capital in nature and hence not taxable. The scheme will apply to disposals on or after January 1, 2024, and disposal gains accrued from the year of assessment 2023-24.

See also tax@hand - December 8, 2023

Ireland

Finance (No. 2) Bill 2023 published

Date of Enactment: December 18, 2023
Effective Date: Various

On October 19, 2023, Ireland's finance minister published Finance (No. 2) Bill 2023.
The measures contained in Finance (No. 2) Bill 2023 are reflective of the key challenges outlined in Budget 2024 and included Ireland's Pillar Two legislation.

Finance (No. 2) Act 2023 was signed into law on December 18, 2023.

See also Finance (No. 2) Act 2023 – Houses of the Oireachtas, tax@hand – October 23, 2023, and tax@hand – October 16, 2023

Italy

Legislative decree containing international tax reform measures is in force

Date of Enactment: December 28, 2023
Effective Date: January 1, 2024

A legislative decree (No. 209/2023) containing international tax measures that are part of the broader Italian tax reform that is in progress was published in the Italian official gazette on December 28, 2023, and its provisions generally are effective as from January 1, 2024. The legislative decree includes—among other things—revised criteria to determine the tax residence of corporate entities, amendments to the controlled foreign company (CFC) regime (which also are relevant for purposes of the participation exemption regime), the introduction of a tax incentive to encourage businesses to "re-shore" economic activities to Italy from non-EU/European Economic Area (EEA) jurisdictions, and the introduction of a penalty protection regime for hybrid mismatch assessments ("anti-hybrid penalty protection regime," covered in further detail in the related article dated December 28, 2023).

The legislative decree also provides for the transposition of Council Directive (EU) 2022/2523 on ensuring a global minimum level of taxation for multinational groups and large-scale domestic groups in the EU ("EU Pillar Two directive") into the Italian domestic tax law framework (covered in further detail in the related article dated January 3, 2024). Aside from the provisions relating to the anti-hybrid penalty protection regime, the legislative decree does not reflect substantial amendments compared to the draft decree published in November 2023.

See also tax@hand - January 8, 2024

Government approves legislative decree implementing Pillar Two rules

Date of Enactment: December 28, 20243
Effective Date: January 1, 2024

On December 19, 2023, the Italian Council of Ministers approved the final version of the legislative decree providing—among other things—for the transposition in Italy of Council Directive (EU) 2022/2523, which aims to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups in the EU ("EU Pillar Two directive"). The legislative decree was published in the Italian official gazette on December 28, 2023, and its provisions generally are effective as from January 1, 2024.

See also tax@hand - January 3, 2024

Luxembourg

Pillar Two law: Positive vote in parliament marks a key milestone

Date of Enactment: December 20, 2023
Effective Date: December 31, 2023

On December 20, 2023, the Luxembourg parliament adopted the law implementing EU Council Directive 2022/2523 of December 14, 2022, which establishes a global minimum taxation level (15%) for multinational enterprise (MNE) groups and large-scale domestic groups within the EU ("the Pillar Two law"). The law will be applicable for fiscal years commencing on or after December 31, 2023.

As highlighted by the Ministry of Finance immediately following the vote, the adoption of the Pillar Two law demonstrates Luxembourg's ongoing dedication to adhering to internationally- and European-agreed tax standards. It also reaffirms the government's commitment to enhancing the competitiveness of the Luxembourg economy and aligning corporate tax rates more closely with the OECD country average in the medium term.

See also tax@hand - December 21, 2023, tax@hand - November 23, 2023, and tax@hand - October 9, 2023

Mexico

Decree provides tax incentives for key sectors of export industry

Date of Enactment: October 11, 2023
Effective Date: October 12, 2023

A decree published in Mexico's official gazette on October 11, 2023, provides tax incentives to taxpayers in key sectors of the export industry and aims to encourage such taxpayers to relocate part of their productive activities to areas near the markets in which they operate, a strategy known as "nearshoring." The incentives are also available to taxpayers in key sectors of the cinematographic and audiovisual industry, to promote "creative exports." As described further in the article, the incentives include an immediate deduction for a percentage of qualifying investments in new fixed assets, and an additional deduction for certain training expenses.

See also tax@hand - October 13, 2023

Netherlands

Dutch Senate adopts most components of 2024 Tax Plan Package

Date of Enactment: December 27, 2023
Effective Date: January 1, 2024 (December 31, 2023, for Pillar Two)

On December 19, 2023, the Senate adopted most components of the 2024 Tax Plan Package and also passed a number of other tax bills. This tax legislation, which was published in the State Gazette on December 27, 2023, contains several measures relevant for multinational corporations including but not limited to:

- 2024 Tax Plan
  - Changes to Dutch tax qualification of open CVs, open mutual funds, and foreign incorporated entities (effective as of January 1, 2025)
  - Adjustments to the regimes for exempt investment institutions and fiscal investment institutions (effective as of January 1, 2025)
  - Measures to strengthen the approach to combat dividend stripping (effective as of January 1, 2024)
- Dutch Minimum Tax Act 2024 ('DMTA') implementing the OECD's Pillar 2 Model Rules (effective as of December 31, 2023, with a one-year delay for the undertaxed profits rule)

See also Deloitte Netherlands - December 22, 2023

Singapore

Tax Bytes – Income Tax Act 2023

Date of Enactment: October 30, 2023
Effective Date: Various

The Income tax (Amendment) Act 2023 (Act 30 of 2023) was passed on October 30, 2023. This article covers relevant updates with respect to the enacted law

See also Tax Bytes - October 30, 2023

Thailand

Rules provided for tax incentive for investments in automation systems

Date of Enactment: November 14, 2023
Effective Date: January 1, 2023

A notification from the Director-General of the Thai Revenue Department (TRD) on income tax (No. 439) dated November 14, 2023, was issued to revise a notification from the Director-General of the TRD on income tax (No. 421) dated March 21, 2022, that provides rules, criteria, and conditions for the additional corporate income tax deduction for companies or juristic partnerships for investments in automation systems. The additional corporate income tax deduction was extended to cover the period from January 1, 2023, through December 31, 2025, by a royal decree (No. 776) dated August 13, 2023; however, the new notification (No. 439) also includes certain provisions that are relevant to investments that were acquired and ready for their intended use by December 31, 2022.

See also tax@hand - December 5, 2023

Rules provided for tax incentive for employment of highly skilled personnel

Date of Enactment: November 14, 2023
Effective Date: January 1, 2023

A notification from the Director-General of the Thai Revenue Department (TRD) on income tax (No. 440) dated November 14, 2023, sets forth rules, criteria, and conditions for the additional corporate income tax deduction of 50% (i.e., a total deduction of 150%) for salary expenses incurred (not exceeding a maximum salary of THB 100,000 per month, per employee) by companies or juristic partnerships for certain highly skilled personnel. The additional corporate income tax deduction was extended through December 31, 2025, by a royal decree (No. 777) dated August 13, 2023. The additional deduction is available for salary expenses of personnel working in targeted industries that are highly skilled in the fields of science, technology, engineering, or mathematics and that are certified by Thai National Higher Education, Science, Research and Innovation Policy Council.

See also tax@hand - December 5, 2023

Rules provided for tax incentive to encourage employee development

Date of Enactment: November 14, 2023
Effective Date: January 1, 2023

A notification from the Director-General of the Thai Revenue Department on income tax (No. 441) dated November 14, 2023, sets forth rules, criteria, and conditions for the additional corporate income tax deduction of 150% (i.e., a total deduction of 250%) for expenses incurred by companies or juristic partnerships for sending employees to attend training courses or offering employee training programs in the areas of science, technology, engineering, or mathematics. The additional corporate income tax deduction was extended through December 31, 2025, by a royal decree (No. 778) dated August 13, 2023. The training must be approved by the Thai National Higher Education, Science, Research and Innovation Policy Council; the Thai Eastern Economic Corridor (EEC) Committee; the Thai Digital Economy Promotion Agency; or the Thai Center of Robotics Excellence (CoRE). The expenses must be incurred from January 1, 2023, to December 31, 2025, and the training must commence by December 31, 2025, and must be held with the purpose of benefiting the company or juristic partnership's business.

See also tax@hand - December 5, 2023

Enacted Tax Law Changes That Are Now Effective: October 1, 2023 to December 31, 2023

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

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

The following section includes a summary of major international income tax law changes enacted before January 1, 2024, but effective after December 31, 2023.

Bermuda

Corporate income tax legislation enacted

Date of Enactment: December 27, 2023
Effective Date: January 1, 2025

On December 27, 2023, the Bermuda Corporate Income Tax Act 2023 (the Act) received the governor's assent and was enacted, and a notice on the enactment was posted to the government of Bermuda's official gazette. The enacted law is generally consistent with the draft legislation included with the third public consultation paper and introduces a 15% corporate income tax (CIT) on Bermuda businesses that are part of multinational enterprise (MNE) groups with annual revenue of EUR 750 million or more. The effective date for the tax is January 1, 2025 (i.e., it is effective for tax years beginning on or after January 1, 2025). The government also has released "version 2.0" of a set of frequently asked questions (FAQs) providing additional guidance with respect to the Act, and a form that allows certain elections to be made in advance of filing a Bermuda CIT return.

As summarized in previous Bermuda government consultation papers, the Bermuda CIT rules incorporate key foundational definitions from the OECD global anti-base erosion (GloBE) model rules, to remain aligned as far as practicable with the GloBE rules.

See also tax@hand - January 3, 2024 and tax@hand - November 22, 2023

United Kingdom

Draft legislation to implement Pillar Two global minimum tax rules published

Date of Enactment: July 11, 2023
Effective Date: December 31, 2023

The UK's rules implementing the income inclusion rule (IIR or "multinational top-up tax") and qualified domestic minimum top-up tax ("domestic top-up tax") based on the OECD/G20 inclusive framework's Pillar Two global minimum tax model rules and guidance are effective for in-scope groups for accounting periods starting on or after December 31, 2023.

See also tax@hand - July 28, 2023 and tax@hand –March 24, 2023

On the Horizon

The following developments had not yet been enacted as of December 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/jurisdiction tax advisor for more information.

Australia

Government amendments released on interest limitation rules

On November 28, 2023, the Australian government released amendments and a supplementary explanatory memorandum to the interest limitation rules within the Treasury Laws Amendment (Making Multinationals Pay Their Fair Share—Integrity and Transparency) Bill 2023.

See also tax@hand - November 29, 2023

New interest limitation rules from July 1, 2023

The Australian government's legislative process to introduce its new interest limitation laws, to be effective from July 1, 2023, has hit a significant roadblock. The Treasury Laws Amendment (Making Multinationals Pay Their Fair Share—Integrity and Transparency) Bill 2023 (multinational tax bill or bill) was "debated" for less than 10 minutes in the Senate in the evening of December 5, 2023, with the outcome being that:

- The government's 89 amendments, as issued in late November 2023, to the bill were not put to the Senate;
- The Opposition's second reading amendment as below was passed by the Senate. This is not an amendment to the bill itself, but rather an amendment to the motion to move the bill. The Senate passed the following:
  a. "the Government amendments on sheet RU100 to the Treasury Laws Amendment (Making Multinationals Pay Their Fair Share—Integrity and Transparency) Bill 2023 be referred to the Economics Legislation Committee for inquiry and report by February 5, 2024; and
  b. further consideration of the bill be made an order of the day for the first sitting day after the committee has reported."
- Parliament is scheduled to return on February 6, 2024, being the day after the committee is due to report. The bill is not expected to move any further pending the report from the committee.

See tax@hand – December 5, 2023 and tax@hand - November 29, 2023

Mid-Year Economic and Fiscal Outlook (MYEFO) tax summary

On December 13, 2023, the Australian treasurer released the 2023-24 MYEFO along with a media release. The underlying cash balance is forecast to be a much smaller deficit of AUD 1.1 billion in 2023-24, an improvement of AUD 12.8 billion compared to the estimates in the May 2023 Budget. The government has advised it has returned 92% of upward revisions to revenue since the May 2023 Budget, and 88% of revenue upgrades since coming to office. The MYEFO budget figures also include AUD 2.4 billion of revenue decisions taken but not yet announced and not for publication, and AUD 4.67 billion of payment decisions taken but not yet announced.

See also tax@hand - December 13, 2023

Proposed new "division 296" tax on earnings for super balances over AUD 3 million

On November 30, 2023, the Australian government introduced a bill into the House of Representatives that will impose an additional 15% tax on certain earnings by individuals with a total superannuation balance (TSB) above AUD 3 million based on the percentage of the TSB exceeding the AUD 3 million threshold. It follows a consultation paper released on March 31, 2023 "Better Targeted Superannuation Concessions" (consultation paper) and draft legislation released on 3 October 2023. The bill has been sent to the Senate Economics Legislation Committee for inquiry and report by April 19, 2024.

See also tax@hand - December 14, 2023

Barbados

Tax reform announced in response to Pillar Two initiative

On November 7, 2023, the Barbados prime minister presented to parliament some significant proposed changes to the corporate tax landscape in Barbados, as a result of the global anti-base erosion (GloBE) or “Pillar Two” model rules published by the OECD/G20 Inclusive Framework on BEPS that are designed to ensure a global minimum level of taxation of 15% for multinational enterprise groups with annual consolidated revenue of at least EUR 750 million. The changes include a new corporate income tax rate of 9% (which is to be effective as from January 1, 2024, with exceptions for certain entities), the introduction of a qualified domestic minimum top-up tax (QDMTT), new refundable tax credits, and certain other changes. Before legislative changes can enter into effect, the relevant legislation generally must be passed in both houses of parliament and be enacted into law.

See also tax@hand - November 21, 2023

Belgium

Overview of major business tax measures in Budget 2024

On October 9, 2023, Belgium’s federal government reached an agreement regarding Budget 2024. The agreement contains several corporate tax measures, including proposed amendments to the controlled foreign company (CFC) regime and certain anti-avoidance measures, and a proposed tightening of the “Cayman tax.”

Budget 2024 will need to be converted in a pre-draft bill, which must be approved by the Council of Ministers before being submitted to the House of Representatives.

These measures are expected to enter into force as from January 1, 2024, although this is not explicitly stated in notifications concerning the agreement.

See also tax@hand - October 20, 2023

Update on key budget 2024 tax measures affecting the real estate sector

Following the agreement reached by Belgium’s federal government on the 2024 Budget on October 9, 2023, further details have become available with respect to the proposed measures relevant to the real estate sector, including: the introduction of a minimum five-year holding period for Belgian real estate investment funds (BE-REIFs); the non-deductibility of subscription tax; an increase in registration duties for long lease and building rights; and the removal of the reduced 6% VAT rate on demolition and reconstruction for real estate developers.

See also tax@hand - November 3, 2023

New draft tax law on restructurings may have wider tax implications

On October 19, 2023, a draft law relating to miscellaneous tax measures was submitted to Belgium's federal parliament. One of the objectives of the draft law is to realign the autonomous tax definitions for mergers and divisions with the company law definitions that were updated in June 2023 to reflect the modifications required by Directive (EU) 2019/2121 (referred to as "the EU mobility directive") amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers, and divisions. The amendments are also intended to ensure that the transposition of the company law directive has full effect for tax purposes.

See also tax@hand – November 6, 2023

Brazil

New legislation subjects investment subsidies to taxation

On December 29, 2023, the Brazilian government published Law No. 14,789/2023, which provides that investment subsidies, such as state VAT (ICMS) incentives, are subject to corporate income taxes (IRPJ/CSLL) and federal gross revenue taxes (PIS/COFINS) as from January 1, 2024. A new investment subsidy tax credit also is available.

Many taxpayers benefit from investment subsidies granted by federal, state, and municipal governments. There have been discussions in the past whether such subsidies should be taxed for corporate income and federal gross revenue tax purposes. Since 2017, with the enactment of Complimentary Law No. 160/2017 (CL 160), which changed Law No. 12,973/2014, investment subsidies granted by a federal, state, or municipal government were not taxable for IRPJ/CSLL or PIS/COFINS purposes, provided certain requirements were met, including the recognition of a specific net equity reserve.

There has been a longstanding debate over the tax treatment of tax incentives through exemptions or reductions to encourage business investment/expansion (i.e., investment subsidies) and whether investment subsidies should be subject to tax for corporate income and federal gross revenue tax purposes. Prior to the new law, investment subsidies were excluded from such taxation.

Based on legislation and interpretations by the tax authorities, certain conditions have been imposed to allow the exclusion of investment subsidies from taxation, including the recognition of a specific net equity reserve and the requirement that amounts from investment subsidies must be used to implement or expand economic businesses in Brazil. There have been several legal disputes and court decisions as to whether such conditions should be effectively met.

See also tax@hand - January 3, 2024

New rules limit deduction of interest on net equity distributions

Pursuant to Law No. 14,789/2023, which was published on December 29, 2023 by the Brazilian government, the corporate income tax deduction for interest on net equity (INE) distributions has been limited as from January 1, 2024. Under Law No. 9,249/1995, a Brazilian company generally is allowed to make INE distributions to shareholders (either legal entities or individuals), which are based on calculations that apply the public long-term interest rate (TJLP) to the company's net equity and subject to 15% withholding tax (or 25% withholding tax if payment is made to a tax haven jurisdiction). The deductibility of such distributions is limited to the greater of 50% of the retained earnings account plus profit reserves and 50% of current profit and loss before corporate income taxes.

Under the new law, the deduction has been limited by reducing the INE computation basis, which is based on the taxpayer's book value of net equity from the prior year. The new law has reduced significantly the INE computation basis by restricting the type of capital reserves that can be included and has introduced certain adjustments related to transactions carried out between dependent parties. Furthermore, the new law preserves the deductibility limits based on the greater of 50% of retained earnings and 50% of pre-tax current profits.

See also tax@hand - January 3, 2024

Provisional measure revokes temporary 0% tax rate for tourism industry

On December 28, 2023, the Brazilian government issued a provisional measure (PM 1,202/2023) revoking the fourth paragraph of Law No. 14,148/2021, which introduced the Emergency Program for the Recovery of the Events Sector (“PERSE”) and established a temporary 0% rate for corporate income taxes (IRPJ and CSLL) and federal gross revenue taxes (PIS and COFINS) for taxpayers that were negatively affected by the COVID-19 pandemic, such as those taxpayers involved in the tourism and events sector (e.g., cinemas, concerts, hotels, sporting and cultural events, travel agencies). The reduced rate was to apply from March 2022 through February 2027, i.e., a sixty-month period.

Based on PM 1,202/2023, taxpayers that were eligible for the reduced rate will become fully taxable for CSLL, PIS, and COFINS as from April 1, 2024 and for IRPJ as from January 1, 2025.

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 - January 3, 2024

France

2024 finance bill adopted by Parliament

On December 21, 2023, France’s 2024 finance bill was adopted by Parliament. It is now expected to be published without modification by December 31, 2023, following a review by the French Constitutional Council, and then enacted at that time.

This article summarizes the law’s key tax provisions, some of which are the same as those included in the draft bill released in September 2023.

See also tax@hand - December 23, 2023

Germany

Considerations regarding proposals further limiting deductibility of interest

The German government on August 30, 2023, approved a draft of a business tax reform bill (“Growth Opportunity Act”), which includes a multitude of different tax measures. One of the most important proposals for foreign investors into Germany is the tightening of the interest deduction limitation rules, which would generally become effective as from January 1, 2024. Even though the draft law is still pending in the legislative process and must be approved by the upper and lower houses of parliament, this article discusses what businesses should consider in regard to the proposed changes to the interest deduction limitation rules, as well as the proposal to introduce a “maximum interest barrier rule,” to better understand any potential implications.

See also tax@hand - October 17, 2023

Draft guidance on Tax Haven Defense Act published

On November 30, 2023, the German Ministry of Finance (MOF) published draft guidance on the application of the German anti-tax avoidance measures regarding noncooperative jurisdictions. These measures were introduced in 2021 as part of the Tax Haven Defense Act as a response to the European Council’s guidelines issued at the end of 2019 encouraging EU member states to implement legislative measures designed to impose specific penalties on jurisdictions placed on the EU list of noncooperative jurisdictions for tax purposes (“EU list”). The draft guidance is open for comments from interested parties until January 9, 2024.

See also tax@hand - December 1, 2023

Greece

R&D, investment expenses may offset pharmaceutical expenditure claw back for 2024-2025

A joint ministerial decision issued by the Greek government on October 23, 2023, sets out the circumstances in which a pharmaceutical expenditure claw back may be offset with research and development (R&D) expenses and investment expenses for the development of products, services, or production lines for the 2024-2025 period.

See also tax@hand - October 24, 2023

Hong Kong SAR

2023 Policy Address proposes 5% concessionary tax rate for patent box regime

The Chief Executive of Hong Kong SAR, John Lee, delivered the 2023 Policy Address on October 25, 2023 which includes a number of tax-related measures; the most significant being the announcement of a 5% concessionary tax rate under the proposed "patent box" incentive for Hong Kong SAR-sourced intellectual property income. The key tax provisions contained in the address are summarized in the article. A separate article focuses in more detail on the individual tax measures designed to attract and retain talent and foster the development of the labor force.

See also tax@hand - October 30, 2023

Bill proposes important enhancements to preferential tax regime for aircraft leasing

The *Inland Revenue (Amendment) (Aircraft Leasing Tax Concessions) Bill 2023* containing provisions to enhance Hong Kong SAR's existing preferential tax regime for aircraft leasing was gazetted on November 17, 2023. Once enacted, the enhancements will apply retroactively as from the year of assessment beginning on April 1, 2023.

The bill aims to strengthen Hong Kong SAR's competitiveness in the global aircraft leasing industry by enhancements.

See also tax@hand - November 24, 2023

IRD updates guidance on court-free amalgamations and transfer of assets without sale

Hong Kong SAR's Inland Revenue Department (IRD) in November 2023 published on its website Departmental Interpretation and Practice Notes No. 63 (DIPN 63) on qualifying amalgamation of companies and transfer or succession of specified assets without sale, setting out its views and practices with illustrative examples. DIPN 63 also lists the information and documents required to apply for an advance ruling relating to qualifying amalgamations. It supplements the relevant guidelines posted on the IRD's website to reflect relevant legislative changes enacted in 2021.

See also tax@hand - December 7, 2023

Consultation launched on Pillar Two global minimum tax, domestic minimum top-up tax

On December 21, 2023, the Hong Kong SAR Financial Services and the Treasury Bureau (FSTB) and Inland Revenue Department (IRD) published a consultation on the implementation of the Pillar Two global minimum tax and Hong Kong SAR minimum top-up tax. In the consultation document, the FSTB and IRD confirm that Hong Kong SAR would implement the income inclusion rule (IIR) and undertaxed profits rule (UTPR) as part of a domestic implementation of the global anti-base erosion (GloBE) rules, as well as implementing what is intended to be a qualifying domestic minimum top-up tax (QDMTT) to be known as the Hong Kong SAR Minimum Top-up Tax (HKMTT).

See also tax@hand - December 27, 2023

Ireland

Government delivers Budget 2024

The Irish government delivered Budget 2024 on October 10, 2023. With a focus on the increase in the cost of living over the last year, there were a number of measures announced to support individuals, families, and businesses, while also providing for new investment in public services and infrastructure.

In addition to these spending measures, two savings funds were established using the proceeds of the windfall taxes arising from the excessive corporation tax receipts received in recent years, which are expected to reduce in the future.

The budget did, however, contain some key measures relevant for foreign direct investment to Ireland and, in particular, in the context of the ongoing OECD and EU tax reform developments.

This article summarizes the measures that are likely to be most relevant to multinational groups and their employees. The draft legislation in respect of these measures was subsequently released as part of Finance (No.2) Bill 2023 and included as part of Finance (No.2) Act that was signed into law on December 18, 2023.

See also tax@hand - October 16, 2023

Japan

Tax reform proposals for 2024 announced

On December 14, 2023, Japan's ministry of finance announced proposals for the 2024 tax reform, which includes a range of domestic and international measures. The reform aims to address Japan's persistent deflation by implementing individual income and inhabitant tax credits, amending the tax incentives for salary increases, providing tax incentives to stimulate domestic production of strategic resources, and introducing an "innovation box." On the global stage, the implementation of the OECD's Pillar Two initiative into Japan's domestic law will continue, following revisions made in 2023. Other measures include amending the taxation of foreign businesses offering goods and services for sale in Japan through digital platforms.

The proposals will be discussed, and possibly amended further, during the course of 2024, with enactment and implementation expected by the 2025 fiscal year.

See also tax@hand - December 27, 2023

Jersey

Key tax aspects of Proposed Government Plan 2024-2027

On September 19, 2023, the Jersey government released the Proposed Government Plan 2024-2027, that includes the following key taxation measures for businesses: A 60-day exemption period for short-term business visitors aimed at easing employer tax compliance, while also ensuring that tax is collected on activity that exceeds the minimum annual day limit. For earnings in jurisdictions with which Jersey does not have a bilateral tax treaty, Jersey-based employees to be able to mitigate the impact of eligible foreign taxes in relation to Jersey tax due on that income under a new credit-based tax regime.

See also tax@hand - October 10, 2023

Luxembourg

Government coalition agreement 2023-2028: Proposed tax measures

Following legislative elections in October 2023, the new Luxembourg government officially issued the text of its 2023-2028 coalition agreement (in French only) on November 20, setting out, among others, the tax measures envisaged for the next five years. These measures must be included in draft legislation and be submitted to and approved by parliament before they can become law.

The new government states that its economic policy will be based on a socio-liberal sustainable market and a balance between efficiency and solidarity.

See also tax@hand - November 21, 2023

Mexico

Tax incentives for taxpayers in zones affected by Hurricane Otis

The Mexican government issued a decree, effective as from October 31, 2023, providing tax incentives for taxpayers that have their fiscal domicile, agency, branch, or any other establishment located in a zone affected by Hurricane Otis ("affected taxpayers").

The incentive allows an immediate 100% deduction for investments in new or used fixed assets in the municipalities of Guerrero state that are located in the zones indicated in the Natural Disaster Declaration to be issued by the competent authority. This benefit is available from October through December 2023 when reporting for the year in which these goods were acquired. The 100% rate applies to the original investment amount. However, the fixed assets must be exclusively and permanently utilized in these zones for replacement, reconstruction, or rehabilitation purposes, except when involving automobiles, automobile armoring equipment, or any other fixed asset that is not individually identifiable, together with aircraft other than those involved in crop dusting.

See also tax@hand - November 1, 2023

New Zealand

Finalized Inland Revenue guidance on deductibility of costs related to SaaS

New Zealand's Inland Revenue has published finalized guidance on the deductibility of software-as-a-service (SaaS) configuration and customization (C&C) costs. The final version is largely in line with the draft proposals with only minor changes, and some helpful clarifications.

This means there is no material shift from Inland Revenue's draft position, and it provides a clear path for businesses to take a deduction for C&C costs (and avoid "blackhole" expenditure), with the main consideration being the term over which a deduction may arise, whether immediately or spread over a period of up to four years under the depreciation rules.

See also tax@hand - November 9, 2023

Tax issues for new coalition government

New Zealand's new coalition government has been formed and there are a number of tax matters included in both the coalition agreements and within the National Party election manifesto. These tax matters will be considered over the next three years, with varying degrees of priority. The 100 day action plan includes the prioritization of fuel tax changes, but does not include any of the other tax changes, including personal tax cuts.

See also tax@hand - December 12, 2023

OECD

Pillar Two: Multilateral convention for implementation of subject to tax rule

On October 3, 2023, the OECD/G20 Inclusive Framework on BEPS (inclusive framework) published a multilateral convention to facilitate the implementation of the subject to tax rule (STTR) as part of the Pillar Two global minimum tax rules ("'Pillar Two"), together with an accompanying explanatory statement. This follows draft model treaty articles and commentary published on July 17, 2023, and builds on the commitments in the "outcome statement" published on July 12, 2023, which was agreed by 138 of the 143 members of the inclusive framework.

Inclusive framework members that apply nominal corporate income tax rates below 9% have made a political commitment to implement the STTR into their bilateral tax treaties with developing country members when requested to do so. More than 70 developing countries in the inclusive framework will have the ability to make this request.

See also tax@hand - October 4, 2023

OECD Pillar One—Amount A Multilateral Convention

On October 11, 2023, the OECD published the "current consensus" of a multilateral convention for the implementation of Pillar One Amount A ("the multilateral convention"). The multilateral convention is accompanied by an explanatory statement and an Understanding on the Application of Certainty under Amount A. An updated estimate of the economic impact of Amount A and an overview document have also been published.

This follows the agreement by 138 members of the OECD Inclusive Framework on BEPS in July 2023 on nexus and profit allocation challenges (Pillar One) and global minimum tax rules (Pillar Two).

See also tax@hand - October 13, 2023

OECD Pillar Two: Further guidance

On December 18, 2023, the OECD/G20 Inclusive Framework on BEPS ("OECD inclusive framework") published a third set of administrative guidance on the implementation of the Pillar Two global minimum tax rules ("Pillar Two").

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

See also tax@hand - December 19, 2023

Saudi Arabia

Government releases proposed amendments to income tax law

On September 25, 2023, Saudi Arabia's government released a draft of proposed amendments to the income tax law for public consultation. The draft contains welcome proposals that reinforce a commitment by the government and the Zakat, Tax, and Customs Authority (ZATCA) to encourage a business-friendly environment in Saudi Arabia, and follows recent amendments to the income tax regulations. The proposed amendments relate to withholding taxes and the deduction of research and development (R&D) expenses for income tax purposes. The consultation period closes on October 25, 2023.

See also tax@hand - October 2, 2023

Singapore

IRAS updates guidance on deductibility of borrowing costs other than interest expense

On October 30, 2023, the Inland Revenue Authority of Singapore (IRAS) published the fourth edition of its e-Tax Guide Income Tax: Tax Deduction for Borrowing Costs Other Than Interest Expenses. This replaces the third edition which was published on January 15, 2019.

The fourth edition of the e-Tax Guide contains an important update on the deductibility of front-end fees charged by lenders and would be relevant for taxpayers where: Loans are taken out to finance the acquisition of a capital asset or to fund general working capital employed in generating taxable income; and Front-end fees are charged by the lender.

This update is effective as from the year of assessment (YA) 2023. Taxpayers currently in discussions with the IRAS concerning the deductibility of front-end fees for YA 2022 and prior years are advised to engage with the IRAS regarding the potential applicability of the principles outlined in the updated guide to those earlier years, which will be contingent upon a taxpayer's ability to provide the necessary supporting documentation to substantiate their position.

See also tax@hand - November 16, 2023

Sweden

Final legislative proposal to implement EU Pillar Two directive released

On October 26, 2023, the Swedish government published on its website the bill containing the final legislative proposal for the implementation in Sweden of the OECD global minimum tax rules ("Pillar Two rules") and more specifically the EU minimum tax directive. The next stage of the enactment process is for the Swedish parliament to debate and vote on the bill. The rules broadly require large multinational groups with a yearly turnover of EUR 750 million or more to be subject to an effective tax rate of at least 15% in all jurisdictions where they operate as from January 1, 2024. Also on October 26, 2023, the Swedish Tax Agency hosted a webinar regarding the proposed Pillar Two rules.

See also tax@hand - November 7, 2023

Switzerland

Pillar Two to be implemented in a gradual approach

The Swiss Federal Council decided at its meeting on December 22, 2023, that Switzerland will introduce the global minimum tax ("Pillar Two") in a gradual approach. Specifically, as from January 1, 2024, Switzerland will levy a national top-up tax ("qualified domestic top-up tax" or QDMTT) on profits of Swiss corporations and permanent establishments of international groups. The international top-up tax (income inclusion rule (IIR) and undertaxed profits rule (UTPR)) on profits of foreign subsidiaries and permanent establishments of Swiss headquartered groups will be introduced at a later stage (potentially on January 1, 2025).

See also tax@hand - December 23, 2023

United Kingdom

HMRC publish further draft amendments to Pillar Two global minimum tax legislation

On September 27, 2023, the UK tax authorities published additional updated draft legislation relating to the UK's implementation of the OECD/G20 inclusive framework's Pillar Two model rules. The window for comments closed on October 25, 2023. The additional draft legislation includes amendments intended to reflect the latest agreed administrative guidance issued by the inclusive framework in July 2023, for example on further agreed safe harbors, the treatment of tax credits, and transitional simplified jurisdictional reporting rules for Pillar Two information returns.

See also tax@hand – October 2, 2023

Key measures for foreign owned groups in Autumn Statement 2023

On November 22, 2023, the Chancellor of the Exchequer announced a number of measures in the Autumn Statement, which are summarized below:

- Full expensing, which allows companies to claim 100% first-year capital allowances for qualifying plant and machinery expenditure and a 50% first-year allowance for qualifying special rate assets, will be made permanent (previously due to expire in March 2026).
- Announcement that a Pillar 2 Under Taxed Profits Rule (UTPR) will be introduced in the UK at the earliest for accounting periods beginning on or after December 31, 2024, with legislation to be included in the upcoming Autumn Finance Bill 2023.
- The Offshore Receipts in respect of Intangible Property (ORIP) rules will be repealed for income arising from December 31, 2024, likely coinciding with the introduction of the UK's UTPR.
- The UK's R&D scheme for Small and Medium Enterprises and the Research and Development Expenditure Credit (RDEC) scheme will be merged into one consolidated scheme, in addition to various other R&D announcements (building on the draft legislation published on 'L-Day' in July of this year).
- The Investment Zones programme will be extended from five to ten years, and four additional Investment Zones across the UK have been announced.
- A new Audio-Visual Expenditure Credit, and Video Games Expenditure Credit have been announced, replacing existing reliefs with a 34% refundable credit to support creative industries in the UK. It is intended that these reliefs will constitute Qualified Refundable Tax Credits under Pillar Two.
- The rate of Class 1 employee National Insurance Contributions will reduce effective from January 6, 2024. Employers and their payroll providers will need to administer these changes part-way through the UK income tax year.

See also tax@hand – November 23, 2023

United States

House tax writers approve disaster relief package

The Federal Disaster Tax Relief Act of 2023 (H.R. 5863) cleared the panel by a vote of 38-0. The legislation was originally sponsored by Ways and Means Committee Republican Greg Steube of Florida, but Chairman Jason Smith, R-Mo., noted in his opening statement that California Democratic tax writers Mike Thompson and Jimmy Panetta also have played key roles in advancing the issue of disaster-related tax relief in the committee.

The measure drew plaudits from tax writers on both sides of the aisle at the mark-up, although Democrat Lloyd Doggett of Texas cautioned that until Congress is willing to address the larger issue of climate change, "there will come a time when even the massive resources of the federal government will be insufficient to provide complete relief to those who suffer from natural disasters made so much worse by unnatural causes."

See also tax@hand – November 4, 2023

Implications of Pillar Two for global stock-based compensation, state and local taxes

Resource guides from Deloitte Tax LLP discuss the ways in which Pillar Two of the international tax reform agreement being advanced through the OECD may affect US companies' decision-making around global stock-based compensation and state and local taxes.

See also tax@hand - November 4, 2023

Webcast: Translating the section 987 regulations for multinationals (December 6, 2023)

Newly proposed regulations address computing taxable income, translating tax basis, and recognizing currency gain or loss for qualified business units operating in different functional currencies. The new rules significantly change final currency regulations issued in 2016 and 2019 and would apply more broadly. They would also significantly change the methods most taxpayers use today to comply with Internal Revenue Code section 987.

See also tax@hand – December 6, 2023

Government shutdown averted as “laddered” stopgap spending measure is signed into law

The US Congress the week of November 13, 2023, approved, and President Biden signed, a “laddered” continuing resolution (CR) proposed by House Speaker Mike Johnson, R-La., that extends funding for government operations at fiscal year 2023 levels on a staggered schedule into early 2024, with deadlines of January 19 for some departments and agencies and February 2 for others. Enactment of the legislation averted a government shutdown that otherwise would have taken place when the previous stopgap measure keeping the government’s doors open expired at midnight on November 17.

See also tax@hand - November 18, 2023, tax@hand - November 10, 2023, and tax@hand - October 7, 2023

IRS guidance could complicate efforts in Congress to advance tax package in near term

The US Internal Revenue Service (IRS) announced on November 21, 2023, that it will extend for one additional year the transition relief from the enforcement of the more stringent information reporting requirements for third-party payment processors that were enacted in 2021.

See also tax@hand - December 1, 2023

Deloitte Tax resources address Pillar Two considerations for C-suite, M&A activity

The OECD has introduced Pillar Two—an unprecedented approach to addressing perceived base erosion and profit shifting, representing one of the biggest shifts in international taxation in decades. Multinational groups with revenue exceeding EUR 750 million must calculate a top-up tax in every jurisdiction where they pay less than 15% in taxes and new rules ensure multinational entity groups pay at least 15% tax in every jurisdiction in which they operate. The anticipated effective date is January 1, 2024, in varying jurisdictions, and even if top-up taxes are not expected to be material, compliance will add significant time and effort for many companies.

See also tax@hand - December 2, 2023

Potential tax accord punted to 2024

With the US House of Representatives adjourned for a weeks-long holiday recess and the Senate poised to follow suit in a matter of days, congressional action the week of December 11, 2023 on a potential modest tax package including a handful of Republican and Democratic priorities seems fated to remain on hold until 2024, when Congress will quickly face a crush of fiscal deadlines—one of which tax negotiators hope can serve as a forcing mechanism to carry a tax title to President Biden’s desk.

See also tax@hand - December 16, 2023 and tax@hand - December 8, 2023

Correction to proposed regulations under IRC section 987 and related rules released

On November 9, 2023, the US Internal Revenue Service (IRS) and Treasury Department released proposed currency regulations under section* 987 and related rules (the “2023 proposed regulations”). Section 987 applies to taxpayers with a qualified business unit (QBU) in the form of a disregarded entity, branch, partnership, trust, or estate, if the QBU has a functional currency that is different from the functional currency of its tax owner(s) (a “section 987 QBU”). Section 987 addresses foreign currency translation related to operations, assets, and liabilities of section 987 QBUs, and provides rules for (i) computing taxable income (and associated earnings and profits) of the section 987 QBU, (ii) recognizing currency gain or loss, and (iii) translating basis in property that is transferred to or from a section 987 QBU.

See also tax@hand - December 20, 2023 and tax@hand - November 21, 2023

Did you know

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

Australia

Colombia

Germany

Hong Kong SAR

India

Korea (ROK)

Malaysia

New Zealand

Switzerland

United Arab Emirates

Unites States

Australia

Weekly tax round-up (December 18, 2023)

This article provides a summary of key commonwealth tax developments in Australia to December 18, 2023. This is the last weekly tax round-up for 2023. The first edition for weekly tax round-up 2024 will be on January 22.

See also tax@hand - December 18, 2023, tax@hand - December 11, 2023, tax@hand - November 27, 2023, tax@hand - November 20, 2023, tax@hand - November 13, 2023, tax@hand - November 6, 2023, tax@hand - October 30, 2023, tax@hand - October 23, 2023, tax@hand - October 16, 2023, tax@hand - October 9, 2023, and tax@hand - October 3, 2023

R&D issues: An annual round-up of 2023

As the year end rapidly approaches, it is timely to consider and reflect on the key high (and low) lights of Australia's Research and Development (R&D) Tax Incentive (RDTI) regime during 2023.

On a positive note, the extended period of uncertainty witnessed between 2015 and 2021 has now largely ended with some assurance that the RDTI regime will continue to remain the flagship mechanism with which the federal government will support innovation in Australia. Indeed, many recent Australian Securities Exchange announcements reflect many companies currently reporting substantial R&D cash refunds, providing additional cash flow for further R&D activities, or enabling the successful commercialization of prior R&D results.

See also tax@hand - December 19, 2023

Colombia

Council of State rules ownership term transfers on in kind contributions of assets

On October 11, 2023, Colombia’s Council of State (Supreme Administrative Court) published a decision revoking opinion number 1909 [019349] of August 5, 2019, issued by the national tax administration (DIAN). The DIAN’s opinion previously denied the transfer of an asset’s period of ownership when contributed in kind, based on the interpretation of tax neutrality under article 319 of the Colombian Tax Code.

See also tax@hand - October 11, 2023

Law disallowing deduction for royalties to exploit certain natural resources repealed

On November 16, 2023, Colombia’s Constitutional Court issued press release D-15097 announcing its decision to repeal as from the same date provisions of the Tax Code stating that royalties paid to the government for the exploitation of nonrenewable natural resources are not a deductible expense for corporate income tax purposes.

See also tax@hand - November 21, 2023

Germany

Lower tax court clarifies application of double deduction rule for partnerships

In a decision dated August 31, 2023, and published in the beginning of November 2023, Germany's lower tax court of Muenster ruled that there was no double deduction for purposes of the double deduction rule for partnerships where interest expense incurred by a Dutch resident BV partner was deductible at the level of the German limited liability partnership (KG) but no deduction was available for Dutch tax purposes at the level of the BV due to the Dutch tax consolidation regime.

See also tax@hand - November 7, 2023

BFH rules tax consolidation requirement met even if controlling parent entity merged

In a decision dated July 11, 2023 (and published on November 23, 2023), Germany's federal tax court (BFH) ruled in favor of the taxpayer that the "financial integration" requirement for purposes of the tax consolidation (Organschaft) rules, which requires that a controlled subsidiary is held by the controlling parent entity for the subsidiary's entire fiscal year (FY), was met even though the controlling parent entity was merged into another entity during the subsidiary's FY.

See also tax@hand - November 30, 2023

BFH rejects cross-border tax consolidation without actual loss transfer or agreement

In a decision dated August 9, 2023 (and published on December 14, 2023), Germany's federal tax court (BFH) ruled that a German controlling parent entity could not deduct the losses of its French subsidiary since the parent entity did not actually compensate the subsidiary for the losses and the parties neither expressed an intention nor met the requirements to form a tax consolidated group.

See also tax@hand - December 15, 2023

Hong Kong SAR

IRD updates guidance on court-free amalgamations and transfer of assets without sale

Hong Kong SAR's Inland Revenue Department (IRD) in November 2023 published on its website Departmental Interpretation and Practice Notes No. 63 (DIPN 63) on qualifying amalgamation of companies and transfer or succession of specified assets without sale, setting out its views and practices with illustrative examples. DIPN 63 also lists the information and documents required to apply for an advance ruling relating to qualifying amalgamations. It supplements the relevant guidelines posted on the IRD's website to reflect relevant legislative changes enacted in 2021.

See also tax@hand - December 7, 2023

Law to introduce tax certainty enhancement scheme for onshore capital gains enacted

The Inland Revenue (Amendment) (Disposal Gain by Holder of Qualifying Equity Interests) Bill 2023 introducing the tax certainty enhancement scheme for onshore gains on disposal of equity interests was passed by the Hong Kong SAR Legislative Council on December 6, 2023 and consequently enacted.

Under the scheme, onshore disposal gains on equity interests held for at least 24 months by an investor entity that constitute not less than 15% of an investee entity's total equity interests will be regarded as capital in nature and hence not taxable. The scheme will apply to disposals on or after January 1, 2024, and disposal gains accrued from the year of assessment 2023-24.

See also tax@hand - December 8, 2023

India

PE created when rig enters national waters for preparatory activities under contract

On July 5, 2023, the Bombay High Court held that the 183-day period used to determine the presence of a permanent establishment (PE) in India under article 5(5) of the India-Singapore treaty (related to creation of a PE) commences on the date on which a rig used for drilling operations in connection with the exploration, exploitation, or extraction of mineral oils, entered India.

See also tax@hand - October 13, 2023

Variable license fees paid by telecom companies is capital expenditure

The Supreme Court of India has held that variable license fees paid by taxpayer, engaged in the business of telecommunication services, to the Department of Telecommunications, under the New Telecom Policy of 1999 is capital in nature and can be amortized.

See also Tax alert - October 18, 2023

High Court rules brand names depreciable as intangible assets

The Delhi High Court has held that brand names are a type of trademark covered under the definition of intangible assets, and therefore eligible for depreciation under section 32(1) of the Income-tax Act, 1961.

See also tax@hand - November 27, 2023

Korea (ROK)

Tax rulings and cases (October 2023)

If the initial year for applying the “increasing employment” tax credit was 2018 and if the number of full-time workers in 2021 decreased more than in 2020, the additional tax payment due for 2021 may be capped at the amount due for 2020 (Seomyun-2022-Bubkyobubin-3938, 2023.09.05).

See also tax@hand – October 2, 2023

Malaysia

Incentives available relating to relocation of manufacturing operations to Malaysia

To legislate certain measures previously announced by the Malaysian government to attract foreign direct investments in Malaysia, the government gazetted the “Income Tax (Exemption) Order 2023” (P.U.(A) 240/2023), the “Income Tax (Relocation of Manufacturing Business Incentive Scheme) Rules 2023” (P.U.(A) 241/2023), and the “Income Tax (For an Individual Resident Who is not a Citizen and Holds C Suite Position in an Approved Company) Rules 2023” (P.U.(A) 242/2023) on August 15, 2023. Qualifying companies that relocate existing manufacturing operations to Malaysia or establish new manufacturing operations in Malaysia may be eligible for a corporate income tax exemption for certain income or a 0% income tax rate on chargeable income for a specified period. In addition, non-citizen individuals that hold a “C-suite” position in such a company may be eligible for special tax treatment. The gazetted order and rules are deemed to be effective retroactively as from year of assessment (YA) 2021, and the tax incentives generally are available in relation to applications received by the Malaysian Investment Development Authority (MIDA) up to December 31, 2024.

See also tax@hand - October 3, 2023

New Zealand

Fringe benefit tax exemption considerations for employee bike schemes

A number of eco-friendly fringe benefit tax (FBT) exemptions for the provision of bikes, scooters, and public transport were introduced in New Zealand in April 2023. While these new rules were launched with great intentions, the rules were added into legislation without any public consultation and so many employers remain uncertain about how to use these initiatives. In this article, we explain some things to take into account when considering an employee bike scheme.

See also tax@hand - October 14, 2023

Snapshot of recent developments (November 2023)

On October 17, 2023, Inland Revenue published an information release in relation to the deductibility of cooperative company dividends (relating to Fonterra dairy group). The release includes the cabinet paper and minute seeking agreement on the Supplementary Order Paper that introduced the amendment.

See also tax@hand - November 10, 2023

Switzerland

Survey reveals current tax transformation trends

Deloitte's biannual survey of 300 senior tax and finance leaders across a variety of regions and industries, *Tax Transformation Trends 2023 Executive Summary Report: Insight-driven compliance*, has identified certain tax transformation trends affecting the tax and finance teams of large multinational enterprises. This article summarizes the key findings from the 2023 survey relevant to the Swiss market.

It is clear that data and cost management are still priorities for heads of tax. However, there is now a clear focus on tax-related systems integrations and the adaptations needed to comply with the changing tax regulatory landscape, driven in particular by the OECD Pillar Two regime. Also, as technology is evolving quickly and becoming a “must have,” companies are exploring different strategies to access technology capabilities, including through outsourcing. Finally, technology is also a key capability sought in new tax staff hires, where there is a race for a unique profile that combines industry knowledge, tax savviness, and data/information technology expertise.

See also tax@hand - October 4, 2023

United Arab Emirates

Qualifying income of certain free zone persons entitled to 0% corporate tax rate

The United Arab Emirates (UAE) corporate tax law provides for a preferential tax regime, whereby "free zone persons" (which include free zone branches of UAE mainland and foreign juridical persons) can avail the benefit of a 0% corporate tax rate on qualifying income provided some restrictions.

See also tax@hand - October 23, 2023

United States

IRS launches compliance initiatives targeting large businesses, high-wealth taxpayers

The US Internal Revenue Service (IRS) announced on October 20, 2023 that it has launched three new compliance programs—all funded with money allocated to the agency under the Inflation Reduction Act of 2022 (P.L. 117-169)—aimed at curbing tax avoidance among corporations and high-wealth individuals. Meanwhile, Republican and Democratic members of two House Oversight subcommittees sparred the week of October 23 over whether the IRS intends to use the new funding to ensure compliance among upper-echelon taxpayers or to increase its scrutiny of small businesses and the middle class.

As enacted, the Inflation Reduction Act awarded the IRS roughly USD 80 billion (over 10 years) in new mandatory funding, on top of its annual discretionary budget, to beef up the agency's enforcement programs, enhance its operations support functions, modernize its information technology systems, and improve taxpayer service. Roughly USD 20 billion of the original allocation will be clawed back as part of a "handshake" deal reached between President Biden and then-Speaker Kevin McCarthy, R-Calif., when they negotiated the Fiscal Responsibility Act (P.L. 118-5), the debt limit legislation that was signed into law in June.

See also tax@hand - October 28, 2023

JCT releases "Blue Book" for tax legislation enacted in 117th Congress

The explanations, which were prepared in consultation with the staffs of the House Ways and Means Committee and the Senate Finance Committee, are presented in chronological order of the tax legislation as signed into law. For each provision in a given law, the Blue Book provides a description of the law in effect immediately prior to enactment, an explanation of the provision, and its effective date. The explanations do not reflect any legislative changes made after the enactment of any given provision.

See also tax@hand - December 21, 2023

Notice 2023-80 lays out interaction of Pillar Two and foreign tax credits

On December 11, 2023, the US Department of the Treasury and the Internal Revenue Service (IRS) issued Notice 2023-80 (the "notice") announcing their intention to issue proposed regulations to address the application of the foreign tax credit (FTC) rules to certain top-up taxes, including income inclusion rules (IIRs), qualified domestic minimum top-up taxes (QDMTTs), and undertaxed profits rules (UTPRs) described in the global anti-base erosion model rules (Pillar Two) (the "GloBE model rules"), as well as guidance that taxpayers may rely on until proposed regulations are issued. This article provides a high-level summary of the foreign tax credit rules set out in the notice.

See also tax@hand - December 22, 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 2023 Global Tax Rates as well as a comparative table of 2019-2023 Global Tax Rates.

Jurisdiction	Combined national/local rate (incl. surcharges, etc.)			Date the combined national/local rate enacted	Notes
	2022	2023	2024	National and Local	
Austria	25%	24%		February 14, 2022	See tax@hand – June 2022
Czech Republic	19%	19%	21%	December 12, 2023	See tax@hand - October 15, 2023
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 March 31, 2023. See also tax@hand - February 24, 2022
United Arab Emirates	0-9%	0%		December 9, 2022	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	19%	25%		Enacted June 10, 2021; effective April 1, 2023.	On October 14, 2022, the then UK prime minister announced the decision to keep in place the increase in the main rate of corporation tax to 25% as from April 1, 2023. See also tax@hand – October 17, 2022

Additional Resources

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

Accounting for Income Taxes—Global Tax Developments archive

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

Click to subscribe to receive Accounting for Income Taxes Hot Topics directly via email.

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

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

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

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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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