International Tax News

Edition 39
May 2016

Welcome

Keeping up with the constant flow of international tax developments worldwide can be a real challenge for multinational companies. International Tax News is a monthly publication that offers updates and analysis on developments taking place around the world, authored by specialists in PwC's global international tax network.

We hope that you will find this publication helpful, and look forward to your comments.

Shi-Chieh 'Suchi' Lee
Global Leader International Tax Services Network
T: +1 646 471 5315
E: suchi.lee@us.pwc.com

pwc

In this issue

Tax Legislation

Austria

Tax Reform 2015/16 amends the research premium

In the course of the Tax Reform 2015/16, the research premium has been recently increased from 10% to 12% (applicable for the first time for financial years which begin in 2016).

In Austria, two types of research and development (R&D) premium exist. Companies can apply for a premium for internal R&D as well as for external R&D. In the case of in-house R&D, the premium is not limited (12% of the R&D related expenses), while the premium for outsourced R&D is capped (with a maximum base amount of 1 million euros p.a., hence a total R&D premium of EUR 120,000). This form of a government grant is independent of the respective profit situation. The research premium is credited to the tax account of the applicant. This means that the research premium is also applicable for companies which do not earn profits yet.

Our experience shows that in connection with the calculation of the research premium companies often do not optimise the total potential of the premium (e.g. eligible expenses are not (in total or proportionally) considered into the assessment basis). Therefore, it is worth to obtain an expert advice before filing the application of the research premium.

As a positive aspect it should also be outlined that the Austrian research premium follows the Nexus-Approach of the Organisation for Economic Co-operation and Development (OECD), which requires qualified R&D expenses as a prerequisite for tax incentives related to R&D.

PwC observation:
The increase of the percentage of the research premium up to 12% can be seen as a very favourable incentive of the recent Tax Reform. By international comparison, the Austrian research premium is unique. Additionally, the increase has a strong signal effect in favour of the Austrian business location. As a result, Austria will become even more attractive to international companies for structuring R&D activities. Furthermore, a PwC study shows that the Austrian research premium clearly supports the protection and the promotion of highly qualified jobs.

Rudolf Krickl
Vienna
T: +43 1 501 88 3420
E: rudolf.krickl@at.pwc.com

Daniela Stastny
Vienna
T: +43 1 501 88 3430
E: daniela.stastny@at.pwc.com

Belgium

Final list of tax havens published

On March 10 and 11, 2016, the final Royal Decrees regarding the revised list of tax havens that apply for the so-called dividends received deduction (DRD) and the reporting obligation for payments (to tax havens) have been published in the Belgian Official Gazette. The Royal Decrees did not make any changes to the lists included in the two draft Royal Decrees that were approved on November 27, 2015 (see International Tax News Edition 35, January 2016).

PwC observation:
We invite our clients to assess the impact of the above described legislation on their businesses and to anticipate on whether this could affect their business going forward.

Axel Smits
Brussels
T: +32 3 259 3120
E: axel.smits@be.pwc.com

Pascal Janssens
Antwerp
T: +32 3 259 3119
E: pascal.janssens@be.pwc.com

China

Improvement on the Administrative Measures for the Assessment of High and New Technology Enterprises (HNTEs)

The Ministry of Science and Technology (MST), Ministry of Finance (MOF) and State Administration of Taxation (SAT) jointly released the Notice regarding the Amended 'Administrative Measures for Assessment of High and New Technology Enterprises (HNTEs)' (Guokefahuo [2016] No. 32, hereinafter referred to as 'Circular 32'), clarifying the assessment criteria and administrative matters for HNTEs. This new policy took effect on January 1, 2016, and is intended to benefit more science and technology enterprises, especially those small and medium-sized enterprises (SMEs), incentivise market entities to increase their research and development (R&D) input, propel the innovation of both individuals and enterprises, cultivate and create new technologies, new business models and new supplies, for the purpose of driving economic upgrade and development.

The highlights of the amendment include:

- expanding the high and new technology areas specifically supported by the State and removing certain technologies in the previous areas
- adjusting certain assessment criteria and retaining the implicit requirement for enterprises to manage their HNTE qualifications systematically, and
- simplifying the assessment procedure to facilitate application process and establishing an administrative mechanism of selective examination and key examination.

PwC observation:
It can be anticipated that Circular 32 will bring profound impact to HNTEs in China in terms of obtaining the HNTE qualification, retaining the eligible status, and the industry restructuring. More enterprises are expected to obtain the HNTE qualification and enjoy the relevant tax incentives. More importantly, enterprises are advised to attend to the management of HNTE qualification by way of enhancing the compliance level and mitigating relevant risks.

Roger Di
Beijing
T: +86 10 6533 2268
E: roger.di@cn.pwc.com

China

Refined Super-deduction Policy for Research and Development Expenses

The Ministry of Finance (MOF), State Administration of Taxation (SAT) and Ministry of Science and Technology (MST) jointly issued Caishui [2015] No. 119 (Circular 119), which took effect on January 1, 2016. In Circular 119, detailed implementation measures regarding the super deduction of research and development (R&D) expenses for corporate income tax (CIT) purpose are clarified. The R&D super deduction policies have played an important role in boosting enterprise's R&D activities. This refined policy, in particular, aims at enhancing the undertaking of R&D by enterprises, promoting structural adjustment and driving start-up and innovation.

Circular 119 provides further clarification and refinement in relation to the scope of R&D activities and R&D expenses, financial accounting, as well as administration and record-filling requirements:

- Clarification on the scope of R&D activities eligible for super deduction.
- Expanded scope for qualified R&D expenses.
- Clarification on special treatment.
- Clarified financial accounting and administration.
- Retrospective entitlement.
- Simplified examination procedure and enhanced post-administration.

PwC observation:
Circular 119 provides further clarification and refinement in relation to the scope of R&D activities and R&D expenses, financial accounting and administration and record-filing requirements. It resolves a large number of practical issues over the years and will benefit various major industries with R&D activities.

Circular 119 not only released a range of extended R&D policies and facilitated procedures, but also put in place the potential additional responsibilities for enterprises regarding R&D identification, internal-control, calculation of expenses under different categories, etc.

Roger Di
Beijing
T: +86 10 6533 2268
E: roger.di@cn.pwc.com

Hungary

New Hungarian tax conventions concluded

As of January 2015, a new anti-avoidance rule was introduced into the Hungarian regulation. It stipulates that in the case of legal relationships affected by international agreements (e.g. income tax treaties) and income obtained therefrom, the different interpretation of the facts of the case or the international agreement cannot lead to unintended double non-taxation (unintended double non-taxation seems to only cover cases in which both states consider that they are not allowed to tax).

PwC observation:
Based on this new legislation, Hungary will no longer exempt the income earned from these types of transactions from taxation. Although the new rule's implementation was communicated to primarily target hybrid arrangements, it can be disputed how effectively this rule will achieve its intended aim. Previously implemented structures are advised to be revisited, but it is not expected that they will be widely affected.

Dora Mathe
Budapest
T: +36 1 461 9767
E: dora.mathe@hu.pwc.com

Gergely Juhasz
Budapest
T: +36 1 461 9359
E: gergely.juhasz@hu.pwc.com

Hungary

Exemption with progression introduced in Hungary

As of July 2015, the Hungarian corporate income tax (CIT) legislation was amended so that the exemption with progression applies for income taxable abroad, unless the respective treaty stipulates the use of the credit method or Hungary does not have a tax convention with the given country. Before the above amendment was introduced, simple income exemption was applied in such cases.

PwC observation:
In light of the above, the effective tax burden of taxpayers with foreign operations may increase from 2015. Due to contradictory official guidelines, questions may arise regarding the detailed calculation method of the tax liability in certain cases (e.g. in cases when the taxpayer utilises tax incentives, etc.).

Dora Mathe
Budapest
T: +36 1 461 9767
E: dora.mathe@hu.pwc.com

Gergely Juhasz
Budapest
T: +36 1 461 9359
E: gergely.juhasz@hu.pwc.com

Hungary

More stringent rules on tax loss carry forwards

Effective from January 1, 2015, the time limit for the utilisation of existing tax losses was reduced as follows. Losses incurred till the end of the financial year commencing in 2014 can be used up till the end of the financial year including December 31, 2025, while losses incurred from 2015 onwards can be used up till the end of the fifth tax year following the incurrence. Losses should be used up on first in-first out (FIFO) basis. Further restrictions were introduced on the utilisation of losses in the case of a legal transformations and change of control situations.

PwC observation:
Taxpayers should assess the effect of these changes on their tax position.

Dora Mathe
Budapest
T: +36 1 461 9767
E: dora.mathe@hu.pwc.com

Gergely Juhasz
Budapest
T: +36 1 461 9359
E: gergely.juhasz@hu.pwc.com

Hungary

Changes affecting EEA seated funds

Real estate funds established in the European Economic Area (EEA) are no longer subject to corporate income taxation on revenues realised from the utilisation of Hungarian real estate properties or capital gains realised on such properties. This rule applies to real estate funds if: (i) they have legal personality, (ii) they are not subject to corporate income or alike taxes in their country of establishment, and (iii) in substance they are comparable to Hungarian real estate funds.

PwC observation:
Taxpayers should assess the effect of these changes on their tax position.

Dora Mathe
Budapest
T: +36 1 461 9767
E: dora.mathe@hu.pwc.com

Gergely Juhasz
Budapest
T: +36 1 461 9359
E: gergely.juhasz@hu.pwc.com

Portugal

Parent/Subsidiary Directive: Transposition of EU General Anti Abuse Rule

The amendment to Council Directive 2011/96/EU (Parent/Subsidiary Directive or PSD), dated November 30, 2011, as per Council Directive 2015/121/EU, dated January 27, 2015, concerning the introduction of a common minimum anti-abuse rule in case of profit distributions within the European Union (EU), European Economic Area (EEA) member States and Switzerland, was transposed into domestic law and published in the Official Gazette of February 29, 2016.

Under the new legislation, the provisions of the PSD shall be denied in case of an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of the PSD, are not genuine having regard all facts and circumstances. For completeness, an arrangement or series of arrangements is not regarded as genuine if it is not based on valid economic reasons and has no economic reality.

The same amendment is introduced for the domestic participation exemption regime.

PwC observation:
The transposition of the EU general-anti-avoidance-rule (GAAR) into domestic tax legislation in particular within the scope of the PSD and the participation exemption regime is in line with the increased awareness on base erosion and profit shifting (BEPS).

Jorge Figueiredo
Lisbon
T: +351 213 599 618
E: jorge.figueiredo@pt.pwc.com

Catarina Nunes
Lisbon
T: +351 213 599 621
E: catarina.nunes@pt.pwc.com

Portugal

2016 State Budget Law

The Portuguese Parliament approved the State Budget Law for 2016 (Law 7-A/2016) on March 30, 2016. It has entered into force on the following day. The main tax measures included in it regarding of corporate tax and tax benefits are:

Requirements for the application of the participation exemption regime

The Law foresees a change in some of the requirements for the application of the participation exemption regime to dividends paid or received by Portuguese entities or capital gains or capital losses arising in respect of the sale of shares, such as:

- The minimum shareholding percentage requirement is increased to 10% (previously 5%).
- The minimum holding period is decreased to one year (previously 24 months).

Non residents – exemption from taxation of capital gains

The exemption from taxation of capital gains arising from the transfer of shares for consideration in the capital of a Portuguese tax resident company now applies to non-resident entities without a permanent establishment (PE) in Portugal that:

- are held directly or indirectly in more than 25% by Portuguese tax resident entities
- are resident in an European union (EU) member state, or in a European Economic Area (EEA) member state (bounded by an agreement for administrative cooperation in tax matters similar to the EU's) or in a state that has a tax treaty in force foreseeing exchange of information
- are subject and not exempt from corporation tax as foreseen in EU Council Directive (Directive 2011/96/EU, dated November 30, 2011) or a tax similar to the Portuguese corporation tax (in the later case, provided that the legal rate is no lower than 60% of the standard Portuguese corporation tax rate that now stands at 21%)
- holds directly or indirectly at least 10% of the share capital or of the voting rights of the Portuguese resident entity being sold, for a minimum holding period of one consecutive year, and
- are not part of an artificial scheme which purpose or main purpose does not aim at obtaining a tax advantage.

Reduction of the time period for tax losses' carry forward

The tax losses' carry forward period will be reduced from the current 12 years to five years for larger companies, for tax years beginning on or after January 1, 2017. This means the tax losses assessed in 2016 still benefit from the current time period (12 years). Note that micro, small, and medium companies will maintain the 12-years' carry forward period.

Change to the requirements for the stamp duty exemption on shareholder loans

Stamp duty exemption on shareholder loans, besides requiring the loan to be granted for a period of at least one consecutive year without the possibility to be reimbursed before that period, is subject to additional requirements: i) the shareholder must own at least 10% of the share capital of its subsidiary and ii) such shareholding must be held for a consecutive period of one year or since the subsidiary's incorporation date, provided it is held for at least one year.

Exemption from exit tax on transfer of residence out of Portugal

A company with head office or place of effective management in Portugal that transfers its tax residence to another EU member state or to an EEA member state can benefit from an exemption from taxation of the capital gains arising in respect of shares held in the same terms as those foreseen under the domestic participation exemption regime on dividends and capital gains. Among other conditions, the regime requires ownership of 10% of the share capital of the subsidiary for a minimum holding period of one year (blacklisted subsidiaries are excluded).

New patent box regime

An authorisation is granted to the government to establish a new patent box regime on income from patents and other industrial property rights. The 50% relief from taxation shall be capped at a proportion of the expenses incurred. An additional deduction of 30% of the cap is foreseen regarding R&D expenses incurred by the taxpayer.

PwC observation:

The amendments in question reflect the change in tax policy in Portugal resulting from the election of a new government. Despite introducing significant changes, the new government has stated that it aims to have a stable tax system in Portugal and that it does not intend to have tax changes on a yearly basis, provided these changes yield the expected results, and that only in the fourth year of its term should the tax system be revised again.

Jorge Figueiredo
Lisbon
T: +351 213 599 618
E: jorge.figueiredo@pt.pwc.com

Catarina Nunes
Lisbon
T: +351 213 599 621
E: catarina.nunes@pt.pwc.com

Proposed Tax Legislative Changes
Canada

2016 Canadian Federal Budget

On March 22, 2016, the Canadian federal government released the budget (the 2016 Budget) for the coming year. The 2016 Budget contained various Canadian international tax measures.

Base Erosion and Profit Shifting (BEPS) Measures

In the 2016 Budget, the federal government announced that it plans to act on the following recommendations from the Organisation for Economic Co-operation and Development (OECD) base erosion and profit shifting (BEPS) project:

Introduction of country-by-country reporting (CbCR)

The 2016 Budget proposes to require CbCR for taxation years that begin after 2015 for Canadian multi-national entities (MNEs) with total annual consolidated group revenue of 750 million euros (EUR) or more. This reporting would be due within one year of the end of the fiscal year to which the report relates with a view that the first exchanges between jurisdictions of CbCRs would occur by June 2018. Before any information exchange with another jurisdiction, the Canada Revenue Agency (CRA) will formalise an exchange arrangement with the other jurisdiction and will ensure that it has appropriate safeguards in place to protect the confidentiality of the reports. Draft legislative proposals to implement these rules will be released for comment in the coming months.

Revised transfer pricing guidance

The CRA will apply the revised international guidance on transfer pricing by MNEs arising from the BEPS project. The federal government's view is that the revised transfer pricing guidelines are generally consistent with the CRA's current interpretation and application of the arm's-length principle; therefore, current practices are not expected to change significantly.

Treaty abuse

The 2016 Budget confirms the federal government's commitment to address tax treaty abuse. However, it appears the federal government is still considering which minimum standard approach should be taken, depending on the particular circumstances and discussions with Canada's tax treaty partners. It is also indicated that Canada's tax treaties may be amended to include a treaty anti-abuse rule through bilateral negotiations, the multilateral instrument, or a combination of the two.

Spontaneous exchange of tax rulings

The 2016 Budget confirms the federal government's intention to implement the BEPS minimum standard for the spontaneous exchange of certain tax rulings that could give rise to BEPS concerns. The CRA will commence exchanging tax rulings in 2016 with other jurisdictions that have committed to the minimum standard.

The federal government indicated that it is continuing to examine the other recommendations contained in the BEPS project final reports issued on October 5, 2015. Further, it reasserts its commitment to the BEPS project and desire to work with the international community to ensure a coherent and consistent response to BEPS.

Cross-Border Surplus Stripping

The 2016 Budget indicated that the Department of Finance (Canada) will introduce rules to stop what it views as a misuse of an exception contained in the Income Tax Act (Canada) (the Act), as applied to 'sandwich structures' and various paid-up capital (PUC) planning transactions.

The 2016 Budget proposes to amend the exception to ensure that it does not apply where a non-resident corporation both (i) owns, directly or indirectly, shares of the Canadian purchaser corporation and (ii) does not deal at arm's length with the Canadian purchaser corporation. The federal government also indicated that it will continue to challenge certain transactions undertaken prior to March 22, 2016 by taxpayers that rely on the exception. The government views the changes to the application of this exception as clarifying the intended scope of the existing rules.

Further, to address situations where it may be uncertain whether consideration has been received by a non-resident person from the Canadian purchaser corporation in respect of the disposition by the non-resident person of shares of the lower-tier Canadian corporation, the 2016 Budget proposes to deem the non-resident to receive non-share consideration from the Canadian purchaser corporation in such situations. The amount of this deemed consideration will be determined by reference to the fair market value of the shares of the lower-tier Canadian corporation received by the Canadian purchaser corporation.

These measures will apply in respect of dispositions occurring on or after March 22, 2016.

Extension of the Back-to-Back Loan Rules

The 2016 Budget proposes to extend the application of the back-to-back loan rules by:

Amending the existing back-to-back loan rules in Part XIII to extend to royalties

The 2016 Budget proposes to extend the basic concepts of the back-to-back loan rules under Part XIII to royalty payments. Where they apply, the proposed rules for royalty payments will deem the Canadian resident payor to have made a royalty payment directly to the ultimate non-resident recipient, and an amount of withholding tax (WHT), equal to the amount of WHT otherwise avoided as a result of the back-to-back arrangement, will become payable on the deemed royalty payment.

Adding character substitution rules

The 2016 Budget proposes to extend the back-to-back loan rules in Part XIII to prevent their avoidance through the substitution of economically similar arrangements between the intermediary and another non-resident person. Specifically, a back-to-back arrangement may exist in situations where interest is paid by a Canadian-resident person to an intermediary and there is an agreement that provides payments in respect of royalties between the intermediary and a non-resident person (and vice versa).

Adding back-to-back loan rules to the existing shareholder loan rules

The 2016 Budget proposes to amend the application of the existing shareholder loan rules to include rules that are similar to the existing back-to-back loan rules. A back-to-back shareholder loan arrangement will be considered to exist where an 'intermediary', that is not connected with the shareholder, is owed an amount by the shareholder and the intermediary owes an amount to the Canadian corporation and certain conditions are met.

Clarifying the application of the back-to-back loan rules to multiple intermediary structures

The 2016 Budget proposes to clarify the application of the existing back-to-back loan rules in Part XIII to back-to-back arrangements involving multiple intermediaries. Where a back-to-back arrangement involving multiple intermediaries exists, an additional payment (of the same character as that paid by the Canadian resident to the first intermediary) will be deemed to have been paid directly by the Canadian resident to the ultimate non-resident recipient in a chain of connected arrangements.

Debt Parking to Avoid Foreign Exchange Gains

The 2016 Budget further contains a new anti-avoidance measure relating to foreign exchange gains on parked debt. The debt-parking rules in the Act were introduced to address the use of techniques to avoid the application of the debt forgiveness rules. While the debt-parking rules deem the foreign currency debt to have been settled, any foreign exchange gain realised on the debt is generally not taken into account in determining the forgiven amount of the debtor.

The 2016 Budget proposes to introduce rules so that any accrued foreign exchange gains on a foreign currency debt will be realised when the debt becomes a parked obligation.

PwC observation:

The 2016 Budget contains comments from the Canadian federal government on their approach to BEPS. Missing, however, is any guidance on Action 2 in respect of hybrid mismatch arrangements and, more significantly, Action 4 concerning interest deductions.

The 2016 Budget further contains a measure to address a well-known and controversial tax plan for increasing the PUC of a Canadian company.

The 2016 Budget also includes an extension of the back-to-back loan rules, serving as a parallel attack on treaty abuse. When the back-to-back loan rules were first introduced, there was a great deal of uncertainty as to their application in particular circumstances. We can expect the same with these new proposals. In particular, the extension of the back-to-back rules to the shareholder loan provisions could have a significant impact on many taxpayers.

Lastly, the 2016 Budget targets transactions aimed at permanently deferring an accrued foreign currency gain on debt.

Kara Ann Selby
Toronto
T: +1 416 869 2372
E: kara.ann.selby@ca.pwc.com

Maria Lopes
Toronto
T: +1 416 365 2793
E: maria.lopes@ca.pwc.com

Mongolia

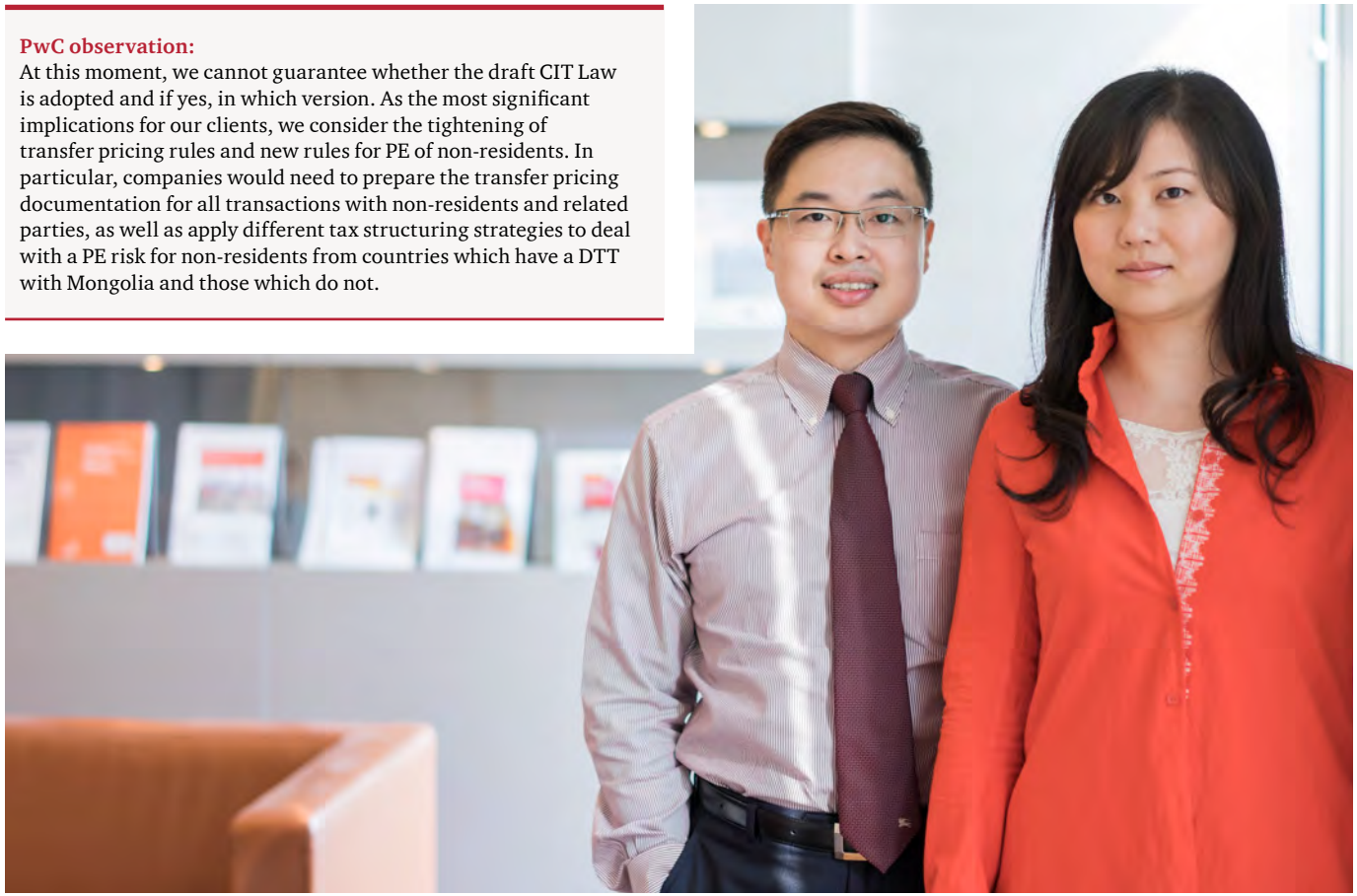
Draft Corporate Income Tax Law discussed in Mongolian Parliament

The draft of the corporate income tax (CIT) Law is planned to be discussed by the Mongolian Parliament in May or June of 2016.

The draft of the CIT Law contains, inter alia, the following significant new changes to the current CIT rules:

- A definition of a taxpayer extended by including associations, foundations, non-governmental organisations, media organisations, culture, education, training, and health organisations that perform profit making activities.
- The transfer pricing rules are elaborated.
- Only non-residents from countries which have double tax treaties (DTTs) with Mongolia can register a permanent establishment (PE) in Mongolia.
- The criteria for deductible expenses are extended and include (i) connection with business activity, (ii) verified by accounting documents (e.g. e-payment value-added tax (VAT) slips), and (iii) respective withholding tax (WHT) shall be withheld, if needed, etc.
- The thin capitalisation rule has been extended to cover all related parties (not only direct shareholders).
- The depreciation principle is changed by excluding revaluation gain/loss for tax depreciation purposes.
- Small and medium-sized enterprises can claim a tax credit at 90% if certain criteria are met.
- The period for tax losses carry forward is extended to five years and applicable for all taxpayers.

PwC observation:
At this moment, we cannot guarantee whether the draft CIT Law is adopted and if yes, in which version. As the most significant implications for our clients, we consider the tightening of transfer pricing rules and new rules for PE of non-residents. In particular, companies would need to prepare the transfer pricing documentation for all transactions with non-residents and related parties, as well as apply different tax structuring strategies to deal with a PE risk for non-residents from countries which have a DTT with Mongolia and those which do not.



Tsendmaa Choijamts
Ulaanbaatar
T: +976 7000 9089
E: tsendmaa.choijamts@mn.pwc.com

Azzaya Lkhachin
Ulaanbaatar
T: +976 7000 9089
E: azzaya.lkhachin@mn.pwc.com

Maryna Tarnavska
Ulaanbaatar
T: +976 7000 9089
E: maryna.tarnavska@mn.pwc.com

United Kingdom

UK Budget and Finance Bill 2016 – international and business tax measures

On March 16, 2016 the UK Chancellor of the Exchequer, George Osborne, delivered his 2016 Budget to Parliament. The accompanying Finance Bill 2016 was published on March 24, 2016.

A new Business Tax Road Map sets out the government's plans for business taxes through to 2020 and beyond. It contains a number of proposals in a range of tax policy areas, including the UK's response to recommendations from the Organisation for Economic Co-operation and Development's (OECD's) base erosion and profit shifting (BEPS) action plan. The main announcements and proposals of relevance to multinational businesses are set out below.

- Corporation tax rate – the rate will be cut to 17% (instead of 18%) from April 2020. This cut will ensure that the UK has the lowest corporation tax rate in the G20 and is intended to encourage inward investment.
- Restriction on interest deductibility – new rules to implement the OECD recommendations under BEPS Action 4 are to be introduced with effect from April 1, 2017. Deductions for interest payments will be restricted to 30% of UK earnings before interest, taxes, depreciation, and amortisation (EBITDA), with a group ratio rule to allow higher interest deductions for more highly geared groups. There will be an overall cap equal to total group worldwide net third party interest expense. There will be some relief for public infrastructure projects and some protection for earnings and interest volatility.
- Loss relief – the government will consult later this year (and legislate during 2017) on several proposals to change the loss relief rules for companies. From April 1, 2017, the amount of profit that can be offset with carried forward losses will be restricted to 50% (the restriction will apply to profits in excess of 5 million pounds [GBP] per group), In addition, for losses incurred on or after April 1, 2017, companies will be able to use carried forward losses against profits from other income streams or from other companies within a group.
- Anti-hybrid rules to implement recommendations under BEPS Action 2 are included in Finance Bill 2016 and will have effect from January 1, 2017. The draft legislation (originally published in December 2015) has been revised. For instance, it has been extended to cover hybrid mismatches arising from permanent establishments (PEs) and to introduce a targeted anti-avoidance provision.
- Withholding tax (WHT) on royalty payments – three changes were announced: (i) the UK's WHT rights in respect of intellectual property will be extended to include any periodic payment for the use of ideas, information or techniques, with effect for payments made on or after the date of Royal Assent to Finance Bill 2016 (expected to be in July), (ii) a new domestic law treaty abuse rule will be introduced such that the UK will withhold tax on a royalty payment if it is routed through a treaty partner for tax motivated and uncommercial reasons (with effect for payments made under tax avoidance arrangements from March 17, 2016), (iii) there will be withholding on royalty payments that are connected with the activities of UK PEs of overseas companies, including consequential amendments to the Diverted Profits Tax rules, with effect for payments made on or after the date of Royal Assent to Finance Bill 2016.
- Substantial shareholdings exemption (SSE) – The government will consult on whether SSE, which was introduced in 2002, is still delivering its original policy objective and whether there could be changes to its detailed design in order to increase its simplicity, coherence, and international competitiveness.
- Double taxation treaty (DTT) passport scheme – Her majesty's revenue & customs (HMRC) will review the scheme to ensure it still meets the needs of UK borrowers and foreign investors.
- Payment dates for very large companies – Companies with profits over GBP 20 million will be required to make corporation tax payments in the third, sixth, ninth, and 12th months of their accounting periods for accounting periods starting on or after April 1, 2019. Originally this was planned to be introduced from 2017.
- Implementation of BEPS recommendations – Other points to note on the UK's response to BEPS are: (i) the government has confirmed that no amendments to the controlled foreign companies (CFCs) regime are being considered as a result of the BEPS project, (ii) Finance Bill 2016 will amend the patent box regime to ensure it is consistent with the nexus approach, (iii) changes to the OECD transfer pricing guidelines as a result of the BEPS project will be incorporated into UK law for accounting periods beginning on or after April 1, 2016, (iv) the UK has committed to adopt and implement mandatory binding arbitration as a way to resolve cross border tax disputes and is working with 19 other countries to develop a mandatory binding arbitration provision as part of the negotiation of the multilateral instrument and (v) the UK is chairing a group of over 90 countries which is developing the multilateral instrument (expected to be ready for signature by the end of this year) which will allow countries' treaties to be updated quickly and efficiently with the BEPS changes.

PwC observation:

The Business Tax Road Map offers certainty for business and as such will be welcomed.

The government is clearly keen to be seen to be leading the way for the international community in addressing BEPS and tackling tax avoidance. Many multinational businesses will have to assess whether the broadening of the tax base by the introduction of restrictions on interest deductibility and the use of losses will leave them worse off.

Stella C Amiss
London, Embankment Place
T: +44 20 7212 3005
E: stella.c.amiss@uk.pwc.com

Alex Henderson
London, Embankment Place
T: +44 20 7804 6370
E: alex.henderson@uk.pwc.com

Treaties

Hungary

New Hungarian tax conventions concluded

Hungary concluded new tax conventions (Treaties) and also updated already existing ones.

New Treaties were concluded with whom Hungary did not have tax convention at all: the United Arab Emirates, Kosovo, Bahrain, Saudi Arabia, Azerbaijan, and Uzbekistan; and with whom Hungary already had tax conventions in force but it was decided that they should be renegotiated: the United States, Switzerland, Luxembourg, and Liechtenstein. The ratification process regarding the tax convention with Luxembourg and the US is still in a pending status, therefore, the dates of entry into force of these latter Treaties are currently unknown.

PwC observation:
The newly introduced Treaties contain subject to tax provisions and a limitation of benefits (LoB) clause in the case of the US convention which limits the availability of the treaty benefits for taxpayers. Further, most of the new treaties allow the source country to tax capital gains on the alienation of real estate rich enterprises.

Poland

Poland ratifies DTTs with Ethiopia and Sri Lanka

On March 31, 2016, the Polish Parliament voted for ratification of double tax treaties (DTTs) with Ethiopia and Sri Lanka.

The DTT between Poland and Ethiopia is the first ever signed between the two countries. So far there are only five binding DTTs between Poland and African countries (Egypt, Morocco, Tunisia, Zimbabwe, and the Republic of South Africa), whereas three others are during ratification procedure (Zambia, Nigeria, and Algeria).

The DTT with Sri Lanka is aimed to replace the DTT from 1980 and adjust the treaty to the current legal system.

PwC observation:
Taxpayers should consider the possible impact of the DTT concluded between Poland and Ethiopia and the DTT concluded between Poland and Sri Lanka on their structures.

Portugal

Treaty with Senegal enters into force

On March 14, 2016, notice 5/2016 was published in the Official Gazette stating that the internal procedures for the entry into force of the Portugal-Senegal double tax treaty (DTT) were met by both States. The tax treaty is in force since March 20, 2016. The tax treaty foresees a limitation to 10% of the tax withheld at source on dividends (5% under certain conditions), interest, and royalties.

PwC observation:
Portugal has been increasing its network of tax treaties aiming at fostering the investment and economic transactions between Portuguese and foreign companies.

Dora Mathe
Budapest
T: +36 1 461 9767
E: dora.mathe@hu.pwc.com

Gergely Juhasz
Budapest
T: +36 1 461 9359
E: gergely.juhasz@hu.pwc.com

Agata Oktawiec
Warsaw
T: +48 22 746 4864
E: agata.oktawiec@pl.pwc.com

Weronika Missala
Warsaw
T: +48 502 18 4863
E: weronika.missala@pl.pwc.com

Jorge Figueiredo
Lisbon
T: +351 213 599 618
E: jorge.figueiredo@pt.pwc.com

Catarina Nunes
Lisbon
T: +351 213 599 621
E: catarina.nunes@pt.pwc.com

Contact us

For your global contact and more information on PwC's international tax services, please contact:

Anja Ellmer
International tax services

T: +49 69 9585 5378
E: anja.ellmer@de.pwc.com

Worldwide Tax Summaries:
Corporate taxes 2015/16

If you're operating globally, are you aware of changes to the myriad tax rates in all the jurisdictions where you operate? If not, we can help – download the eBook of our comprehensive tax guide, or explore rates in over 150 countries using our online tools, updated daily.

www.pwc.com/its

Design Services 30179 (05/16).