www.pwc.com/m1/en/tax

PwC Middle East Tax & Legal Update

June 2012

pwc

Introduction

Welcome to the latest edition of PwC's Middle East Tax and Legal Update.

In this edition, we continue to highlight fiscal policy developments as well as developments on international tax treaties within the Middle East region. This publication is divided into the usual five sections:

1. Overview of Tax and Legal Services in the Middle East
2. Regional Tax Update
3. International Assignment Services (IAS) Update
4. International Tax Update
5. Legal Update

Our regional tax update covers significant tax, regulatory and legal developments in the Middle East including:

- Recent developments in double tax treaties
- VAT developments within the region
- Developments in individual tax compliance
- An overview of key international tax issues
- Other regulatory developments

PwC has the largest team of dedicated tax and legal specialists currently operating in the Middle East region. Our regional tax team has significant experience in International Tax, M&A, Private Equity, Fund Structuring, Islamic Finance, Zakat, Indirect Tax (VAT) and Domestic Corporate Taxes. Our priority is to provide you with leading tax knowledge and insights to keep you up to date, as well making sure we deliver services of the highest quality and which add value to you and your business.

We hope you find this tax and legal update helpful and interesting. Naturally, for assistance or further explanation on any of the issues in this update (or any other taxation matters), please feel free to contact any of our in-country tax leaders or our regional tax and legal specialists as detailed at the back of this publication.

Finally, if you would like to add anyone to this distribution list, please e-mail: MiddleEastTaxPublications@ae.pwc.com.

Yours faithfully,

Dean M. Kern

Dean Kern
Tax Partner
Middle East Tax and Legal Services Leader
PwC

'Our priority is to provide you with leading tax knowledge and insights to keep you up to date, as well making sure we deliver services of the highest quality and which add value to you and your business.'


Lebanon
Palestine territories
Iraq
Jordan
Libya
Egypt
Kuwait
Bahrain
Qatar
Saudi Arabia
UAE
Oman

Contents

Leading Middle East tax and legal expertise

2,500 people in offices covering 12 territories

PwC is the fastest growing professional services firm in the Middle East region with the market leading tax advisory practice. Our expert tax advisory partners are able to combine specialist internationally acquired consulting skills with relevant local experience.

In 2005, PwC was the first professional services firm in the Middle East region to establish specialist tax and consulting teams including international tax, mergers and acquisitions, indirect tax (including VAT and customs), as well as teams that provide industry focused solutions.

In 2010, PwC was also the first firm to establish a dedicated Legal capability which is registered to provide legal advice alongside our market leading practice.

Our International Assignment Services team was established in 1976 and further illustrates our distinctive and specialist capabilities which are the result of extensive practical knowledge gained while operating in the Middle East region.

Many of these capabilities are unique in the Middle East region and no other firm of taxation advisers can match our regional capabilities.

The combination of global experience and local knowledge allows PwC to provide our clients with a unique service offering.

In addition, we have been established in the region for over 40 years and have around 2,500 people in offices covering 12 territories and can therefore provide taxation services in:

- Bahrain
- Egypt
- Jordan
- Iraq
- Kuwait
- Lebanon
- Libya
- Oman
- Qatar
- Saudi Arabia
- United Arab Emirates
- The Palestinian territories.

Why choose PwC?

PwC has the largest tax practice globally and are recognised as the leading brand for the provision of taxation services; combining the knowledge of over 46,000 individuals in over 158 countries and territories.

The Global Tax Monitor (“GTM”) recognises PwC as the leading tax adviser globally by reputation, with a very strong lead over the competition.

This statement is based on an independent survey conducted by GTM. Launched in 2000, the GTM is an independent survey conducted by the research agency TNS. Further details are available on our website: www.pwc.com

Globally we comprise tax professionals, economists, lawyers and other professionals who have the insight, combined with market knowledge and technical skill to provide you with innovative practical advice.

We have experience of working in the public and private sectors; we have advised governments on fiscal matters; and we help our clients to structure their business to optimise tax effectiveness locally, regionally and globally.

‘PwC has the largest tax practice globally and are recognised as the leading brand for the provision of taxation services.’

According to the annual International Tax Review survey, of the tax advisory firms in the Gulf Cooperation Council, PwC has, for the past 4 years, been recognised as a Tier 1 firm in recognition of our depth of resources and range of specialist tax capabilities.

Our tax and legal services in the Middle East

PwC are leaders in the provision of tax advisory services in the Middle East region and this position was achieved by being the first professional services firm to establish specialist teams in the region, including:

International Tax Services (ITS)
Our International Tax Services team was the first to be established in the region and has the largest team of international tax structuring experts. Our global market-leading knowledge will help you to understand the impact of tax and regulatory developments throughout the world.

Mergers & Acquisitions (M&A)
Our M&A tax team was also the first M&A tax practice to be established in the region. Moreover, we have the largest team in the region with tax specialists based in all major markets.

Indirect Taxes
PwC was also the first firm in the region to establish an indirect tax practice in 2006 and is uniquely qualified to provide extensive regional knowledge. We are therefore uniquely placed to provide unparalleled tax advice to manage current or future VAT/ GST obligations.

Transfer Pricing
As the first firm in the region to establish a transfer pricing practice, we are able to leverage our Global Transfer Pricing group, comprising more than 100 partners and 1500 dedicated professionals based in over 50 territories – more than any other professional services firm.

Legal Services
We were the first to establish and the only accounting firm to offer a specialist legal team that is able to provide legal regulatory and secretarial services.

Our regulatory group has extensive experience of advising inbound investors on all aspects of business start up, registrations and deregistrations and liquidation services.

International Assignment Services (IAS)
We have the oldest specialist IAS team in the region, established in 1976 and we are the only firm to offer this service. We provide unrivaled advice on individual tax compliance, share plans strategic tax structuring, expatriate and HR communication and repatriation advice.

Tax Management & Accounting Services (TMAS):

- Corporate compliance
- Indirect tax compliance
- Accounting & payroll services
- Tax accounting services.

Our unique global compliance network, comprises local territory compliance service teams, supported by proven process, innovative technology and effective central coordination to provide direct and indirect tax compliance, accounting and reporting and payroll services.

Thought leadership in taxation

The combination of local knowledge with specialist tax advisory capabilities allows us to advise governments and our many other clients on all aspects of taxation. This also provides us with a unique opportunity to deliver thought leadership material and other insights.

Visit www.pwc.com/middle-east for our latest thought leadership insights.

Paying Taxes
This study, from the World Bank Group and PwC, measures the ease of paying taxes across 183 economies worldwide by assessing both the cost of taxes and the administrative burden of tax compliance.

Worldwide Tax Summaries
Globalisation and the increase in cross-border activity means that tax professionals often need access to details of current tax rates and major features of the tax laws in a wide range of territories. Our "Worldwide tax summaries" provide a synopsis of corporate and individual tax regulations in 120-plus countries, as well as contact details for local PwC tax professionals.

www.pwc.com/taxsummaries for more details.

Tax Update
Twice a year the PwC Middle East tax team compiles an update of significant developments in fiscal policy and international tax treaties within the region to make sure you are up-to-date with cutting edge tax and regulatory news.

Would this knowledge and experience add value to your business?

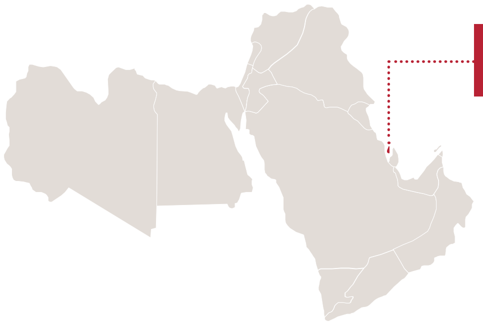
Visit our Middle East tax website: www.pwc.com/m1/en/tax

Partner profiles

Our partners include some of the region's thought leaders.

Fouad Douglas
Fouad is a Tax Partner based in Kuwait with more than 30 years of professional service experience spanning the U.S., Canada and the Middle East. Fouad specialises in tax structuring, transaction tax and tax compliance with a particular focus on the financial services and oil and gas industries. Fouad has performed due diligence reviews for a number of acquisitions and been involved in handling several tax disputes.

Stephan Stephan
Stephan is a Tax Partner based in Jordan covering Jordan, Iraq and Kurdistan Region, with more than 21 years of professional experience in assurance and tax in Jordan and over 4 years of tax in depth experience in Iraq and Kurdistan Region. Stephan has extensive experience of working with branches of foreign and multinational companies carrying out business in Jordan, Iraq and Kurdistan Region covering the oil and gas, contracting, communication, financial services and manufacturing industries.



Bahrain

Regional tax update

Double tax treaty updates

Bahrain continues to expand its double tax treaty network and has recently signed the following double tax treaties:

- ***Bahrain – Republic of Korea double tax treaty***
  The Bahrain – Republic of Korea double tax treaty was signed on 1 May 2012. According to this treaty, withholding tax on dividends is limited to 5 percent if the beneficial owner is a company (other than a partnership) which holds directly at least 25 percent in the capital of the company paying the dividends, and 10 percent in all other cases. Furthermore, this treaty limits withholding taxes on payments of interest to 5 percent and payments of royalties to 10 percent. In the Republic of Korea, domestic withholding tax on dividends, interest and royalties paid to non-residents is 20 percent (except where the interest arises from bonds issued by a Korean company or government bodies where withholding tax is 14 percent. Bahrain currently does not levy withholding taxes on any cross-border payments.

Additionally, the following treaties have also recently entered into force:

- ***Bahrain-Czech Republic double tax treaty***
  The Bahrain-Czech Republic double tax treaty entered into force on 10 April 2012, and its provisions will apply from 1 January 2013. According to this treaty, dividends are subject to a maximum 5 percent withholding tax, interest is taxable only in the beneficial owner's state of residence and royalties are subject to a maximum 10 percent withholding tax. In the Czech Republic, the domestic withholding tax rate on dividend, interest and royalty payments by a resident entity to non-residents is 15 percent.

- ***Bahrain – Mexico double tax treaty***
  The Bahrain – Mexico double tax treaty entered into force on 22 February 2012, and its provisions will apply from 1 January 2013. According to this treaty, dividends and interest may be taxed in both the state of the company paying the dividends as well as the state of the recipient. However, the double tax treaty limits the withholding tax on income from debt claims paid to banks to a maximum rate of 4.9 percent and to a rate of 10 percent in all other cases. Withholding tax on royalties is limited to a maximum rate of 10 percent. In Mexico, there is currently no statutory withholding tax on dividends paid by a resident entity to non-residents. However, interest paid to non-residents is subject to withholding tax rates of between 4.9 percent and 30 percent whereas royalties paid to non-residents are subject to withholding tax at 5 percent to 30 percent in Mexico.

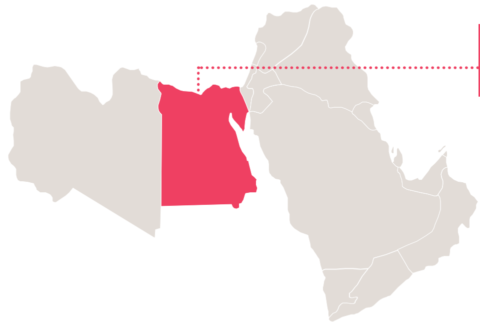
- ***Bahrain – Malta double tax treaty***
  The Bahrain – Malta double tax treaty entered into force on 28 February 2012, and its provisions will apply from 1 January 2013. According to this treaty, dividends, interest and royalties are taxable only in the beneficial owner's state of residence and thus withholding tax should not apply on such payments. In Malta, there is no statutory withholding tax on interest and royalties paid by a resident entity to non-residents. However dividends paid to non-residents is subject to 35 percent withholding tax.

- ***Bahrain – Isle of Man double tax treaty***
  The Bahrain – Isle of Man double tax treaty entered into force on 8 March 2012 and will apply from 1 January 2013. According to this treaty, dividends, interest and royalties are taxable only in the beneficial owner's state of residence and thus withholding taxes should not apply. In the Isle of Man, withholding tax is generally not levied on dividends, interest or royalties paid by resident entities to non-residents.

- ***Bahrain – Bermuda double tax treaty***
  The Bahrain – Bermuda double tax treaty entered into force on 29 January 2012 and will apply from 1 January 2013. According to this treaty, dividends and interest paid by a resident entity to non-residents are subject to tax only in the recipient's country of residence. However, royalties paid to non-residents may be taxed in both the resident entity's and the recipient's country of residence. There is currently no withholding tax in Bermuda.

- ***Bahrain – Seychelles double tax treaty***
  The Bahrain – Seychelles double tax treaty entered into force on 3 February 2012 and will apply from 1 January 2013. According to this treaty, dividends and interest paid by resident entities to non-residents are subject to tax only in the recipient's country of residence. However, royalties paid to non-residents may be taxed at a maximum rate of 5 percent.

‘A special unit was established in January 2012 to deal with the application of withholding tax (“WHT”) on payments to non residents and the refund of the difference of the rates between the Egyptian Income Tax Law rate and the rate of the DTT.’



Egypt

Tax incentives for settling due taxes

On 16 January 2012, the Supreme Council of Armed Forces (“SCAF”) issued Law no. (11) for the year 2012, regarding the provision of tax incentives for settling taxes due. In addition, Ministerial Decree no. (38) for the same year was issued by the Finance Minister, detailing the procedures of the implementation.

According to the above-mentioned Law & Decree, a taxpayer is entitled to obtain an incentive, which is a discount on corporate tax due balances as well as the associated delay fines and additional dues, as follows:

- 25 percent on amounts paid from 17 January 2012 (the effective date of this law) to 31 of March 2012
- 15 percent on amounts paid from 1 April 2012 to 30 June 2012
- 10 percent on amounts paid from 1 July 2012 till 31 December 2012.

Royalty and interest withholding tax refund unit

A special unit was established in January 2012 to deal with the application of withholding tax (“WHT”) on payments to non residents and the refund of the difference of the rates between the Egyptian Income Tax Law rate and the rate of the DTT. This special unit will be responsible for interest and royalty withholding tax refunds and is tasked (subject to compliance with the requirements of the 2009 Ministerial Decree) with reviewing each refund case and with issuing refund letters (subject to compliance with the requirements of the 2009 Ministerial Decree). A refund letter is required in order to obtain a refund of excess WHT from the tax office to which the taxes were actually paid.

Iraq

Customs Updates

In the year 2010, the Iraqi presidency council introduced Law 12 of 2010, the “Custom Tariff Law”, under this law custom duties on goods imported into Iraq would be levied based on percentages set in the custom tariff and agricultural agenda annexed to this Law.

This Law was intended to supersede the custom tariff law 77 of 1955 and the coalition provisional authority order 54 of 2004 and order 38 of 2003 which impose the 5 percent Iraq reconstruction levy.

Immediately following the Custom Tariff Law of 2010 being introduced, the Iraqi government elected to postpone the application of this law twice and the Iraq reconstruction levy continued to apply.

Late March 2012, the Iraqi government announced through the ministry of finance that the new Traiff Law shall apply as of June 2012 with no intention for additional postponing, this would mean that the Iraq reconstruction levy will cease to apply and the tariffs set under the new Law and the relevant articles under the Customs Law of 1984 that were suspended under CPA orders would be revived.

For completeness we note that the custom tariffs under the new Law are based on the international harmonised system adopted by the world customs organisation and vary between; exempted and subjected items on a progressive scale caped at 20 percent of value.

> *‘For completeness we note that the custom tariffs under the new Law are based on the international harmonised system adopted by the world customs organisation.’*

Jordan

Corporate income tax update

New instructions released in early 2012 with regard to the procedures and provisions of deducting the acceptable expenses by adding a new paragraph to the original instructions stating the following:

1. Profits and commissions on nonperforming credit facilities for banks, that do not deal with interest, are accepted to be outstanding when approved by the central bank.
2. For banks that do not deal with interest, the amounts of profits and commissions that had been accepted to be outstanding before should be added to the gross income in the tax period in which they become collected.
3. Each of these banks should submit to the income tax department along with the income tax return a list of the outstanding profits and commissions and the related amendments for each year and each client.

Indirect tax update

During 2011 the kerosene and diesel products were exempted from the special sales tax, and the octane 90 gasoline special sales tax rate was reduced to 12 percent instead of 18 percent until the end of 2011. (This amendment was extended to be effective up to the end of 31 March 2012).

Customs updates

New rules were released on 16 February 2012, in considering products or goods to be of Jordanian origin for the following purposes:

1. To determine the product origin in accordance to the free zone, development areas and Aqaba Special Economic Zone Laws
2. To provide price preference for government tenders
3. Temporary entrance membership.

Whether the origin of products and goods is determined to be, is assessed in accordance with certain rules.

The following are some of the items that are considered to be of Jordanian origin:

1. Mineral products extracted from the Jordan territories or waters or from the bottom of the sea
2. Plant products that are harvested in Jordan
3. Animals born and raised in Jordan
4. Products of animals raised in Jordan
5. Products from hunting or fishing in Jordanian waters or in Jordanian territories.

In the first quarter of 2012 the Prime Ministry released tariff amendments on certain goods and materials, including the following:

- Imported materials by factories as to be used for production
- Valves for medical use
- Carbonated water
- A4 sized writing and printing papers
- Ceramic plated boards that are imported by factories as inputs for production
- Trailer forklift vehicles intended for industrial use.

'During 2011 kerosene and diesel products were exempted from special sales tax, and the octane 90 gasoline special sales tax rate was reduced to 12 percent instead of 18 percent. This amendment was originally effective until the end of 2011 was later extended to be effective up to 31 March 2012.'

Kingdom of Saudi Arabia

Withholding tax on related party payments against technical and consulting services

The High Appeal Committee ("HAC") has ruled recently that 5 percent withholding tax is applicable on payments to non-resident related parties for technical & consulting services fees instead of 15 percent.

The appeal arguments were purely based on the local regulations and certain different views in the interpretation of the regulations between the DZIT and the taxpayer. In general, the tax appeals rulings in Saudi Arabia do not necessary constitute part of the regulations. Accordingly, taxpayers may elect to claim their rights based on such rulings while waiting for the final outcome on this issue.

The ruling is not yet final since the DZIT has filed an appeal against the HAC ruling with the Board of Grievance. The BOG process may take longer time than expected before concluding on this issue.

The expectation is that the DZIT may issue further clarification to make it clear once and for all that the rate should be 15 percent as per the current application or reduce it to 5 percent. Until that unknown time, the DZIT will most likely continue to apply and claim the 15 percent.

However, considering the significant impact on the taxpayers, it is expected that this issue will be one of the hot topics that the DZIT should address to put an end to the expected high pressure and follow up by the taxpayers.

Court ruling regarding minimum Zakat base

The DZIT uses the higher of the following two bases for the Zakat calculation:

- The adjusted net income basis or
- The adjusted net worth basis.

In other words, adjusted net income is used as a minimum Zakat base in case the amount of "Zakatable" equity and debt falls short of deductible assets. The DZIT's position conflicts with Fatwa 23408 which makes it clear that no such minimum Zakat base should be applied if the Zakatpayer has spent the profits to invest into Zakat deductible assets.

In the meantime, the Board of Grievances has confirmed that no minimum Zakat base should be applied in the cases described by Fatwa 23408.

Nevertheless, the DZIT is expected to continue applying the minimum Zakat base. Given the strong arguments brought forward by the Board of Grievances and the Fatwa, Zakatpayers may now be encouraged to challenge the DZIT's position.

Stricter filing procedures for income tax returns

On 20 February the DZIT announced that only a limited number of returns would be accepted during the month of April:

1. The limit for filing returns (by each CPA firm) was limited to ten returns per day for each branch of the DZIT's main branches (Riyadh, Jeddah, and Dammam) during April.
2. Between April 14 and April 29, 2012 no Zakat returns were accepted for filling except for cases which require obtaining a certificate of filing. In these cases the Zakat return had to be filed along with the financial statements showing the Zakat due as per the return.

Eventually, the tax authorities were more forthcoming than the circular indicated and sometimes accepted more than ten returns per day.

However, it is quite clear that the DZIT is trying to enact stricter procedures for tax and Zakat filings. We expect that this tendency will persist next year. In particular, tax payers and mixed companies should strive to have their financial statements audited well before April 2013.

Furthermore, the exhibits which have to be filed along with the annual return will need to be populated more diligently. For instance, commercial registration numbers should be available for all vendors which are shown in the exhibits. Moreover, the residual amounts of 'other revenues' and 'other expenses' on the exhibits should be reduced to a minimum.

Saudi Social Insurance (GOSI)

The General Organisation for Social Insurance (GOSI) has recently clarified that the partners are required to enrol with GOSI effective from March 2011 with a retroactive date not to be before March 2001. The maximum monthly amount subject to GOSI for each partner should not exceed SR 45,000.

Currently, the contribution rate for Saudi employees is 20 percent payable by both the employer (11 percent) and the employee (9 percent) while it is only 2 percent for non Saudi employees payable by the employer only.

In addition, it was noted recently that the DZIT is emphasising on submitting a certificate from GOSI along with a reconciliation statements between salaries and wages subject to GOSI and salaries and wages charged to the accounts duly certified by a Saudi licensed CPA.

Tax treaty updates

Saudi Arabia has concluded several tax treaties with a number of key trading countries and tendency is to continue signing double tax avoidance agreements to promote foreign investments and allow for more competitive and internationally accepted taxation regime in the Kingdom.

Benefits of these tax treaties vary among countries and specific items of income; some treaties provide a reduced rate, or exempt from withholding tax on royalties, dividends and interest while others provide limited relief from capital gains tax.

In view of the recent developments, taxpayers will need to consider seeking specific advices from specialists in this respect to maximise the relief and benefit that is made available through the treaties. Tax treaties could be a useful tool while planning for structuring new and current investments. Lists of those countries that currently have tax treaties with Saudi Arabia are detailed and categorised as follows:

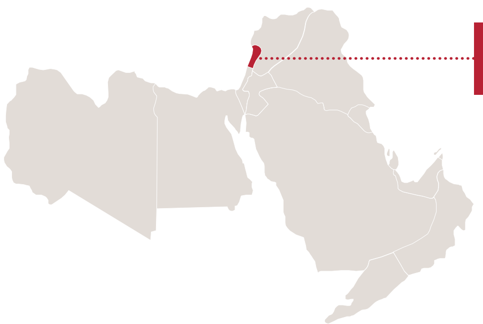
Treaties entered into force
France, China, Pakistan, India, Austria, South Africa, South Korea, United Kingdom, Turkey, Malaysia, Russia, Spain, Italy, Greece, Belarus, Uzbekistan, Vietnam, Syria, Netherlands, Japan, Bangladesh, Singapore.

Treaties signed but not yet entered into force
Tunisia, Romania, Poland, Ukraine, Kazakhstan, Ireland, Malta, Czech Republic.

Treaties finalised awaiting signature
Senegal, Ghana, Croatia, Morocco, Philippines, Luxembourg, Sri Lanka, Azerbaijan, Ethiopia, Tajikistan, Albania, Bosnia-Herzegovina, Turkmenistan.

Treaties under negotiation
Iran, Germany, Jordan, Yemen, Finland, Egypt, Mauritius, Venezuela, Hong Kong, Taiwan, Lithuania, Switzerland, Portugal, Sudan, Hungary, Mexico.

Proposed to initiate treaty negotiation
U.S.A.



Lebanon

MoF decision No. 1363/1 and Decision No. 1291/1 relating to deemed profit rates

These Decisions, dated 23 and 1 December 2011 respectively, adjusted some of the rates used to calculate the deemed profit with effect as of the fiscal year 2012. The deemed profit rates were last adjusted in 2008.

Some of these adjustments affected insurance and reinsurance companies which had different rates for the different branches ranging from 5 percent to 12 percent, but as of FY 2012 they use a uniform deemed rate of 8 percent.

Insurance brokers, lawyers, lawyer's offices, accounting and tax consulting services and audit services now also have a uniform deemed profit rate of 40 percent.

MoF Instructions No. 167/S1 relating to VAT calculation on supplies denominated in foreign currency

As of 1 January 2012, the exchange rate used to calculate the VAT in LL if the taxable supply is denominated in a foreign currency, should be the previous day's average rate as set by the Central Bank.

For cases prior to 1 January 2012, the foreign exchange rate used for calculating the VAT will be accepted if it is within the range set by the Central Bank on the day of the supply.

Double tax treaty updates

The double tax treaty between Lebanon and Italy, signed on 22 November 2001, became effective as of 21 November 2011.

Other regulatory reforms

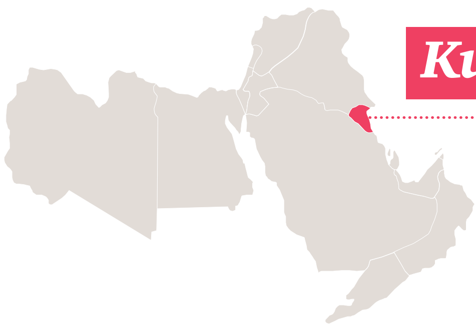
MoL Decree No. 7426 on the minimum wage and high cost of living increase

This decree, dated 25 January 2012, set the minimum wage to US$450 per month and the daily wage to $20 per day. In addition, a high cost of living application adjustment ranging between US$116 and US$200 (based on specific rules) in cases where employees did not receive HCL adjustments after 1 January 2010.

Decree No.7861 relating to offshore companies legislation (Law No.19/2008 and Decree No. 46/1983)

Foreign employees based in Lebanon working for an offshore company are exempt from the obligation of obtaining a work permit when the total assets of the company are at least LL 1 billion.

The exemption, resulting from the Decree dated 24 March 2012, is applicable the year following the year the offshore entity reports total assets of at least LL 1 billion and ends the year after which the offshore entity's total assets become less than LL 1 billion.



Kuwait

Income tax update

In view of the Kuwait Ministry of Finance's Ministerial Order ("MO") No. 3 of 1989, which provides for a similar tax treatment in Kuwait for the citizens of the Gulf Cooperation Council ("GCC") countries as Kuwaiti nationals, and its MO No.23 of 2005 which requires GCC corporate bodies that are listed on the Kuwait Stock Exchange ("KSE") to comply with the provisions of the National Labour Support Tax ("NLST") Law; the Kuwait Tax Authority is currently pursuing the GCC corporate bodies listed on the KSE comply with NLST Law and the relevant rules and regulations.

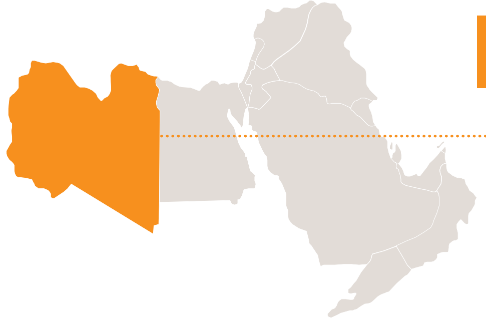
Indirect tax update

The Kuwait Ministry of Finance is currently drafting the provisions of the VAT Law. According to the early implementation date agreed among the GCC countries, the VAT Law is believed to come into force in Kuwait by 2014.

Double tax treaty updates

In January 2012, double taxation treaties were signed by the first letters with Romania and Zambia.

'The Kuwait Ministry of Finance is currently drafting the provisions of the VAT Law. According to the early implementation date agreed among the GCC countries, the VAT Law is believed to come into force in Kuwait by 2014.'



Libya

Corporate income tax update

The Executive Regulations to Income Tax Law (Law 7 of 2010) have been issued and are now effective. Highlights to these regulations include:

- Changes to depreciation rates
- Re-affirms that all companies will be subject to tax audit for each year.
- Includes new filing forms, including the corporate filing form which must now be counter-signed by a Libyan Public Accountant

Customs duties

Decree 48 of 2011 has made the following changes to customs related duties and taxes:

- The handling fee on all imported items has been reduced from 10 percent to 5 percent
- Duty exists for only for 4 categories
  - 10% – Various motor vehicles, trucks and trailers
  - 30% – Motor cycles
  - 15% – Perfumes and cosmetics
  - 25% – Tobacco and cigarettes
- The rate for production and consumption taxes for local and imported commodities has been reduced to nil.
- A number of items (including medicines, raw materials and production supplies, agricultural and animal supplies, as well as basic food commodities) have been exempted from all custom related taxes and duties

Personal income tax

The deduction of One Libyan dinar from each Libyan national employee has ceased.

Jehad tax

Speculation exists that Jehad Tax may be abolished, the effective rate of which is 4 percent on entities taxable profits and 3 percent on individuals taxable income. The likelihood of its abolition is difficult to ascertain at this stage.

Double tax treaty updates

- GCC – Libya is in discussions with the GCC regarding re-instating the Double Tax Treaty which had been cancelled by the previous regime.
- Libya – Malta double tax treaty
  We understand that the DTT with Malta is under review which may result in significant changes.

> *'Speculation exists that Jehad Tax may be abolished, the effective rate of which is 4 percent on entities taxable profits and 3 percent on individuals taxable income.'*

Oman

Executive Regulations

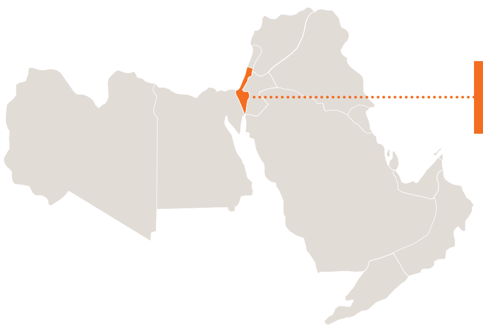
The much awaited Executive Regulations clarifying certain provisions in the Income Tax Law were issued in January 2012 in Arabic. The Tax Authorities have not yet issued an official English version.

Highlights of the new Executive Regulations include:

- Introduction of new tax forms, 18 in total
- Provision for on-site examinations by tax authorities
- Head Office expense allocations simplified
- 'Dependent agent' defined for PE purposes
- Stricter rules for claiming certain deductions
- Stricter compliance procedures for renewal of exemptions
- Thin capitalisation rules introduced
- Exemption from filing requirements extended to qualifying small businesses
- Treatment of financing leases clarified
- New rules established for contributions to pension/ provident funds
- Instalment payment of taxes allowed in some circumstances

Double tax treaty updates

- *Netherlands – Oman double tax treaty*
  This treaty became effective on 1 January 2012.
- *France – Oman double tax treaty*
  Representatives from France and Oman met in Muscat on 8 April 2012 and signed a protocol that will amend the France-Oman income and inheritance tax convention.



The Palestinian territories

Executive Regulations

Tax rate brackets for corporations

The new tax rates from 2012 are as follows:

Yearly gross income	Tax rate (%)
1-125,000 shekels	15 %
Above 125,000 shekels	20 %

Change of the method of calculating taxes for life insurance companies

According to the new law, the amount of income tax payable is 5 percent for life insurance companies, based on the total life insurance premiums which are due to the company. However, if these companies have revenues from other non-life insurance activities, then they should be taxed in accordance with the tax brackets mentioned above, at a rate of 15 percent on the taxable profit from the non life-insurance activities.

Settling accounts on income from long-term contracts

The new law has added a new provision regarding construction contracts and installation of related services, if the implementations thereof of these contracts or projects are not completed in the same tax year in which they began.

Deduction of tax at source

According to the new law, certain 'other' categories of taxpayers will be required deduct taxes at source, in addition to those who pay salaries or wages or bonuses and also in addition to payments for non-residents.

These 'other' categories of taxpayers are:

a. Anyone who pays prizes or lottery winnings, in cash or in cash equivalent, and anyone who pays interest or Murabaha on deposits shall deduct tax at source at a rate of 10 percent of the amount paid. This tax is considered final, unless it is paid to a company, in which case it will be added to its profits.
b. Anyone who pays fees or wages for residents who are doctors, lawyers, engineers, auditors, experts, consultants, and other self-employed, as well as amounts paid for the sale, lease or grant the right to use and exploit any trade mark or design or patent or copyright, shall deduct tax at source 5 percent of the amount paid.
c. Banks and finance companies shall deduct tax at source at a rate of 5 percent from interest payments. This tax is considered final, unless it is paid to a resident company in Palestine.

Personal tax updates

Tax rate brackets for individuals

According to the new income tax law, the tax rates (%) for individuals will be changed from 2012 onwards as follows:

Yearly gross income	Tax rate (%)
1 – 40,000 shekels	5 %
40,001 – 80,000 shekels	10 %
80,001-125,000 shekels	15 %
Above 125,000 shekels	20 %

Income tax for individual farmers

According to the new ITL there is no longer exemption from income tax on the income of individual farmers.

Income earned outside of Palestine

The new law has added a provision that affords a tax exemption for individual income earned outside of Palestine, unless it arises from that person's funds or deposits in Palestine.

Tax on capital gains

- The exemption on capital gains for banks and financial institutions has been replaced with an exemption of 25 percent on the profits of buying and selling of stocks and bonds, provided that no other expenditures could be deducted from these profits.

  This means that in order to calculate the tax on capital gains from the sale of stocks and bonds, tax is imposed according to the tax rates prescribed by the law on 75 percent of these capital gains, without any deduction of any expenses incurred in order to achieve these profits.
- The exemption on the sale of real estate has been rescinded.

Permission to accumulate capital losses

The old law permitted the accumulation of losses, except capital losses.

According to the new tax law, this will no longer be the case and capital losses will be allowed to be accumulated alongside other losses. The new law allows the accumulation and carry-forward of losses that cannot be offset in the same year, due to insufficient income. Carry forward is allowed up to a maximum of 5 years, which is subject to the taxpayer's showing correct and original records.

Other Miscellaneous reforms

According to the new income tax law:

1. An individual who is resident in Palestine shall be granted a university exemption of an amount of NIS 6,000 per annum for spending on their study or their spouse's study or any of their children's study at university or community college or institute above high school level, with the exception of those who received a grant or scholarship. The exemption is granted to not more than a two students in each year, and can only be granted to one spouse, not both.

2. The deadline for submission of oppositions, whether on the modified self-declaration by the taxpayer or the assessed administrative decision, is within 30 days from the date of notice of assessment whether the objection is to the Income Tax Department or to the Court.

3. If a taxpayer does not apply for exemptions as provided for by law within 3 months from the end of the year, the assessment is then considered final. (Based on the old law, the period was 4 months).

4. The minimum fine for a delay in submitting the self-declaration of tax is NIS 300 for individuals and NIS 3,000 for corporates.

5. In addition to banks, the new tax law gives specialised lending companies the right to calculate tax on interest and commissions on doubtful debts in their receipt year in accordance with instructions issued by the Minister of Finance, and not by the principle of maturity basis.

6. According to the old income tax law the income of the blind or those with a deemed disability of more than 50 percent are exempt from tax if earned from manual work or employment. According to the new tax law, the income will be exempted for this category if earned from employment only.

7. The new tax law expressly states that it is possible to deduct Murabaha's expenses incurred in calculating income.

8. The new tax law has amended the amounts of hospitality expenses that are deductable for the calculation of taxable income as follows:
   Hospitality expenses of not more than 1 percent of total income, or NIS 300,000 per year for public companies, or NIS 150,000 per year for any other taxpayer, whichever is the lower.

9. There will be a reduction of the allowable deductable expenses for the calculation of taxable income of a branches' share of the principal's expenditure that is located outside Palestine, of up to 2 percent (instead of 5 percent as per the old law) from the total taxable income of branches in Palestine.

10. In addition to banks, specialised lending companies will now also be allowed to deduct debt, interest and commissions thereof in accordance with instructions issued by the Minister of Finance.

11. The new law prohibits the following deductions when calculating taxable income:
    a. Amounts paid as income tax
    b. Capital expenditure
    c. Salaries and wages or any other amount subject to tax unless the taxes have been deducted and paid to the Income Tax Department
    d. Losses resulting from the revaluation of assets
    e. Fines.

12. There is a change in the exemption amount given to an individual who is resident, to buy or build a house. The amount will become NIS 30,000 for one time payment only or an exemption will be given for the actual interest amounts paid on a loan from a bank, lending institution or housing enterprise spent on purchase of a house, subject to a maximum of NIS 4,000 per annum for a period not exceeding 10 years.

Qatar

Challenges with QFC

Recently, it has been noticeable that the Qatar Financial Centre ("QFC") Tax Department has been challenging allocation of revenue between local source versus non-local source income. Moreover, the QFC Tax Department is challenging loss making entities requesting clarification behind the losses and the business plan to become a profitable entity.

Qatari social insurance

There are no taxes imposed on employed individuals' salaries, wages and allowances in Qatar. Employers have to pay social insurance in respect of Qatari employees and GCC nationals but have no obligations for employees of other nationalities.

The New TP regime

Recently, it was noticeable that the Tax Department increased its focus on transfer pricing, specifically on management services. The Qatar State tax law (Law No. 21 of 2009) does not contain a specific provision on transfer pricing, however it includes a general anti-avoidance provision. Under this provision, if it is deemed that the taxpayer has entered into arrangements or has carried out operations or transactions one of the main purposes of which is to avoid the payment of taxes due, the Tax Administration can take all or some of the following actions:

- Apply the arm's length value to the transaction resulting in a different value than established by the taxpayer
- Re-characterise the transaction, if the nature of the transaction does not reflect its reality and
- Adjust the amount of the tax due by the taxpayer or any other person involved in the arrangements, operations or transactions.

The finalised executive regulations for the tax law were published on 9 June 2011. They state that the market price in the case of arm's length transactions should be determined in accordance with the comparable uncontrolled pricing method ("CUP"), i.e. the price of the service or commodity which would be applied if the transaction was carried out among non-related parties. In cases where the necessary information is not available to apply the CUP, the taxpayer may apply any of the other pricing methods approved by the OECD.

QFC transfer pricing

Transfer pricing in QFC tax law is covered under Part 8, Articles (47-59). Part 8 provides rules for the treatment for tax purposes of income affected by transactions between "Associated Persons". Where certain transactions between "Associated Persons" are not on an arm's length basis, and these results in a reduction in the amount of the chargeable profits of one of those Associated Persons, the QFC tax authority has the power to compute the taxable profits of an entity as if the arm's length basis had been used for the transactions. An appeal can be lodged with the Regulatory Tribunal against such decisions. The QFC Tax Return Form includes a disclosure requirement for any adjustment with respect to transfer pricing.

Moreover, the QFC Tax Department has announced that the transfer pricing guidelines is currently being drafted and it is anticipated that the guidelines are going to be issued soon.

'There are no taxes imposed on employed individuals' salaries, wages and allowances in Qatar.'

Treaty updates

The below mentioned treaties are the most recent treaties that have been published in the Qatari official gazette.

Qatar – Austria double tax treaty

- The treaty provides a definition of 'permanent establishment' (PE), which is broadly in line with the OECD model tax convention. The definition also states that a building site, assembly project etc. would only be considered a PE where the activities or projects continue for a period or periods more than six months within any twelve month period. A PE is deemed to exist where an entity furnishes services through employees or other personnel and these services are provided within a period or periods aggregating more than six months in any twelve month period. The definition also provides certain exclusions.

  The treaty does not provide a reduction on the WHT neither on dividends nor interest and restricts WHT on royalties to 5 percent. Consequently limited relief will be available for payments made from Qatar. The domestic Austrian WHT rates applicable to dividends and interest vary between 0 and 25 percent and o percent on royalties.

Qatar – Philippines double tax treaty

- The provisions of the treaty are broadly similar to that negotiated with Austria above. The PE definition states that a building site, assembly project etc. would only be considered a PE where the activities or projects continue for a period or periods more than 90 days within any twelve month period.

  The treaty restricts WHT on interest to 10 percent, royalties to 15 percent and dividend depending on certain conditions to either 10 percent or 15 percent. No interest WHT will apply where the beneficial owner of the interest is a Government, political division or a local authority as prescribed in the treaty. The domestic Philippines WHT rates applicable to dividends, interest and royalties vary between 25 and 30 percent.

Qatar – Vietnam double tax treaty

- The provisions of the treaty are broadly similar to that negotiated with Austria and Philippines above. The treaty restricts WHT on dividends to 5 percent or 12.5 percent depending on meeting certain criteria, interest to 10 percent and royalties vary between 5 percent and 10 percent. Neither the domestic Qatari nor Vietnamese tax laws levy any WHT on dividends. Moreover, the Vietnamese WHT rates applicable to interest and royalties are 10 percent. Therefore limited relief from payment made from Vietnam unless, if it is royalty payments that have met certain criteria that can be limited to 5 percent.

Other treaties

- Qatar has a growing network of double tax treaties with over 50 now in force. Currently there are 15 treaties that have been ratified but not yet in force including Ireland, Mexico and Portugal.

UAE

Treaty and agreement updates

- ***UAE – Portugal double tax treaty***
  On 5 April 2012, Portugal also ratified the income tax treaty signed with the UAE on 17 January 2011. The UAE had previously ratified the treaty. Under the treaty, withholding tax on dividends is limited to 5 percent where the beneficial owner is a company (other than a partnership) that holds at least 10 percent of the capital of the company making the payment. Dividend withholding tax is restricted to 15 percent in all other cases. Withholding tax on interest and royalties is limited to 10 percent and 5 percent, respectively, providing the recipient is the beneficial owner of the income. The treaty also contains provisions relating to the exchange of information. The treaty enters into force 30 days following the exchange of the ratification instruments.

- *UAE-Estonia double tax treaty*
  The UAE-Estonia income tax treaty entered into force on 29 March 2012. The provisions of the treaty apply retrospectively from 1 January 2011. Under the treaty, dividends, interest and royalties are only taxable in the state of residence of the beneficial owner. The treaty also contains provisions relating to the exchange of information.

- *UAE-Switzerland double tax treaty*
  Following the signing of the tax treaty between the two countries on 6 October 2011 as reported in our last tax update, officials from the UAE approved the pending tax treaty and protocol on 22 January 2012. The treaty will enter into force after the exchange of the ratification instruments.

- *UAE-Kenya double tax treaty*
  Following our last tax update, the UAE government approved for ratification the pending tax treaty with Kenya, on 27 February 2012. The treaty will enter into force after the exchange of the ratification instruments.

Signed double tax treaties

The UAE signed a number of double tax treaties since our last tax update, including:

- Lithuania on 11 May
- Montenegro on 26 March
- Latvia on 11 March
- Russia on 7 December 2011

Further details of the tax treaties are not yet available.

Amendments to Indian-UAE double tax treaty

India and the UAE signed a protocol to amend the India-UAE double tax treaty. The protocol signed on 16 April 2012 amends the treaty provisions dealing with the exchange of information on tax matters between the two countries. The provisions will enter into force after the two countries exchange ratification documents.

Russian-UAE Sovereign Wealth Fund tax exemption agreement

On 7 December 2011, Russia signed an agreement exempting UAE Sovereign Wealth Funds and other UAE investment entities from paying tax on investments in Russia. Prior to the agreement (which still must be ratified by both countries), institutional investors from the UAE paid taxes of up to 20 percent on dividends; 15 percent on interest receipts; and 20 percent on capital gains.

Air services/transport agreements

The UAE signed a number of air services/transport agreements during the first half of 2012 with the following countries:

- Lithuania on 8 May
- Georgia on 29 March
- Albania on 27 February

The air transport agreement signed between Russia and UAE entered into force on 8 January 2012.

United Kingdom

International Assignment Services (IAS) Update

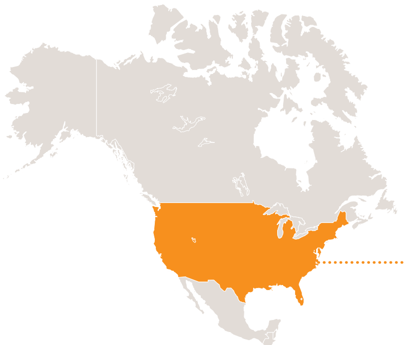
Home Country Individual Income Tax

Most countries do not continue to tax their citizens once tax residency has been broken. Generally an individual breaks tax residency from their home country by remaining outside the country for a fixed amount of time. If the family remains in the home country or assets (such as a home) are retained in the home country tax residency may not be broken. Every country has different rules regarding tax residency and everyone’s facts and circumstances are different. Therefore it is important that an individual fully understands whether they have a continuing individual income tax filing obligation in their home country.

Her Majesty’s Revenue & Customs “HMRC” held a consultation period regarding residency and a decision was expected to be made in November 2011. This was delayed and an announcement regarding a statutory residence test is expected in the very near future. This could have far reaching implications as to the way individuals are taxed in the UK, especially those individuals who attend meetings in the UK.

HMRC have now reduced the time limits to claim refunds, you now only have four years to claim a refund – this has been reduced from six years. The change here is for taxpayers who are not within the Self Assessment tax regime. Any refund for the 2008/2009 tax year needs to be claimed by 5 April 2013.

> *‘HMRC have now reduced the time limits to claim refunds, you now only have four years to claim a refund.’*



United States

Individual Income Tax Return

The United States (US) taxes their citizens on the basis of citizenship rather than residency. US Citizens and Green Card Holders (“GCH”) are taxed on their worldwide income no matter where they are living and working in the world. Therefore, a US citizen or GCH is required to file an annual individual income tax return with the Internal Revenue Service (“IRS”) reporting the income earned during the year and to claim certain deductions and exclusions which they may be entitled to claim.

Many individuals mistakenly believe that they are not required to file an annual tax return if they work outside the US. The IRS considers not just base salary but also any foreign allowances such as housing, dependent education, home leave airfare, overseas premium or cost of living, etc., to be taxable compensation. Even if the company pays an expense directly to a third party for the benefit of the employee, such as dependent education and accommodation, the IRS would consider the amount paid to be additional compensation.

Other forms of income, whether earned from US or foreign sources are also required to be reported on the annual tax return. These other forms of income include, but are not limited to, interest or dividend income, rental income, retirement income, income from partnerships or personal businesses, etc.

There are exclusions available which can decrease the tax liability but certain requirements need to be fulfilled in order to claim the exclusions. The IRS may disallow these foreign exclusions if a proper election is not made on a timely filed return.

State tax filing obligations vary from state to state. Individuals may still be required to file a state tax return even while residing overseas. Whether an individual is required to continue to file a state return is determined by their specific facts and circumstances. Additionally, not all states allow the federal foreign earned income exclusion which means 100 percent of the income earned outside the US may be liable to state taxation.

Personal investments abroad: The Internal Revenue Service (IRS) is taking a closer look

Many US taxpayers are confused with the complexity of their global-reporting requirements, however, the IRS does not accept that as a reason for noncompliance. Individuals should familiarise themselves with the rules now to avoid costly oversights.

As the US government continues to push for greater transparency and more-rigorous disclosure of offshore activities, it is stepping up reporting requirements for individuals who invest overseas. Not only are the reporting requirements increasing, but they’re also becoming more complex and stringent, as well as broader in scope.

Intensified scrutiny across the board

Although all US taxpayers are required to report their worldwide income on their US tax returns, many people fail to report income from their foreign investments. This can be due to a lack of understanding as to how the foreign items are treated for US tax purposes. This has prompted the IRS to take a closer look at certain taxpayers.

New reporting requirements and penalties have been introduced under the Foreign Account Tax Compliance Act (FATCA). The FATCA provisions apply to a much broader range of assets than the Foreign Bank Account Reporting (FBAR) requirements, which have been in existence for many years. Meanwhile, in tandem with US efforts, the European Union Commission and various EU member countries have also undertaken a number of initiatives designed to curb tax evasion, with a focus on eliminating bank secrecy. As a consequence, there’s been an increasing exchange of tax information among countries in recent years, along with an effort to accelerate tax receipts and motivate delinquent taxpayers via tax amnesties and/or voluntary disclosure programmes.

FBAR reporting obligations: Form TD F 90-22.1

US persons with financial interests in – or signature authority over – financial accounts maintained with financial institutions in foreign countries may have filing requirements. Although the FBAR filing requirements are not new, the process became much more complicated after the IRS took over FBAR administration and enforcement from the US Treasury in 2003, with filers having to provide more details than were previously required.

Who needs to file an FBAR?

All US persons who have a financial interest in or signature authority over, foreign financial accounts with aggregate balances greater than $10,000 at any time during the calendar year must file an FBAR.

The maximum balance for each foreign account must be reported annually, where the combined value of all accounts exceeds $10,000 during the calendar year. Note that US persons are not exempt from filing an FBAR on the grounds that they live outside the United States or have foreign accounts that are regulated by another agency or country.

In addition to foreign bank accounts, foreign accounts that must be disclosed in an FBAR include securities and brokerage accounts, mutual funds or similar investments and life insurance policies that have a cash value.

The range of accounts that must be reported is quite broad. Consequently, many investments that a taxpayer might think needn’t be disclosed in an FBAR do in fact have to be reported. Professional tax advice should be sought to ensure compliance.

Inadvertent FBAR violations

The US Treasury requires information on foreign accounts regardless of whether the funds have ever been on US soil. This can take well-intentioned people by surprise, for example, a couple who have lived in the Middle East for much of their married life might assume that although the wife is a US citizen, she does not have to file an FBAR, because she has lived outside the United States for so long. However, because the US spouse’s name is on the couple’s joint financial accounts, the FBAR requirements do in fact apply to her.

Individuals who become aware of a potential reporting oversight should review the FBAR requirements carefully and determine whether they do indeed need to file. Because the rules are very complex, taxpayers are encouraged to seek professional advice from competent advisors regarding their filing responsibilities.

When to file an FBAR

Form TD F 90-22.1 (FBAR) is not submitted as part of an individual’s tax return. The Department of the Treasury must receive an individual’s FBAR by 30 June (date of receipt, not postmark date) in the year following the calendar year that the aggregate value of the individual’s foreign accounts exceeded $10,000 on any given day. To be sure to meet the deadline, filers should factor in the time needed to accurately complete and submit the required forms. It is recommended that filers should retain their FBAR records for a minimum of six years from the date of filing.

FBAR civil & criminal penalties*

Civil penalties up to $10,000 for each negligent (non-wilful) violation.
Civil penalties up to the greater of $100,000 for each wilful violation or 50% of what the account balance was when the violation took place.
For each wilful violation, criminal penalties up to $250,000 or five years’ imprisonment, or both.**

* Civil and criminal penalties may be imposed together.

** Wilful violation of FBAR requirements, combined with violation of certain other laws, may result in criminal penalties up to $500,000, 10 years imprisonment, or both.

IRS reopens Offshore Voluntary Disclosure Initiative “OVDI” programme for indefinite time period

The IRS reopened their successful OVDI for non-filers of both US tax returns and Foreign Bank Account Reports (FBARs) on 9 January 2012. The IRS provided further guidance to both taxpayers who have just become aware of their filing obligations or did not participate in the 2009 and 2011 OVDI programmes.

The new OVDI will be open for an indefinite time period, unlike the 2009 and 2011 programmes which had specific deadlines. Shortly after the 2011 OVDI ended on 9 December 2011, the IRS Commissioner announced that there would be continuing enforcement efforts for those deliberately hiding funds in offshore accounts, but would also provide a reasonable path forward for US dual citizens, green card holders or long term expatriates who had no intent to cheat the US Treasury and had reasonable cause for their past non-compliance.

The new OVDI is announced at a time when better use of Exchange of Information Articles in our Tax Treaties and other Tax Information Exchange Agreements (TIEAs), plus information gathered from the prior two OVDIs, make it increasingly risky to continue noncompliance with tax return and FBAR filing requirements. An unprecedented amount of information on US taxpayers’ foreign assets will soon become available as the Foreign Account Tax Compliance Act (FATCA) and Foreign Financial Asset Reporting become effective for 2011 individual tax returns.

Penalty structure of the new OVDI

The new 2012 OVDI is based on the 2011 OVDI, but the maximum “FBAR related” penalty is increased from 25% to 27.5% based on the highest aggregate balance in foreign accounts (or entities or value of foreign assets) during the tax years within the OVDI period. Taxpayers who enter this programme must file original or amended tax returns for up to eight years pay all back taxes, as well as accuracy and delinquency penalties applicable to the balance due on those returns. The new OVDI retains the opportunity for participants to qualify for a lower penalty of 12.5%or 5%, if they meet certain conditions. Many US dual citizens, green card holders or long term expatriates who have lived outside the US for a long period of time may qualify for the lower penalty or even no penalty. Each situation turns on a number of specific facts and circumstances that should be explored on a case by case basis to determine the best way forward.

PwC observation

Reporting global investments is not a process to be put off, given the repercussions of not reporting the assets or incorrectly completing the forms. US taxpayers who have, for one reason or another, overlooked their reporting obligations, setting things right sooner rather than later is the best course of action.

International tax update Recent updates to FATCA

Introduction

The Foreign Account Tax Compliance Act of 2009 (FATCA) was signed into law in March 2010. The objective of FATCA is to prevent "U.S. persons" with investments in offshore accounts from evading U.S. taxes.

FATCA requires non-U.S. financial institutions, called "foreign financial institutions" or "FFIs", to conduct due diligence procedures to identify and report U.S. persons who have invested in either non-U.S. financial accounts or non-U.S. entities. Those FFIs that don't comply with FATCA will be subject to a 30% withholding tax on certain payments derived from a U.S. source. This withholding tax will be phased in over a number of years with certain investment income received directly from the US becoming liable from 1 January 2014. FATCA will have a significant impact on banks and other financial institutions in the Middle East and globally, as it will require financial institutions to make extensive systems and process changes for FATCA compliance. The ability to align key stakeholders, including operations, technology, risk, legal, and tax, will be paramount to successfully comply with FATCA.

Most global U.S. banks and large financial institutions in Europe and in Asia/Pacific have begun FATCA compliance work. Institutions in the Middle East region have been slower to take action, although we have seen significant activity in this regard in the past number of months. Many banks are now beginning FATCA impact assessments to determine the impact FATCA will have on them and what steps are necessary to comply. Implementing the procedures and changes needed to become FATCA compliant may take more than one year. This presents a tight timetable for financial institutions who are only now beginning the process of FATCA compliance bearing in mind that an FFI Agreement must be signed with the U.S. Internal Revenue Service before 1 July 2013 in order to avoid withholding from 1 January 2014 on certain payments.

The Middle East FATCA landscape is made more difficult by the lack of official guidance from the regulatory authorities. We understand from informal discussions that regulators in the region expect financial institutions to become FATCA compliant. However, local customer privacy laws and regulations in some countries would, as they currently stand, prevent FATCA compliance. We are unaware of any definitive proposals by any government or regulatory authority in the region to change the laws or to enter into a bi-lateral agreement with the U.S. which would enable compliance. However, banks and other financial institutions should be careful about delaying FATCA compliance programmes pending official guidance from regulatory authorities and changes to the law as delays could render them liable to 30% withholding on certain payments from 1 January 2014.

Publication of proposed FATCA regulations

On 8 February 2012, the U.S. Department of Treasury ("Treasury") and the IRS issued the long-awaited proposed regulations ("Regulations") providing guidance for foreign financial institutions ("FFIs"), non-financial foreign entities ("NFFEs"), and U.S. withholding agents to implement various provisions under FATCA. The release of the Regulations has triggered a notable increase in activity by potentially affected industry participants in determining what they need to do in order to become FATCA compliant. On 15 May 2012, Treasury and IRS held a public hearing in Washington, DC on May 15, 2012 to permit those affected by the Regulations to express their concerns and to provide Treasury and IRS an opportunity to question the commentators. We have summarised below the main aspects of the Regulations, and some information on the comments addressed by industry participants in the public hearing.

The Regulations describe detailed procedures for implementing FATCA withholding and information reporting regime, and are expected to significantly affect the business practices, policies and procedures, and systems for a wide variety of financial institutions and other taxpayers globally. Previously, Treasury and the IRS published three Notices that set forth preliminary guidance describing certain priority issues for the implementation of FATCA. The Regulations incorporate principles introduced in the Notices as well as comments received from stakeholders.

Among the more notable and significant changes in the Regulations from the previous guidance are the following:

1. *Grandfathered obligations*
   The number of obligations that qualify for grandfathered status (i.e. not subject to FATCA withholding) has been increased by including obligations outstanding as of 1 January 2013, and identify certain obligations as eligible for grandfathered status.
2. *Transitional provisions for affiliates with legal prohibitions on compliance*
   The proposed regulations provide a two-year transition rule (to 1 January 2016) for certain members of an expanded affiliated group to become a participating or deemed compliant FFI. The transition period provides FFIs located in jurisdictions that have laws prohibiting the tax withholding or reporting required under FATCA with additional time to fully implement FATCA, without preventing other FFIs within the same expanded affiliated group from entering into an FFI agreement. However, an FFI still will need to agree to perform due diligence to identify U.S. accounts and maintain certain records during this transition period.
3. *Additional categories of deemed-compliant FFIs*
   The categories of deemed-compliant financial institutions have been expanded to reduce or eliminate the compliance burdens on entities for whom entering into an FFI agreement is not necessary to carry out the provisions of FATCA. The categories of deemed-compliant FFIs are broader than those described in the Notices, and generally provide for two types of deemed-compliant FFIs (i.e. registered deemed-compliant FFIs and certified deemed compliant FFIs).

> *'The Middle East FATCA landscape is made more difficult by the lack of official guidance from the regulatory authorities.'*

4. *Modification of due diligence procedures for the identification of accounts*
   The burden associated with reviewing records of pre-existing accounts to determine U.S. status has been reduced as follows:
   a. The threshold for manual reviews has been increased to $1,000,000 for pre-existing individual accounts.
   b. Guidance has been provided on the scope of a "diligent review" of paper account records (e.g. paper search).
   c. A $250,000 de minimis rule has been provided for pre-existing entity accounts, and the reliance on information collected during a "know your customer" or "anti-money laundering" process (KYC/AML) has been extended.
   d. The special rules in the Notices for so-called "private banking accounts" have been deleted.
5. *Guidance on procedures required to verify compliance*
   The guidance provided in the Notices has been modified by providing that the responsible officer of an FFI will be expected to certify that the FFI complied with the terms of the FFI agreement. Verification of compliance through a third-party audit is not required.
6. *Definition of "Financial Account"*
   The definition of Financial Account has been refined to exclude most debt and equity securities issued by banks and brokerage firms, while focusing on traditional bank, brokerage, money market accounts, and equity interests in investment vehicles.
7. *Reporting Requirements*
   The transition period on the scope of information reporting by FFIs has been extended as follows:
   a. 2014 and 2015: FFIs must begin reporting name, address, TIN, and account balance of U.S. accounts (for calendar years 2013 and 2014).
   b. 2016: FFIs must begin reporting income associated with U.S. accounts (for calendar year 2015).
   c. 2017: FFIs must begin reporting gross proceeds from securities transactions (for calendar year 2016).
8. *Passthru Payments*
   The date on which FATCA withholding begins on foreign passthru payments from 1 January 2015 to 1 January 2017. However, during this interim period, an FFI must report the aggregate amount of certain payments to each non-participating FFI as a means to reduce the incentive for non-participating FFIs to use participating FFIs to block the application of the FATCA rules.
9. *Exemptions from FATCA Withholding*
   Interest payments and original issue discount on short-term obligations and payments made in the ordinary course of a withholding agent's business for nonfinancial services, goods, and the use of property is exempt from FATCA withholding.

Public hearing on 15 May 2012

Treasury and IRS held a public hearing in Washington, DC on 15 May 2012 to permit those affected by the proposed regulations to express their concerns and to provide Treasury and IRS with an opportunity to question the commentators. There were 22 commentators representing many segments of the U.S. and non-U.S. financial services industry, as well as commentators representing multinational corporations who presented their concerns on the requirements described in the regulations. It expected that the IRS will release the official transcript in six to eight weeks. The final regulations and any future guidance by the Treasury and IRS will reveal whether any of the comments made during the public hearing are adopted. Treasury and IRS typically consider all relevant comments; however, they are not required to adopt any of the suggestions.

The comments raised during the public hearing largely focused on several key areas under FATCA:

- Documentation burdens
- Modification of dates and deadlines
- Conflicts between requirements and local laws
- Additional guidance needed

A number of commentators noted that FATCA's customer documentation requirements far exceeded the due diligence requirements imposed under "know-your-customer" (KYC) and anti-money laundering (AML) rules, and view it as too burdensome for an FFI to have to review information provided for a new individual account in accordance with the KYC/AML rules, and if the review reveals U.S. indicia, then to undertake additional steps to comply with FATCA.

Many commentators requested a delay in the effective date of FATCA's provisions primarily on the grounds that affected institutions need additional time to modify or develop technology to comply. Additionally, they argued that the proposed release date for the final regulations, currently planned to be later in the summer, does not give industry enough time to understand and implement the requirements. Currently, U.S. financial institutions are required to comply by January 1, 2013, and FFIs need to generally comply by July 1, 2013. Potential conflicts were addressed by commentators between FATCA's requirements and local laws.

Commentators also noted that the definition of FFI, especially with respect to entities engaged in a banking (or similar) business, is too broad, and may result in an inappropriate classification. These participants requested clarification on the level of activity needed to be considered an FFI. Concerns were expressed that the IRS's guidance has not sufficiently focused on fund investors, intermediaries, and asset managers, noting that considerable issues exist with having each intermediary in a chain of investments or ownership become FATCA compliant.

For enquiries on FATCA, please contact Oliver Reichel or Ken Healy, listed at the back of this publication.

Australia

Country Updates

Reforms to Australia's general anti-avoidance rules

The Assistant Treasurer announced on 1 March 2012 that the Australian Government would act to protect the integrity of Australia's tax system by introducing amendments to the general anti-avoidance rules (so-called Part IVA) of the income tax law by:

- Ensuring that arguments that a taxpayer could have "…entered into another scheme that also avoided tax, deferred their arrangements indefinitely or done nothing at all" will no longer be successful; and
- Confirming that Part IVA "…always intended to apply to commercial arrangements which have been implemented in a particular way to avoid tax. This also includes steps within broader commercial arrangements".

These amendments to rules first introduced in 1981 come after a series of high-profile courtroom defeats for the Australian Taxation Office. The recent trend of retrospective amendment to Australia's tax laws has not been followed, with the measures to be applicable to "…schemes entered into or carried out…" after 1 March 2012.

The Australian Government plans to consult extensively and seek advice from independent experts about how best to implement the proposed amendments, "…without unintentionally affecting genuine commercial and business activity".

Austria

Proposed changes to Austrian Tax Law

The Austrian Government recently published the draft bill "stability package" (Stabilitätsgesetz) which includes numerous amendments of the Austrian tax law. For multinational companies especially the rules on group taxation and foreign losses are proposed to be changed.

Group taxation and foreign losses

The Austrian tax group regime provides for the possibility to use losses of first tier foreign subsidiaries in an Austrian tax group. The tax benefit is recaptured once the losses are actually utilised abroad or the foreign group member leaves the group. Under current law the foreign losses are to be calculated exclusively according to Austrian tax law. Where the tax losses computed under Austrian tax law exceed the foreign losses computed under the local tax law, this creates a long-term tax benefit.

The draft bill stipulates a new limitation for the use of foreign losses from 2012 onwards. The maximum loss to be utilised within the Austrian group is capped with the maximum loss incurred in the foreign subsidiary according to foreign tax law. As a consequence, there will be no possibility to import higher foreign losses to Austria than actually incurred in the foreign jurisdiction.

If and to what extent the government bill will be passed will ultimately depend on the direction of the debate in the Austrian parliament.

'Under current law the foreign losses are to be calculated exclusively according to Austrian tax law.'

Canada

2012 Canadian Federal Budget

New "Foreign Affiliate Dumping" Proposals

The 2012 Canadian federal budget introduced sweeping proposals to curtail transactions involving an investment in a foreign affiliate ("FA") by a corporation resident in Canada ("CRIC") that is controlled by a non-resident of Canada. These transactions are generically referred to in the budget as "foreign affiliate dumping" transactions.

A dividend will be deemed paid by the CRIC to its foreign parent to the extent of any non-share consideration given by the CRIC for an investment in a FA. This deemed dividend will be subject to Canadian withholding tax (as reduced by the applicable treaty). No paid up capital additions will be allowed for any share consideration issued by the CRIC in exchange for an investment in a FA. These extremely broad proposals represent a significant policy change for Canada and can potentially apply to many transactions involving a CRIC controlled by a non-resident of Canada and a FA. Transactions that meet a "business purpose" test will not be subject to these rules; however, the conditions for this exception will likely prove to be very difficult to meet in practice.

Changes to Thin Capitalisation Rules

The federal budget modified the Canadian thin capitalisation rules as follows:

- The interest deductibility of a Canadian-resident corporation will be limited where the amount of debt owing to certain non-residents exceeds a 1.5-to-1 debt-to-equity ratio (previously allowed ratio was 2-to-1)
- The interest expense of a Canadian-resident corporation that is disallowed under the thin capitalisation rules will be treated as a dividend for Canadian withholding tax purposes (previously treated as interest) and
- The rules are extended to cover debts owed by partnerships of which a Canadian-resident corporation is a member.

Germany

Germany suggests 12 company tax changes

The German government has agreed upon a concept paper (no legislative bill) with 12 suggested points of company tax changes. These may impact multinational companies operating in Germany. Following is a brief overview of the major potential changes.

Interest expense deductions
Based on the paper interest expenses shall no longer be tax deductible (at all) if the underlying debt was drawn down to acquire company shares. The wording is vague but it could impact leveraged acquisition structures.

Group taxation
The government plans simplification for 2016 onwards. The paper abandons the profit and loss transfer agreement as a requirement for group taxation. In return, the paper increases the minimum shareholding requirement. However, various alternatives are still being discussed.

Losses
The paper increases loss carry-backs from about EUR 500k to EUR 1m; this would no longer be discretionary.

Mergers and use of tax NOLs
The paper excludes the use of tax net operating losses ("NOL"s) when a profitable company merges (retroactively) with a company that has tax loss carry-forwards.

Hybrid financing
The paper would disallow certain hybrid outbound structures, i.e., would exclude the 95 percent dividend exemption for German corporate recipients where the payer obtained a tax deduction on the same payment (in another country).

Partnerships
The paper provides new rules for the treatment of cross-border investments in partnerships and for income and expense allocations. In particular, the provision would limit interest expense deductions on loans from non-German partners to a German partnership. Furthermore, new rules would limit the use of the partnership's losses at the partner's level.

Structured dividends/security lending
The government would extend the present corporate limitation for deducting lease payments to partnerships as a lessee.

Other changes
The paper suggests additional changes to the treatment of ultimate losses in foreign branches, the limitation of deferred taxation for the transfer of assets or businesses out of Germany, and various matters regarding personal travel and accommodation expenses.

German anti-treaty shopping regulations

A foreign company that receives specific German-source income that is subject to German withholding tax (e.g., dividends, royalty or specific interest payments) may be entitled to relief under the European Union (EU) Parent-Subsidiary Directive, the Interest and Royalty Directive, or any applicable double tax treaty or domestic tax law. In order to claim German withholding tax relief, the foreign company must document its compliance with the German anti-treaty shopping regulations.

Revisions to the anti-treaty-shopping regulations were effective as of 1 January 2012. On 25 January 2012, the German Ministry of Finance published a tax authority interpretative letter reflecting the German tax administration's interpretation of the regulations.

Summary of the regulations
German withholding tax relief can (only) be claimed to the extent that:

i. the foreign company's shareholders would have been entitled to a refund or exemption had they received the income directly, or
ii. the foreign company's gross receipts in the respective business year stem from own active business activities ("goods receipts"), or
iii. for those receipts that do not stem from the foreign company's own active business activities: (i) economic or other significant non-tax reasons exist for interposing the foreign company, and (ii) the foreign company has suitable business premises and equipment to participate in commerce (meeting these two requirements also results in "good receipts").

The burden for proving that economic or significant other non-tax reasons exist and that sufficient substance exists rests explicitly with the foreign company.

As under the former regulations, the anti-treaty shopping regulations do not apply where the foreign company's principal class of shares is primarily and frequently traded on a recognised stock exchange, or where the German Investment Tax Act regulations apply to the foreign company.

Summary of the German tax administration's interpretation
The revised regulations lacked clarity on how taxpayers should interpret the term "gross receipts from own active business activities". The tax administration's interpretation has clarified this term, indicating that it refers to the foreign company's (entire) gross receipts and not just to the German-source income for which relief should be claimed.

If the foreign company has any receipts other than "good receipts" (i.e., "bad receipts"), the tax administration will grant relief on a pro-rata basis only. This applies regardless of whether the German-source income would form part of the foreign company's "good receipts" or "bad receipts".

The computation of the actual relief quota from German withholding tax under the apportionment scheme goods receipts ÷ the foreign company's entire gross receipts) increases in complexity when less than 100 percent of the foreign company's receipts are "good receipts". In addition, to qualify for further relief for the "bad receipts", the taxpayer must analyse the next entity up the chain as if it received the German-source income directly.

The qualification of the foreign company's receipts as "good" or "bad" is one of the decisive determinants for the relief quota computation and will likely become one of the main dispute areas.

The foreign company must notify the German Federal Central Tax Office if it holds a certificate of exemption and if there is a reduction in its eligibility for relief. Based on the tax authority interpretative letter, the notification requirement does not apply below specific de minimis thresholds.

An applicable double tax treaty with a concluding anti-abuse provision suspends the German anti-treaty shopping regulations.

Considerations in light of EU law, constitutional law and/or treaty override aspects
Based on the tax administration's interpretation, (full) German withholding tax relief may be partially denied if the foreign company has "bad receipts". This could occur even if there is no abuse with respect to the German-source income.

If the German-source income qualifies as "good receipts", the foreign company may nevertheless be entitled to full German withholding tax relief, if a (partial) denial from withholding tax relief for non-abusive structures infringes upon EU law or tax treaty law. Whether such override of EU law and double tax treaties as drawn from the tax authority interpretative letter was originally intended when the regulations were introduced appears questionable. The respective future discussion needs to be monitored.

Hong Kong

Capital Duty in Hong Kong to Be Abolished from 1 June 1 2012

Capital duty of 1 HKD for every or part of 1k HKD of nominal share capital, has been payable by a Hong Kong company at its incorporation or when there is an increase in its nominal share capital. When the company allots shares at a premium, capital duty of 1 HKD for every or part of 1k HKD of the aggregate amount of the premiums has been payable.

However, in the 2012/13 Hong Kong Budget, announced in February 2012, it was proposed that the capital duty be abolished. On 16 March 2012, Company Ordinance (Amendment of Eighth Schedule) Order 2012, which gives effect to the proposed abolishment of the aforesaid capital duty, was gazetted. The order will came into operation on 1 June 2012, which means that capital duty will be abolished from this date.

Launch of Advance Pricing Arrangement Programme in Hong Kong

The Hong Kong Inland Revenue Department ("HKIRD") launched an advance pricing arrangement ("APA") programme in Hong Kong in April this year. The objective of the APA programme is to help taxpayers obtain tax certainty on their complex or significant transfer pricing arrangements and reduce the risk of double taxation arising from related party transactions. Resident enterprises or non-resident enterprises with a permanent establishment in Hong Kong may apply for an APA in respect of their transactions with associated enterprises under a double tax agreement, provided that certain conditions (including the threshold for an APA application) are met. At the initial stage of the APA programme, only bilateral or multilateral APA applications will be accepted, although a unilateral APA may be considered in some limited exceptional circumstances.

'When the company allots shares at a premium, capital duty of 1 HKD for every or part of 1k HKD of the aggregate amount of the premiums has been payable.'

Netherlands

Dutch proposal would restrict interest deductions

The Dutch government on 4 June sent a bill to parliament that would restrict interest expense deductions for debt used to finance qualifying participations. Under the bill, taxpayers could not deduct interest expenses on "excessive" debt. If adopted, the proposed measure would apply to fiscal years starting on or after 1 January 2013. The proposal contains no grandfathering rules.

The bill relates to the European Court of Justice (ECJ) decision on the Basel case.

The Dutch government may also abolish the thin capitalisation rules. However, the 2013 tax package would include such abolishment only if the government can offset the related revenue losses.

This proposal aims to restrict interest deductions relating to Dutch and foreigh subsidiaries only to the extent the Dutch taxpayer's debt level relating to subsidiaries is excessive and undesirable, i.e., in siuations that are considered abusive.

The interest deduction limitation would apply to excessive interest expense on debt relating to participations to which the particupation exemption applies ("participation debt"). A mechanical, formulaic rule would determine the participation debt amount.

Non-deductible interest expense would equal the Dutch taxpayer's average participation debt divided by its average total debt, multiplied by the taxpayer's total interest expense.

A € 1 million threshold would apply, such that interest expense on participation debt up to that amount would be deductible, unless restricted by other provisions.
The proposal would apply to interest expense on intercompany debt and third-party debt.

South Africa

New dividend taxation

On 20 December 2011, the South African Minister of Finance formally announced through a notice in the Government Gazette, that on 1 April 2012, the Dividends Tax (“DT”) would replace the Secondary Tax on Companies (“STC”).

‘Some dividends may be exempt from DT depending on the recipient’s nature or status.’

Amendment to the taxation of dividends

The 10 percent STC rate is currently levied on net dividends declared. STC is not a shareholder level tax, but is instead a tax imposed on the company declaring the dividend. As such, the tax does not qualify for treaty relief.

The new DT will be levied on shareholders that receive dividends from companies that are tax resident in South Africa and also companies that are not South African tax residents but are listed in South Africa with respect to the listed shares. The rate of DT will be 10 percent and may be reduced for foreigners who are tax-resident in countries that have a double tax treaty with South Africa.

Some dividends may be exempt from DT depending on the recipient’s nature or status. Unutilised STC credits carried forward may also reduce the DT amount for a limited period.

Effects on non-resident shareholders

In order to understand their DT position and to ensure that the necessary systems are in place to account for DT and comply with its administrative requirements, non-resident shareholders should consider:

- Whether any of the exempt categories of recipients apply and if so, making the necessary declarations
- Whether they qualify for relief under the double taxation agreement between South Africa and their respective countries and, if so, making the necessary declarations in order to avail of the relief
- To the extent possible, determining the STC credits of South African subsidiaries/ investments available at 31 March 2012 and tracking them for use with subsequent dividends.

In addition, South African companies should confirm if they have not already their ‘Contributed Tax Capital’ (“CTC”) position. This is relevant to the tax treatment of cash repatriations. CTC is a recently introduced, defined tax term (distinct from accounting terminology). A reduction in CTC will not be subject to DT (or currently, to STC).

A dividends tax return will need to be submitted by each entity that manages dividends. The supporting data that will be required to be included in a return is substantial, including in relation to the recipient of the dividend, and taxpayers and their regulated intermediaries will need to ensure that they have the relevant information in place in order to comply.

United Kingdom

Budget and Finance Bill 2012: Overview

The UK Budget was delivered on 21 March 2012, and the resulting Finance Bill was published on 29 March 2012. Many of the measures had been pre-announced and draft legislation had previously been published on 6 December 2011. The key measures include:

- A reduction in the main UK corporation tax rate to 24 percent from 1 April 2012 (originally expected to be 25 percent). There will be further annual reductions of 1 percent for the next two years, so that the rate will drop to 22 percent from 1 April 2014.
- Confirmation that the new controlled foreign companies ("CFC") rules will apply for CFC accounting periods commencing on or after 1 January 2013.
- Confirmation that the new UK Patent Box Regime, which will provide for a 10 percent tax rate for qualifying profits attributable to patents, will be phased in over a four year period from 1 April 2013.
- Improvements to the research and development ("R&D") tax credits regime, with introduction of 'above the line' R&D tax credits with a minimum rate of 9.1 percent from 1 April 2013.
- A reduction in the top rate of personal income tax from 50 to 45 percent from April 2013.
- Confirmation of the intention to introduce a general anti-avoidance rule ("GAAR"). There will be further consultation before legislation is introduced in Finance Bill 2013.

Consultation on Withholding Tax on Interest

On 27 March 2012 Her Majesty's Revenue and Customs ("HMRC") published a consultation document titled "Possible changes to income tax rules on interest". The proposed changes include changes to the UK rules for withholding tax on interest payments. The consultation is open until 22 June 2012 and any resulting legislative changes will be introduced in Finance Bill 2013.

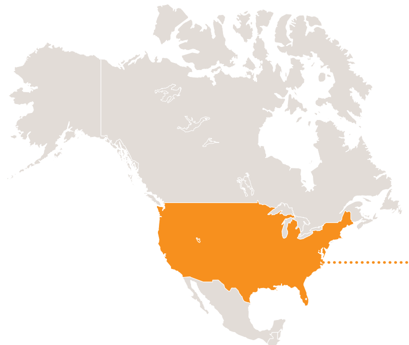
Budget and Finance Bill 2012: CFC reform

Finance Bill 2012 sets out draft legislation for full reform of the UK's controlled foreign companies ("CFC") regime which will apply to accounting periods commencing on or after 1 January 2013. Draft legislation on many elements of the new regime had already been published, but Finance Bill 2012 includes updates to those previous drafts, as well as new areas of draft legislation. Whilst the draft legislation is still subject to change until the Finance Bill receives Royal Assent in the summer, any amendments are likely to be minor. Coupled with other corporate tax reform measures such as the Patent Box and R&D regimes, together with the reduction in the main rate of corporation tax, the new CFC regime significantly enhances the competitiveness of the UK tax system.

Key elements of the new CFC regime include:

- *New 'gateway' tests*
  Only CFC profits passing through the gateway tests will be potentially subject to a UK CFC charge.
- *Finance company rules*
  There will be a broad based 75 percent exemption for finance profits, which will result in an effective tax rate of 5.5 percent when the main UK corporation tax rate drops to 22 percent in 2014. Alternatively, income from a loan will be exempt to the extent that the loan can be traced to "qualifying resources". In addition, the amount of interest income brought into a CFC charge will be limited, broadly, to the UK group's net interest expense, such that if the UK has no net interest expense, the finance income will be fully exempt.
- *Temporary period exemption*
  This new exemption will apply for 12 months from the date at which a company becomes a CFC (and possibly longer at HMRC's discretion), subject to the CFC not being subject to a CFC charge in the period following the exempt period. Transitional rules ensure that CFCs falling within the three year temporary period exemption introduced in FA 2011 will continue to benefit from that exemption.
- *Entity level exemptions*
  Profits of a CFC may be exempt via the entity level exemptions. Although these are a new set of exemptions, they use familiar concepts to those in the existing regime. Entity level exemptions include: the tax exemption for CFCs which are not subject to a lower level of tax; the low profits exemption with a threshold of either 500k GBP (with a limit on financing profits of 50k GBP) or 50k GBP (with no limit for financing profits); the excluded territories exemption which will apply for CFCs resident in certain listed territories, provided certain conditions are met; and the low profits margin exemption for CFCs which have a low accounting profit margin compared to their cost base.

'Whilst the draft legislation is still subject to change until the Finance Bill receives Royal Assent in the summer, any amendments are likely to be minor.'



United States

JCT Provides Revenue Estimates for Obama's FY 2013 International Tax Proposals

On 14 March 2012, the Joint Committee on Taxation staff ("JCT") released its revenue estimates for the President's FY 2013 budget provisions. Overall, the JCT estimates that the 11 Obama Administration international proposals will raise more than 168bn USD over the 2012-2021 budget period, which include:

- Deferral of deduction of interest expense related to deferred income
- Determination of the foreign tax credit on a pooling basis
- Taxation of current excess returns associated with transfers of intangibles offshore
- Limiting shifting of income through intangible property transfers
- Disallowance of deduction for excess non-taxed reinsurance premiums paid to affiliates
- Limiting earnings stripping by expatriated entities
- Modifying rules for dual-capacity taxpayers
- Taxing gain from sale of a partnership interest on look-through basis
- Preventing use of leveraged distributions from related foreign corporations to avoid dividend treatment
- Extending section 338(h)(16) to certain asset acquisitions
- Removing foreign taxes from a section 902 corporation's foreign tax pool when earnings are eliminated.

These estimates are almost 21bn USD greater than the Treasury Department's estimate of the Administration's proposals in the FY 2013 Budget.

'These estimates are almost 21bn USD greater than the Treasury Department's estimate of the Administration's proposals in the FY 2013 Budget.'

UAE

Draft Federal Law on Financial Restructuring and Bankruptcy

The proposed federal bankruptcy law (the “Bankruptcy Law”) is expected to radically transform UAE bankruptcy rules, affecting both individuals and companies, by decriminalising bankruptcy in the UAE and creating a culture that is more supportive of those in financial trouble.

Under the draft Bankruptcy Law, a new regulatory body – the Committee of Financial Restructuring and Bankruptcy – will be created to administer and implement the Bankruptcy Law’s procedures such as ensuring that arrangements are adhered to by both debtors and creditors. The Bankruptcy Law will not apply to government entities and those entities operating in any federal financial free zones such as the Dubai International Financial Centre (DIFC). Promulgation of the Bankruptcy Law is expected to increase business confidence and attract greater foreign direct investment. According to Minister of Justice, Dr. Hadef bin Juan al-Dhaheri, the Bankruptcy Law is expected to be passed by the end of 2012.

UAE Central Bank calls for federal, unified Shariah Board

Top UAE central bank officials have recognised the need for a centralised, uniform body to help create Shariah-compliant regulations and develop a sound Islamic finance infrastructure in the UAE, primarily in an effort to further advance the sukuk market. Current federal law calls for the creation of a specialised Shariah authority tasked with supervising Islamic banks, financial institutions, and investment companies as well as providing binding high-level opinions on matters which affect the Islamic finance industry. The current law has been on the books since 1985 but has yet to be fully implemented. As Islamic finance assets continue to grow, industry players are recognising the need for uniformity and consistency. The creation of such a board will help achieve such needs.

GPSSA

Registration of all GCC employees in the UAE with the General Pension and Social Security Authority (“GPSSA”) is compulsory under the Unified Law for the Extension of Insurance Protection (“ULEIP”). The ULEIP extends to all GCC nationals whether employed in public or private sector, onshore or in free zones and also covers financial free zones (e.g. the DIFC). Employers are obligated to register all GCC employees with the GPSSA, and employees do not have the option to opt out of this registration. Registration must be made in the relevant authority in the host country, but the rates of the contributions will be according to the rates of the GCC national’s home country (e.g. Bahraini national working in the UAE will have to be registered with the UAE GPSSA but the applicable rates will be that of Bahrain). Although registration has been compulsory, only recently did local authorities begin to actively pursue registration as required.

> *‘Although registration has been compulsory, only recently did local authorities begin to actively pursue registration as required.’*

Kingdom of Saudi Arabia

New Arbitration Laws

In April 2012, the Saudi Council of Ministers approved a new arbitration law (the “Arbitration Law”), which will replace the 1983 KSA Arbitration Law, focused on resolving disputes between parties effectively and more efficiently.

Once the new Arbitration Law comes into effect, the Executive bylaws of the new arbitration system are expected to be published by the Council of Ministers soon thereafter. The new system must still adhere to Shariah guidelines and international agreements; however, the new and improved system is expected to create greater confidence in arbitration as a means of dispute resolution between parties in KSA. Among the main substantive changes are (i) more in-depth procedures for determining arbitrator qualifications and the process for their selection; (ii) a more defined process for challenging the determinations and awards of the arbitral tribunal; (iii) the application of default arbitration rules when parties have not previously agreed to a set of rules; and (iv) relaxing the requirement that all arbitration proceedings must be conducted in the Arabic language. Of the most important substantive changes in the new system is that arbitration decisions are no longer subject to review by KSA courts that previously enjoyed broad discretion in reviewing the subject matter and the facts of the dispute when determining whether the award should be invalidated.

Iraq

Draft Federal Oil and Gas Law

Iraqi Ministry of Oil submitted an amended draft of the federal oil and gas law (the “Oil & Gas Law”), first introduced in July 2007, to the Iraqi Council of Ministers.

The Oil & Gas Law is applicable to all petroleum operations in Iraq on dry land, inland water, territorial water, and beneath water, as well as any territories subject to Iraqi law as per agreement or international law/norms. Implementing the Oil & Gas Law will allow the Ministry to regain control of the oil and gas in Iraq and provide the necessary regulations to develop the industry. Under this new law, there are a variety of industry development strategies outlined such as the creation of a new Federal Council of Oil and Gas and encouraging international oil and gas industry players to share knowledge and expertise. The Oil & Gas Law also focuses on the development and production of petroleum and provides guidelines for how to manage the financial aspects of the oil and gas industry. The Oil & Gas Law is also expected to provide a foundation for the efficient and effective development of the private oil and gas sector in Iraq which will significantly contribute to the petroleum industry worldwide.

Tax contacts

Bahrain
PricewaterhouseCoopers
9th Floor, BMB Centre
Diplomatic Area
Manama
Kingdom of Bahrain
PO Box 21144
Tel: +973 1754 0554 (ext. 250)
Contact: Ebrahim Karolia

Jordan
PricewaterhouseCoopers Jordan WLL
Jabal Amman – 3rd Circle
14 Hazza' Al Majali St.
PO Box 5175
Amman 11183 – Jordan
Tel: +962 6 500 1300
Contact: Stephan Stephan

Libya
Al Motahedoon LLC –
PricewaterhouseCoopers
Aldol Street, Ben Ashour Area
Tripoli, Libya
PO Box 6026
Tel: +218 21 3609830/32 (ext. 110)
Contact: Husam Elnaili

Egypt
PricewaterhouseCoopers LLC
Plot 211, Second Sector, City Center,
New Cairo 11835, Egypt
PO Box 170 New Cairo
Tel: +2 27597700 (ext. 7887)
Contact: Abdallah ElAdly

Kuwait
PricewaterhouseCoopers Al-Shatti & Co.
Arraya Tower II, 23-24 Floors
Al-Shuhada Street, Sharq
PO Box 1753, Safat 13018
State of Kuwait
Tel: +965 2227 5777
Contact: Fouad Douglas

Oman
PricewaterhouseCoopers
Hatat House, Suites 204-210
Wadi Adai, Muscat
Sultanate of Oman
PO Box 3075
Ruwi, Postal Code 112
Tel: +968 2455 9122
Contact: Russell Aycock

Iraq
PricewaterhouseCoopers
Gulan Street
English Village, Building no. 252
Erbil, Kurdistan
Republic of Iraq
Tel: +962 6 500 1300
Contact: Stephan Stephan

Lebanon
PricewaterhouseCoopers
SNA Building, 5th Floor
Tabaris, Beirut
Lebanon
PO Box 11-3155
Tel: +961 1 200 577
Contact: Wadih AbouNasr

The Palestinian territories
PricewaterhouseCoopers
Sa'adi, Eed, Daher
Jerusalem
5 Shufat Street
Jerusalem, Palestine
PO Box 18366
Tel: +972* 2 532 6660 (Jerusalem)
Tel: +972* 2 240 0230 (Ramallah)
Tel: +972* 8 285 5733 (Gaza)
Contact: Wael Saadi
(*from Arab countries use 970 instead of 972)

Qatar
PricewaterhouseCoopers
41st Floor, Tornado Tower, West Bay,
Doha
State of Qatar
PO Box 6689
Tel: +974 4419 2801
Contact: Declan Mordaunt

Saudi Arabia
Riyadh Office
PricewaterhouseCoopers
King Faisal Foundation Building,
South Tower, 12th Floor
PO Box 8282
Riyadh 11482
Tel: +966 1 465 4240 (ext. 1020)
Contact: Soudki Zawaydeh

Al Khobar Office
PricewaterhouseCoopers
AlHugayet Tower, 15th Floor
PO Box 467
Dhahran Airport 31932
Tel: +966 3 849 6311 (ext. 3093)
Contact: Ebrahim Karolia

Jeddah Office
PricewaterhouseCoopers
Jameel Square, Al Tahliah Street
PO Box 16415
Jeddah 21464
Tel: +966 2 610 4400
Contact: Mohammed Yaghmour

United Arab Emirates
Dubai Office
PricewaterhouseCoopers
Emaar Square, Building 4, Level 8
PO Box 11987
Dubai, United Arab Emirates
Tel: +971 4 304 3400
Contact: Dean Kern

Abu Dhabi Office
PricewaterhouseCoopers
East Tower 9th Floor
AUH Trade Centre
PO Box 45623
Abu Dhabi, United Arab Emirates
Tel: +971 2 694 6800
Contact: Oliver Reichel

Specialist tax and legal contacts

Middle East Tax Leader
Dean Kern
Tax Partner
T: +971 4 304 3400
E: dean.kern@ae.pwc.com

Middle East Financial Services Tax Leader
Ebrahim Karolia
Tax Partner
T: +973 17540554 Ext. 250
E: ebrahim.karolia@bh.pwc.com

M&A Tax Leader
Dean Kern
Tax Partner
T: +971 4 304 3400
E: dean.kern@ae.pwc.com

Jochem Rossell
T: +971 4 304 3445
E: jochem.rossel@ae.pwc.com

Middle East Real Estate Tax Leader
Oliver Reichel
Tax Partner – Outbound
T: +971 566820577
E: oliver.reichel@ae.pwc.com

Oliver Klein
Tax Director – Inbound
T: +966 2 610 4400 Ext. 2099
E: oliver.x.klein@sa.pwc.com

Middle East Indirect Tax Leader
Jeanine Daou
T: +971 4 304 3400
E: jeanine.x.daou@pwc.be

Middle East International Assignment Services Leader
Dennis Allen
Tax Partner
T: +974 4419 2830
E: dennis.allen@qa.pwc.com

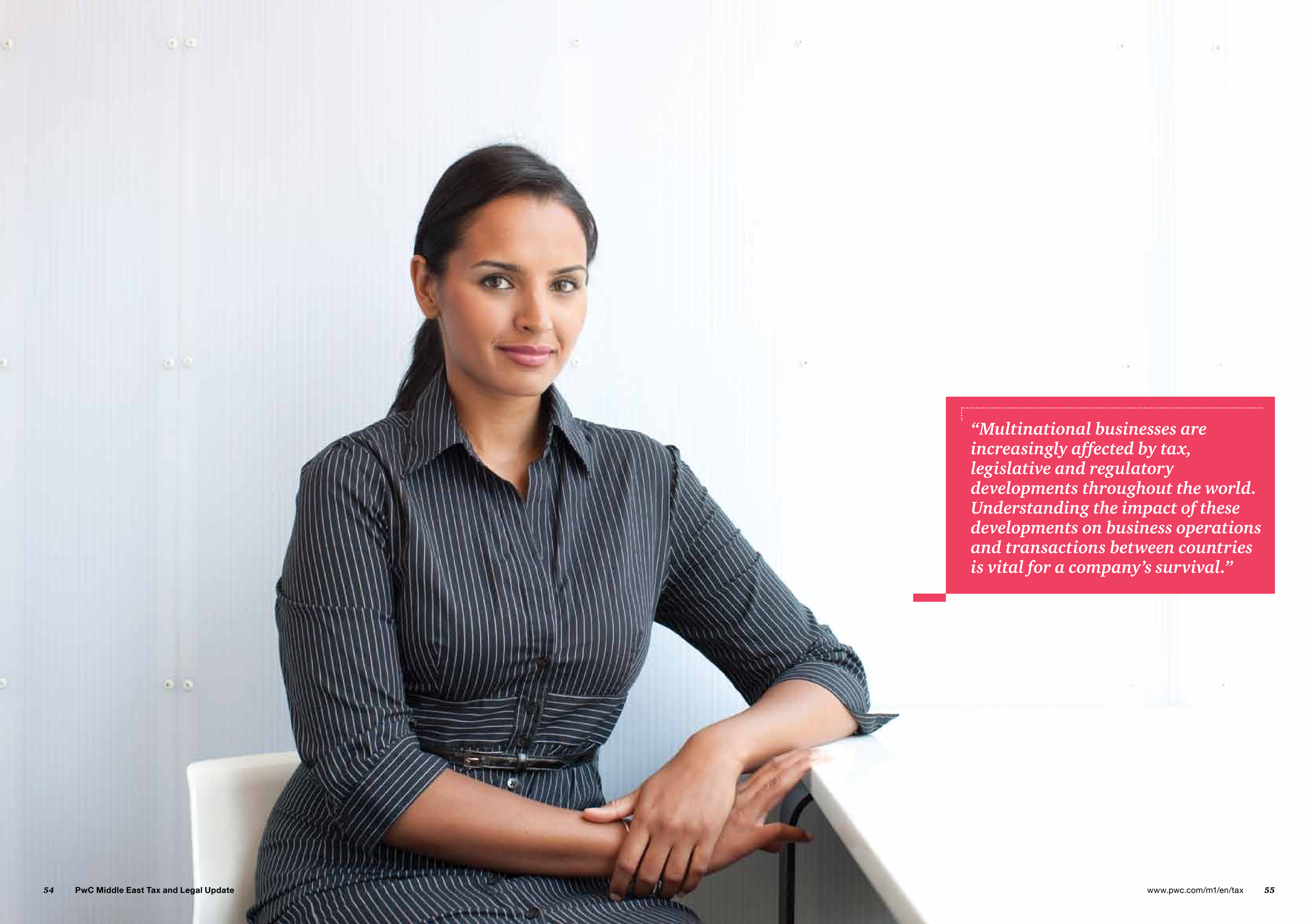
Middle East FATCA specialists
Oliver Reichel
Tax Partner
T: +971 566820577
E: oliver.reichel@ae.pwc.com

Ken Healy
Tax Director
T: +973 175 40554 Ext. 323
E: ken.a.healy@bh.pwc.com

Middle East Tax Management & Accounting Leader
Declan Mordaunt
Tax Partner
T: +974 44192801
E: declan.mordaunt@qa.pwc.com

Damian De Backer
T: +20 2 2759 7705
E: damian.de.backer@eg.pwc.com

Middle East Legal Services Leader
Waseem Khokhar
Managing Partner – Legal
T: +971 4 304 3181
E: waseem.khokhar@pwclegal.co.ae



"Multinational businesses are increasingly affected by tax, legislative and regulatory developments throughout the world. Understanding the impact of these developments on business operations and transactions between countries is vital for a company's survival."

www.pwc.com/m1/en/tax

Design Services 27811 (06/12).