BDO

NOVEMBER 2015 ISSUE 39
WWW.BDOINTERNATIONAL.COM

WORLD WIDE TAX NEWS

AUSTRALIA
Recent tax developments

READ MORE 2

FRANCE
Opportunity for companies to claim tax refunds on dividend distributions

READ MORE 10

EGYPT
Recent amendments

READ MORE 15

INTERNATIONAL

OECD PUBLISHES FINAL BEPS RECOMMENDATIONS

On 5 October 2015 the Organisation for Economic Co-operation and Development (OECD) published its 'final' reports and recommendations on base erosion and profit shifting (BEPS).

The reports set out the OECD's recommendations on the 15 action points of the BEPS package. The proposals aim to ensure that tax planning undertaken by multi-national enterprises (MNEs) is aligned with the economic substance of how they conduct their business, to achieve greater coherence and consistency between taxing authorities in how they tackle areas which might lend themselves to potential tax abuse, and to bring about increased transparency of their operations and tax planning (reflected in the new transfer pricing documentation requirements, including Country-by-Country Reporting).

Click here to read our views on the proposals and how MNEs need to prepare for the new reality which they will bring about.

ANTON HUME
anton.hume@bdo.co.uk
+ 44 207 893 3920

CONTENTS

EUROPEAN UNION

EU MEMBER STATES AGREE TO SWAP COMPANIES' CROSS BORDER TAX RULINGS

On 5 October 2015 the European Commission (EC) announced that EU Member States have unanimously agreed the mutual disclosure of all tax rulings and advance pricing arrangements issued to multinational companies regarding their corporation tax liabilities.

The EC hopes that the new rules will lead to greater cooperation between member states on tax matters and act as a deterrent from using tax rulings as an instrument for tax abuse. The EC also expects that this initiative will deter tax authorities from offering selective tax treatment to companies, once this is open to scrutiny by their peers.

The new rules will remove member states' discretion to decide on what information is shared, when and with whom. They will be widely drawn in order to capture all similar instruments, irrespective of the actual tax advantage involved, and will require details to be exchanged every six months.

In addition, the EC will regularly receive the information it needs in order to monitor the implementation of this directive and ensure that member states are complying with their responsibilities.

The disclosures will start on 1 January 2017, after member states have transposed the rules into national law. However, member states will not be required to disclose rulings issued before 2012, even if they are still in force.

This matter is also progressing at OECD level under the aegis of the Forum on Harmful Tax Practices' work connected with BEPS, which is closely coordinating with the EU work. There is general agreement on a compulsory spontaneous exchange of all rulings that could give rise to BEPS concerns, albeit it will only initially apply to certain defined jurisdictions.

ANTON HUME
anton.hume@bdo.co.uk
+ 44 207 893 3920

EDITOR'S LETTER

Welcome to this issue of *BDO World Wide Tax News*. This newsletter summarises recent tax developments of international interest across the world. If you would like more information on any of the items featured, or would like to discuss their implications for you or your business, please contact the person named under the item(s). The material discussed in this newsletter is meant to provide general information only and should not be acted upon without first obtaining professional advice tailored to your particular needs. *BDO World Wide Tax News* is published quarterly by Brussels Worldwide Services BVBA. If you have any comments or suggestions concerning *BDO World Wide Tax News*, please contact the Editor via the BDO Global Office by e-mail at mireille.derouane@bdo.global or by telephone on +32 2 778 0130.

Read more at **www.bdointernational.com**

AUSTRALIA

MULTI-NATIONAL TAX AVOIDANCE

The Australian Government has issued a package of measures to address multi-national tax avoidance and some compliance saving measures for cross border-GST supplies, including:

1. Avoidance of permanent establishments;
2. Increased tax avoidance penalties for large multi-nationals;
3. Transfer pricing Country-by-Country reporting;
4. Expansion of the goods and services tax base to include offshore supplies and intangibles;
5. Clarification of GST treatment of cross border transactions between businesses;
6. Withholding tax on sale of property by foreign investors.

1. Avoidance of permanent establishments

As part of the above targeted measures, draft legislation was released to address approximately 30 large multi-national businesses (with a turnover greater than AUD 1 billion) that are suspected of diverting profits using artificial structures to avoid a taxable presence in Australia. Whilst the measure is only aimed at a select group of foreign based multi-nationals, it could apply to a much larger number of multi-national groups that trade with Australia, but who are not the immediately targeted entities.

Who will be targeted?

The law is intended to apply where Australian customers enter a sales contract with a low tax country or tax haven and these businesses have local marketing, business support, product awareness, and research and development functions based in Australia. So, where the Australian operations are integral to the customer's decision to enter the contract, the Australian Taxation Office (ATO) will have the power to reconstruct the tax position with the effect that the overseas sales are recognised as Australian income.

The intention is that tax will now be due on the profit arising from all the Australian economic activities of such groups.

Furthermore, multi-nationals subject to an ATO determination under these new rules will be subject to a penalty of up to 120% of the tax adjustment plus interest, unless a reasonably arguable position exists.

The measures are proposed to apply to tax benefits obtained from 1 January 2016 (under both new and existing schemes).

The Government is also commencing consultations to consider whether any further changes to Australian law are needed to address other profit shifting strategies used by multinationals.

Practical application and implications

This law has a very limited application to only the largest multinationals. These rules pre-empt the outcome of the base erosion and profit shifting (BEPS) debate, and therefore could potentially increase the risk of tax disputes between tax authorities. By including the legislation within Part IVA of the Income Tax Assessment Act 1936 (general anti-avoidance provisions) as an integrity measure, this is clearly intended to limit the ability of double tax treaties to override these amendments.

2. **Increased tax avoidance penalties for large multi-nationals**
   In combination with the above multi-national anti-avoidance rules, the Australian Government has issued further draft legislation intended to impose stronger penalties for large companies to deter tax avoidance. Under the current law, if a company attempts to avoid tax by entering a tax avoidance scheme, they will be liable to an administrative penalty. Currently the base penalty amount equates to 50% of the tax scheme shortfall amount, or 25% if the taxpayer holds a reasonably arguable position in relation to the scheme.

   Under the proposed changes, administrative penalties will double to 100% of the tax underpaid (and 120% of the tax underpaid where there are aggravating factors) for large companies entering into tax avoidance and profit shifting schemes. The new administrative penalties will apply to scheme benefits obtained on or after 1 July 2015 (regardless of when the scheme was entered into) for any company with annual global revenue of AUD 1 billion or more. The Government will maintain the existing rate of penalty at 25% for companies that have entered into a tax avoidance scheme but have a reasonably arguable tax position.

3. **Transfer Pricing – Country By Country reporting**
   Australia will also implement proposed new Country-by-Country transfer pricing reporting requirements as recommended by the OECD from 1 January 2016.

   Who is required to report?
   The proposed changes apply to multinational groups with annual global turnover of EUR 750 million (around AUD 1 billion) or more. These groups will be required to provide tax administrations with information on revenues, profits, taxes accrued and paid, along with some activity indicators in each country in which they operate. This information will be shared between tax authorities and will assist in carrying out transfer pricing risk assessments.

   The Country-by-Country reporting requirements will considerably increase the compliance burden for the largest groups and highlight to tax authorities potential exposures in their transfer pricing structures. For example, the reports will highlight where there are considerable profits offshore in low or no tax jurisdictions or where overseas activities may be limited.

   We recommend that groups falling within this regime carry out an internal assessment to highlight any potential transfer pricing risks. BDO has a specific toolkit to help groups with this task. Whilst smaller groups will not need to make these disclosures, the ATO and other tax authorities are increasingly focusing heavily on economic substance over legal form. Therefore, this information may ultimately be requested as part of a tax audit of a smaller group.

4. **Expansion of the GST base to include offshore supplies and intangibles**
   In addition to the above changes, the Australian Government has announced a significant structural change to the goods and services tax (GST) law with its intention to apply GST to overseas-based suppliers of digital products and other services to Australian consumers.

   New rules
   The new rules are intended to apply to supplies made on or after 1 July 2017 and, whilst primarily aimed at business to consumer (B2C) transactions, they will effectively impact on all transactions between overseas-based suppliers and Australian recipients on an ongoing basis.

   The key features of the Exposure Draft legislation released to accompany the announcement are as follows:

   – It will apply to all supplies of services and intangibles made to "Australian consumers";
   – The rules now recognise the practical difficulties for overseas-based suppliers seeking to determine whether someone is an "Australian consumer" for the purposes of the new rules, e.g. needing to determine both the residency of the customer as well as the capacity in which the customer is acting when acquiring relevant supplies (e.g. in a private capacity or in connection with an enterprise that they carry on);
   – Overseas-based suppliers will need to take reasonable steps and have documentation to support any reasonable belief concerning the status of the customer for the purposes of the new rules;
   – All supplies of services and intangibles to Australian consumers will be subject to the new rules irrespective of where the supply actually takes place (i.e. total worldwide supplies to Australian consumers are prima facie covered by the new rules). Fortunately, the new rules contain an exclusion for supplies provided by non-resident suppliers to Australian consumers whilst they are outside of Australia to ensure such supplies do not trigger a GST registration obligation;
   – In certain circumstances the GST liability of an overseas based supplier is shifted to an operator of an "electronic distribution platform" (EDP). There are some excluded services which on their own will not result in GST liabilities for EDPs. These include carriage services such as internet service providers (ISPs) and telecommunications, services that just provide access to payment systems or processing services and supplies of vouchers;
   – The GST liability shift only occurs where the relevant supply is delivered by means of "electronic communication" (as defined under the Electronic Transactions Act 1999 (Cth));
   – The operator of an EDP will not be liable if two conditions are satisfied;
     1) The operator does not have substantive involvement in the actual making of the supply, e.g. authorising payment/delivery, setting of terms and conditions for making of supply; and
     2) Documentation for the supply clearly provides for the supplier to be responsible for the supply and that certain other invoicing and contractual requirements are also met.
   – In the absence of satisfying all of the above conditions, the operator of an EDS will be liable to pay GST under the new rules;
   – There will also be modified GST registration and remittance rules including a limited registration option where the GST liability is only as a result of these new rules. In these cases there will be simplified registration and reporting requirements; however there will be no entitlement to claim input tax credits. However, participating entities can exit the limited registration regime and may be able to claim back the input tax credits including those of the preceding financial year if registered for GST.

Consequences of the proposed changes
If the new rules are enacted in their current form, they will change the way many non-resident suppliers transact with Australian customers, and will impose a new and ongoing compliance obligation on affected non-resident suppliers and EDPs to monitor transactions with customers so as to be in a position to identify which transactions are caught by the new rules.

The new rules will also impact on the way in which non-resident suppliers interact with intermediaries and other 3rd party suppliers involved in the delivery of supplies to Australian consumers by means of electronic communication. In the case of such intermediaries and 3rd party suppliers, they will also potentially face a new and ongoing compliance burden if they play some role in the delivery of services and intangibles to Australian consumers via means of electronic communication, e.g. internet service providers, payment system operators and Australian selling agents.

As the new rules to a large extent rely on voluntary compliance by overseas-based suppliers with no Australian presence, it remains to be seen how successful they will be in ensuring GST is actually collected by the ATO, outside of those situations where supplies are delivered through EDPs that do have an Australian presence and to whom GST liabilities can be shifted under the new rules.

5. **Clarification of GST treatment of cross border transactions between businesses**
   It is proposed to change the GST law to relieve non-resident suppliers of the obligation to account for GST on transactions that are either revenue neutral or a more suitable Australian based entity can be made liable for the GST. These changes are aimed at simplifying B2B transactions involving non-resident suppliers ensuring non-residents are not unnecessarily drawn into Australia's GST system. This will be achieved by:

   – Updating the test for when an enterprise is carried on in the indirect tax zone so that it is better aligned with key GST concepts and more closely aligned with Australia's modern treaty practice in relation to permanent establishments;

   – Relieving non-resident suppliers of the obligation to account for GST on certain supplies by:

     – Shifting the responsibility for identifying and paying a GST liability to the recipient, where they are registered for GST and carry on an enterprise in the indirect tax zone;

     – Switching off the GST liability for certain supplies between non-residents where there GST liability is currently creditable to another GST registered non-resident entity;

     – A supply of goods brought into Australia will not be subject to GST if the supplier installs or assembles, but does not import, the goods into Australia, however the recipient will have to account for any GST that would have ultimately been payable on the installation or assembly services undertaken by the supplier;

     – Extending the GST free rules to certain acquisitions made by non-residents; and

     – Removing the GST registration requirements for non-residents that only make GST free supplies through an enterprise carried on outside of the indirect tax zone.

   The amendments also reduce compliance costs for GST registered importers in calculating the value of taxable importations.

6. Withholding Tax on Sale of Property by Foreign Investors

The Australian Government has also released draft legislation to introduce a withholding tax on non-resident taxpayers who become liable to Australian capital gains tax (CGT) as a result of them selling certain taxable Australian CGT assets. It is proposed that the new scheme will apply from 1 July 2016.

Relevant assets

The provisions will apply to sales of the following:

- Taxable Australian real property;
- An indirect Australian real property interest (Australian real property owned through a company or trust); or
- An option or right to acquire such property or interest.

Excluded assets

The following assets are excluded from the provisions:

- Transactions involving residential property valued at less than AUD 2.5 million
- An arrangement that is conducted through a stock exchange
- An arrangement that is already subject to an existing withholding obligation.

In addition, purchasers will not be required to remit an amount to the ATO where:

- The vendor has made a declaration that they are an Australian resident for income tax purposes
- The vendor has made a declaration that they will be carrying on a business through a permanent establishment located in Australia immediately after the transaction
- The CGT asset acquired is a membership interest, and the vendor has made a declaration that the interest is not an indirect Australian real property interest.

Operation of the proposal

Under the proposal, a purchaser will be required to pay an amount to the ATO where:

- The asset is an asset subject to these provisions
- The asset is not an excluded asset
- The purchaser has reason to believe the vendor is a foreign resident (this is referred to as the knowledge condition, and the purchaser may believe the vendor is a non-resident where there is a foreign address and the payment is being made outside Australia)
- The vendor has not made a residency declaration to the purchaser.

Where the sale satisfies these requirements, the purchaser will be required to remit an amount equal to 10% of the purchase price to the ATO. It is possible for this amount to be varied, upon the application to the ATO by the vendor. The explanatory memorandum cites the following reasons for a variation:

- The vendor will not make a capital gain on the sale
- The gain is exempt from Australian tax (e.g. double tax agreement)
- The vendor has carried forward losses and will have no liability.

However, penalties may apply for failing to withhold when required, which puts substantial onus onto the buyer and presumably the real estate agents assisting in the sale to make sure they comply with the law.

Compliance requirements

The purchaser is obliged to withhold an amount and remit it to the ATO when they become the owner of the property – the date of settlement, not the date of contract. The payment is to be made to the ATO accompanied by a form to be approved by the ATO.

The vendor will be entitled to a credit for the withholding tax amount once it is remitted to the ATO and the Commissioner has made an assessment of the vendor's liability.

Practical considerations

Under the proposal, the following practical aspects also need to be considered:

- Purchasers will be required to make enquires to establish, based on information that is reasonably available to them, whether the seller is a foreign resident, and whether the transaction involves 'taxable Australian real property';
- In business transactions where the purchaser undertakes a due diligence process, they should determine whether they are likely to have a withholding tax obligation in relation to the transaction;
- In a transaction where a due diligence process is not appropriate, the purchaser may need to take account of other information or circumstances in determining whether the vendor is a foreign resident, e.g. the purchaser may:
  - Identify that the vendor has an address which is outside of Australia; or
  - Receive a direction to make a payment to a place outside Australia.

  In these circumstances, and absent any other factors, it would be reasonable for the purchaser to believe the vendor is a foreign resident for income tax purposes.
- Real estate agents may also be required to collect additional information from vendors in relation to their tax status to work out whether a withholding tax should apply in relation to the disposal by foreign residents of certain 'taxable Australian real property';
- In circumstances where the property is held in a company or trust structure, additional analysis of the shareholders (and its associates) may be required as well as knowledge of the market value of each asset of the company at the relevant time as the rules only apply where greater than 50% of the company assets are 'taxable Australian property'.

MARCUS LEONARD
marcus.leonard@bdo.com.au
+61 2 9240 9771

LANCE CUNNINGHAM
lance.cunningham@bdo.com.au
+61 2 924 09736

INDIA

MINIMUM ALTERNATE TAX ON FOREIGN INSTITUTIONAL INVESTORS (FIIS)/FOREIGN PORTFOLIO INVESTORS (FPIS) NOT APPLICABLE FOR THE PERIOD PRIOR TO 1 APRIL 2015

Background

FIIs or FPIs are foreign entities that typically invest directly in Indian equity and debt securities in accordance with the eligibility and registration requirements of the Securities and Exchange Board of India (SEBI) regulations. They do not normally have their own office or employees in India, and dealings are carried out through independent stockbrokers/custodians in India, while decision making is done outside India. The SEBI regulations do not mandate maintenance of books of account under Schedule VI of the Companies Act, 1956[1] ('Co Act'); they merely require maintenance of information with respect to trades carried out in India.

Section 115JB of the Income tax Act, 1961 ('the Act') envisages the levy of tax on companies at a certain percentage of book profits, referred to as minimum alternate tax (MAT). This provision deems book profits to be taxable income if tax under the normal provisions is less than the tax on book profits. The book profits are computed after making prescribed adjustments to net profit as per the profit and loss account (P&L). It requires a company to prepare its P&L in accordance with Schedule VI to the Co Act. Under the provisions of the Co Act (Section 591 read with Section 594) in this respect, every foreign company with a 'place of business' within India is obliged to prepare its balance sheet and P&L.

The controversy

The Authority for Advance Rulings[2] had held that Section 115JB was applicable to foreign companies, even if they do not have a Permanent Establishment (PE) or place of business in India. Notably, this ruling had departed from earlier rulings[3] holding that MAT provisions would not be applicable to a foreign company that had no physical presence, in the form of an office or branch or a PE in India. Further, Finance Act 2015 prospectively excluded income of foreign companies in relation to capital gains arising on transactions in securities, interest, royalty or fees for technical services from chargeability of MAT if certain conditions are fulfilled. As a result of the above ruling in favour of MAT applicability, and the prospective applicability of the Finance Act 2015 amendment, the tax authorities implied that income earned by FIIs/FPIs in prior years should be subject to the MAT levy. Based on this, tax demands were sent to various FIIs on capital gains made by them in earlier years prior to 1 April 2015.

Findings and recommendations of Committee

On 25 August 2015 a Committee constituted to examine the levy of MAT on FIIs/FPIs for the period prior to 1 April 2015 submitted its report to the Indian Government. The key findings are as follows:

1. The legislation could only have intended for MAT to apply to companies governed by the regulatory requirements of the Co Act.
2. The Legislation failed to specify any method of computing book profits for FIIs/FPIs as it did for electricity, banking and insurance companies.[4] Thus, an obligation under Section 115JB exists because of regulatory requirements of the Co Act, and not independent of it.
3. The inclusion of foreign income in a company's book profits would be contrary to the principle of territorial nexus, which is the basic principle for chargeability of income tax.
4. The Committee referred to judicial interpretations of the expression 'place of business' to mean a permanent and specific location in a country from where a company habitually and regularly carries on its business. The Committee noted a finding that having an established place of business is different from merely carrying on a business in India. It noted the factual position of FIIs/FPIs (see 'Background' above) with respect to no office/employees in India, dealings through independent agents, etc. Therefore, FIIs/FPIs are, ordinarily, not covered under Section 591 read with 594 of the Co Act.
5. Section 115JB of the Act is an integrated code, and a charging provision cannot be read in isolation from a computation mechanism. Due to the computational failure in light of Section 591 read with Section 594 of Co Act, and in absence of guidance on segregation of domestic and global accounts, a foreign company having no established place of business or PE in India (i.e. an FII/FPI) cannot be taxed under Section 115JB.
6. Section 115AD of the Act provides for a beneficial regime for taxing income of FIIs/FPIs. Applying the MAT provisions would render this scheme otiose in as much as FIIs/FPIs would be taxed at a higher rate under Section 115JB. This indicates that Section 115AD, not Section 115JB, would apply to FIIs/FPIs.
7. Section 115JB is inapplicable to FIIs/FPIs. The amendment of Finance Act 2015 only clarified matters, and was not actually required to exempt FIIs/FPIs from MAT liability. The prospective nature of the amendment cannot be used to apply a different interpretation pre-amendment
8. Regardless of the interpretation given to Section 115JB, it will not be applicable where a beneficial Tax Treaty exemption is available.

The Committee did not express any view on whether a foreign company with a PE/place of business in India is covered by Section 115JB. The Committee believed that ruling in favour of MAT applicability is completely wrong, and noted that even after this ruling, FIIs/FPIs were never called upon to file global accounts under the Co Act.

The final recommendations of the Committee were to amend Section 115JB clarifying the complete inapplicability of MAT provisions to FIIs/FPIs, or for the administrative body of the Income tax department[5] to issue a circular in this regard.

Response of Indian Government to above recommendations

Accepting the recommendations, the Government has decided to make an appropriate amendment to the Act providing for non-applicability of MAT provisions to FIIs/FPIs not having a place of business/PE in India, for the period prior to 1 April 2015. The tax authorities are also instructed to keep in abeyance, for the time being, the pending assessment proceedings in cases of FIIs/FPIs involving this issue and not to pursue the recovery of outstanding tax demands in such cases.

[Press Release, Ministry of Finance dated 1 September 2015 and Instruction No 9/2015 dated 2 September 2015]

[1] Dealing with preparation of Balance Sheet and Statement of Profit and Loss of a company.
[2] In the case of Castleton Investment Limited 348 ITR 537.
[3] In the case of The Timken Company 326 ITR 193, Praxair Pacific Limited 326 ITR 276.
[4] Amendment in 2012 provided that P&L prepared in accordance with respective regulatory Acts shall be taken as basis for computing book profits under Section 115JB.
[5] Central Board of Direct Taxes.

MAT on foreign companies: clarification

In a recent press release[6] the Government has clarified that with effect from 1 April 2001 MAT provisions shall not be applicable to a foreign company if:

- The foreign company is a resident of a country with which India has a Tax Treaty and such foreign company does not have a PE as defined in the relevant Tax Treaty, or
- The foreign Company is a resident of a country with which India does not have a Tax Treaty and such foreign company is not required to seek Registration under Section 592 of Companies Act, 1956 or Section 380 of Companies Act, 2013.

The Companies Act requires foreign companies establishing a place of business within India to deliver certain documents (charter, memorandum and articles, registered office address, list of directors, etc.) to the Registrar for registration within a specified limit. The Press Release further provides that appropriate amendments will be carried out to the Act in this regard.

The appeal[7] against the Authority for Advance Rulings in favour of MAT applicability (see 'The Controversy' above) was heard by the Apex Court. The appeal was disposed of on the basis of a statement by the Attorney General that the Government would abide by the decision taken in respect of non-applicability of MAT to FIIs/FPIs and foreign companies mentioned above in an Instruction dated 2 September 2015 and a Press Release dated 24 September 2015 respectively.

[6] Dated 24 September 2015.
[7] Civil Appeal No. 4559 and 4560 of 2013.

KEY JUDICIAL UPDATE: BASE EROSION AND PROFIT SHIFTING HAS NO ROLE IN JUDICIAL DECISION-MAKING

Section 44BB of the Income tax Act, 1961 ('the IT Act') provides for the taxability of income on a presumptive basis for non-resident taxpayers engaged in the business of providing services/facilities in connection with, or the supply of, plant and machinery on hire for use in prospecting, extraction or production of mineral oils. Section 44DA of the IT Act provides for a net basis of taxation for non-resident taxpayers earning income from royalties and fees for technical services which are effectively connected with a permanent establishment (PE) in India.

In a case before the Delhi Tax Tribunal **[Baker Hughes Singapore Pte. Ltd. ITA No 744/Del/13]**, a non-resident taxpayer had earned income from hiring equipment and rendering services to entities engaged in oil exploration work. The taxpayer reported the income under Section 44BB of the IT Act on a presumptive basis. The tax officer contended that the income was taxable under Section 44DA as income was derived from rendering services through a PE in India. The first appellate authority decided in favour of the taxpayer. On further appeal to the Tax Tribunal, the revenue authorities contended that the provisions of Section 44BB are meant for first leg contractors engaged in prospecting, extracting and producing mineral oils, and the benefit of these provisions cannot be extended to vendors and suppliers of such first leg contractors, which would amount to base erosion and profit shifting from developing countries.

The Tax Tribunal rejected these arguments, and noted that base erosion and profit shifting is a tax policy consideration which is relevant for the process of law making. It cannot have a role in the judicial decision-making process, because that process will infringe neutrality if it is to be swayed by such policy considerations. Judicial authorities are to interpret the law as it exists and not as it ought to be in light of certain underlying value notions. The Tax Tribunal upheld the decision in favour of the taxpayer by the first appellate authority.

JIGER SAIYA
jigersaiya@bdo.in
+91 22 2439 3605

GOODS AND SERVICES TAX BILL DEFERRED

The monsoon session of the Parliament was adjourned sine die, leaving the future of the Goods and Services Tax (GST) uncertain. As a result of the recent logjam in the Parliament, the Constitutional Bill could not be passed in the monsoon session of the Upper House. The Government is now contemplating a special session of the Upper House in the coming quarter to consider this Bill.

SAGAR SHAH
sagarshah@bdo.in
+91 20 2622 5525

SINGAPORE

HELPING SINGAPORE SMES TO GROW ROOTS AND WINGS

Small and medium-sized enterprises ("SMEs") play a pivotal role in contributing to the economic growth of Singapore. In recognition of this, the Singapore Government has continued to place strong emphasis on the development of the SME sector to ensure that SMEs are able to achieve momentous growth and compete effectively in the domestic and international arenas.

The introduction of the new International Growth Scheme ("**IGS**") was amongst the slew of tax incentives (together with other non-tax incentives) to encourage SMEs to grow and venture beyond Singapore's comfortable but limited domestic economy.

INTERNATIONAL GROWTH SCHEME

The IGS made its debut in Singapore's Budget 2015 and was introduced with the aim of helping Singapore build a pipeline of new globally competitive companies to diversify its economic landscape. The IGS is targeted at Singapore companies with high growth potential to support them in their internationalisation efforts, whilst anchoring their key business activities and headquarters in Singapore.

WHAT?

Companies that are awarded with the IGS incentive will enjoy a 10% concessionary tax rate for a period not exceeding 5 years on their qualifying *incremental* income from qualifying activities, in excess of a base income. The base income and income from non-qualifying activities will be taxed at the prevailing corporate tax rate of 17%.

Qualifying activities refer to commercial activities that are aligned with the company's international growth plan. Some of the qualifying activities are:

- Business services and activities (including consultancy, management, marketing, publishing)
- Education and related services and activities (including schools, training centers)
- Engineering and technical services and activities (including laboratory, consultancy and research and development)
- Headquarter services and activities
- Healthcare related services and activities (including pharmaceutical, veterinary, medical and wellness)
- International trade services and activities
- Information and communications services and activities (including internet, data centers, and e-commerce)
- Manufacturing and related services and activities (including tooling and assembly)
- Transport and logistics services and activities (including air, land and sea).

Approval of qualifying activities may be sought on a case-by-case basis.

Base income would be ascertained in the following manner:

- In the case of a company which had at any time during the period of 3 years immediately before the date of its approval, carried out one or more of the qualifying activities, the base income would be the average annual net profit before tax (as shown in the company's audited accounts) derived from carrying on the qualifying activities during that said period; and
- In the case of a company which had not carried out any of those qualifying activities during the period of 3 years immediately before the date of its approval, the base income would be zero.

WHO?

To be eligible for the IGS incentive, the company must at the very least, fulfil the following conditions:

i) Must be incorporated and resident in Singapore;

ii) Must have its global headquarters based in Singapore;

iii) Must have an established track record with an international presence;

iv) Must have a sound and ambitious internationalisation growth plan; and

v) Must be able to create economic spin-offs for Singapore, such as creating job opportunities for Singaporeans to gain greater international exposure and helping other non-related Singapore companies secure projects overseas.

Additional conditions may be imposed on a case-by-case basis.

WHEN?

The approval window for interested applicants would be from 1 April 2015 to 31 March 2020 (both dates inclusive).

All in all, it appears that the regulatory authorities have heeded the SME sector's call not to make the qualifying conditions too onerous or prescriptive such that it would undermine the efficacy of the new scheme and preclude deserving SMEs from qualifying for it.

Breaking into new markets overseas takes time, and businesses typically require a gestation period to become operationally profitable. Whilst the option to extend the 5-year incentive period does not appear to be available at this juncture, it is hoped that the option would become available to IGS companies before the expiry of the incentive, to give them a longer runway to benefit from the scheme.

In tandem with other tax incentives and initiatives by the Government (e.g. increased funding support), it is hoped that the IGS will give Singapore SMEs sufficient courage to take the leap of faith and go international!

EVELYN LIM
evelynlim@bdo.com.sg
+65 6829 9629

ADELYN TEH
adelynteh@bdo.com.sg
+65 6829 9110

CYPRUS

INTRODUCTION OF NON-DOM REGIME AND EXTENSIONS OF INCENTIVES FOR MOVING OPERATIONS AND SUBSTANCE TO CYPRUS

NEW CYPRUS NON-DOM REGIME

With effect from 1 January 2015, an individual is considered as domiciled in Cyprus by way of domicile of origin or by domicile of choice.

Individuals that are Cyprus tax-resident for 17 out of the last 20 years are considered to be domiciled in Cyprus. Cyprus tax residency for individuals is determined by the number of days each person spends in Cyprus in each calendar year (183 days).

Individuals that were born in Cyprus are considered NOT to be domiciled in Cyprus where they have not been Cyprus tax resident for at least 20 years before returning to Cyprus.

Non-domiciled persons are now exempt from defence tax, and will therefore be exempt from taxation on both dividends and any passive interest they receive.

Those persons already living in Cyprus and who are Cyprus tax-resident persons qualifying as non-doms will immediately see a defence tax saving of 17% on dividends, 30% on bank deposit interest and 3% on rental income.

Cyprus tax-resident non-doms will continue to be subject to tax at the normal applicable personal tax rates in respect of rental and other forms of income that they receive (salaries, directors fees etc.).

BDO Observation

Together with the unconditional exemption afforded under tax law for Capital Gains realised on the disposal of securities (shares, bonds etc.), the new law creates an attractive tax environment for non-doms residing in Cyprus.

NOTIONAL INTEREST DEDUCTION ON EQUITY

With effect from 1 January 2015, companies are entitled to a notional interest tax deduction on 'new equity'. New equity means funds or in-kind payments introduced into the share capital of the company after 1 January 2015, which has actually been paid and is used for the operations of the company.

This interest will be calculated based on the effective interest earned on the 10 year government bond yield of the country in which the new equity is invested plus 3%, with the minimum rate being the equivalent 10 year bond yield of Cyprus plus 3%. This notional expense deduction will be tax-deductible to the extent that it relates to business assets, and cannot exceed 80% of the taxable income of the company for the year. A tax deduction is not available where the company makes losses.

The law allows the capitalisation of existing loans and the introduction of new capital by way of in-kind transfers. Such transfers must be made at market value and should be supported by appropriate valuations carried out by appropriately qualified professionals.

The capitalisation of existing reserves (such as revaluation reserves) and of retained profits as at 31 December 2014 are specifically excluded from the definition of new capital.

The law includes a number of anti-abuse provisions. Where the capital originates directly or indirectly from loans obtained by another Cyprus company that has itself received a tax deduction for interest paid, the notional interest deduction will be reduced by that same amount. Similarly, where new capital originates either directly or indirectly from new capital introduced to another Cyprus company, only one company will be entitled to the notional interest deduction.

BDO Observation

The aim of the law is to encourage new equity, which in turn should increase the economic robustness of Cyprus companies through less reliance on debt financing. The new provision also potentially provides a solution to beneficial ownership issues that are increasingly the subject of double tax treaty anti-avoidance provisions.

INCENTIVES FOR INVESTMENT IN REAL ESTATE

New capital gains tax exemption

Immovable property purchased from the date the law comes into effect and 31 December 2016 will be exempted from capital gains tax on any capital gain arising on a future disposal. The property must include buildings to be eligible.

Land registry (transfer) fees reduced

For properties transferred until 31 December 2016 there will be a 50% reduction to the land transfer fees.

OTHER PROPOSALS

A number of other proposals are waiting to be approved by the Council of Ministers, including:

- The extension of accelerated capital expenditure allowances extended for the years 2015 and 2016. This provides for an annual tax depreciation allowance of 20% (instead of 10%) for plant and equipment a depreciation rate of 7% (instead of 4%) for new industrial and hotel buildings.
- Making exchange gains and losses exempt from taxation, except for companies that are trading in foreign currencies.
- Extending group loss relief to include qualifying group subsidiary companies that are also tax-resident in any EU Member State. This will apply provided the foreign company has exhausted all possibilities available for using the available tax loss in its respective country or in the country where its immediate holding company resides. The aim of the law is to align with EU Law and increase the attractiveness of Cyprus holding companies.
- Extension of existing exemptions of income relating to first employment in Cyprus:
  - The 20% tax exemption for income from employment in Cyprus (with a maximum exempt amount of EUR 8,550 per year) is to be extended from the first three to the first five years, and until 2020.
  - The 50% tax exemption for income from employment in Cyprus that exceeds EUR 100,000 per year is to be extended from five years to 10 years. This plan was available to individuals who were not Cyprus tax residents for three out of the last five years prior to the commencement of their employment, including the year immediately preceding their employment.

KARLOS ZANGOULOS
kzangoulos@bdo.com.cy
+357 22495707 extension 1101

FRANCE

OPPORTUNITY FOR COMPANIES TO CLAIM TAX REFUNDS ON DIVIDEND DISTRIBUTIONS

Following recent European proceedings, French companies may be entitled to claim refunds of taxes paid in respect of dividend distributions, in the two following circumstances:

- Refund of taxation of 5% lump sum of the gross dividends paid by a non-resident subsidiary; and
- Refund of the 3% contribution on the distribution of profits paid to a subsidiary.

1. Inconsistency of the taxation of a proportion of 5% of the dividends paid by non-resident subsidiaries to the freedom of establishment

On 2 September 2015, the Court of Justice of the European Union (CJEU) ruled in the case of *Groupe Steria SCA* v. *Ministère des finances et des comptes publics* (Case C 386/14).

1.1.1. Legal background : Taxation of dividends paid by a non-resident subsidiary

French corporate tax legislation provides that dividends paid by subsidiaries to their parent company are exempt from tax, except for a 5% lump sum of the gross distribution which needs to be reinstated within the taxable profit of the recipient company. This lump sum is deemed to correspond to the cost and expenses incurred by the parent company in relation to its holding in the subsidiary. In practice, it means that gross dividends paid to a French company are subject to an effective tax rate of 1.66% (5% x 33.1/3%).

However, concurrently, under the French tax consolidation regime, the parent company may be able to neutralise the 5% lump-sum from its taxable results. The possibility of neutralising the 5% lump-sum is only available for dividends paid by subsidiaries which are members of a tax-consolidated group which is itself limited to resident subsidiaries.

1.1.2. Facts and proceedings

The holding company of the Steria group challenged the taxation of the 5% lump sum for dividends paid by subsidiaries established in other EU countries, on the grounds that this was a restriction of freedom of establishment provided under article 49 of the Treaty of the Functioning of the European Union (TFEU), since the mechanism of neutralisation is only available to dividends paid by resident subsidiaries.

In the first instance, the lower French Court dismissed this application, considering that the French tax consolidation regime, reserving the neutralisation of the 5% lump-sum only to dividends paid by resident subsidiaries, does not affect freedom of establishment, since it excludes all subsidiaries which are not members of the tax group, irrespective of their country of residence.[8]

On 29 July 2014, the French administrative Court of appeal of Versailles decided to stay the proceedings and asked the CJEU for a preliminary ruling.[9]

1.1.3. Prejudicial question

The Administrative appellate court referred the following question to the CJEU:

Must Article 43 EC (now Article 49 TFEU) on freedom of establishment be interpreted as precluding the rules governing the French tax-consolidation regime from granting a tax-integrated parent company neutralisation as regards the add-back of the lump-sum, fixed at 5% of the net amount of the dividends received by it from tax-consolidated resident companies only, when such a right is refused to it under those rules as regards the dividends distributed to it from its subsidiaries established in another Member State, which had they been resident would have been eligible in practice, if they so elected?

1.1.4. Decision of the CJEU

The CJEU considered that Article 49 TFEU must be interpreted as precluding rules of a Member State that govern a tax consolidation regime under which a tax-consolidated parent company is entitled to neutralisation as regards the add-back of a proportion of costs and expenses, fixed at 5% of the net amount of the dividends received by it from tax-consolidated resident companies, when such neutralisation is refused to it under those rules as regards the dividends distributed to it from subsidiaries located in another Member State, which, had they been resident, would have been eligible in practice, if they so elected.

1.1.5. Implications

Under the decision of the CJEU, parent companies receiving gross distributions from an EU resident subsidiary should be repaid for the 5% lump sum wrongfully taxed.

In practice, affected parent companies are strongly advised to file a claim to the French tax authorities. All claims lodged before 31 December 2015 may cover the proportion of tax paid on cost and expenses relating to dividends received during Fiscal years 2012, 2013 and 2014.

2. Infringement proceedings against France regarding the French 3% contribution on profit distributions

In 2012 France introduced a new 3% contribution on profit distributions (dividends and deemed distributions) applicable, subject to certain exceptions, to French and foreign companies liable to French corporate income tax (Article 235 ter ZCA of the French tax code).

On 26 February 2015 the European Commission (EC) commenced infringement proceedings against France regarding the 3% contribution on profit distributions, and the compatibility of this contribution with the Parent-Subsidiary Directive and with the freedom of establishment principle.

France must submit its observations to the EC; if France does not convince the EC, the EC could refer France to the CJEU.

Without waiting for the decision from the EC, in order to avoid any debarment, it is highly recommended that companies or entities having paid the 3% contribution make a claim before:

- 31 December 2015 in order to obtain a refund of the contribution paid in 2013;
- 31 December 2016 in order to obtain a refund of the contribution paid in 2014.

CARINE DUCHEMIN
cduchemin@djp-avocats-bdo.fr
+33 1 80 18 10 85

[8] Tribunal administratif de Montreuil, 4 October 2012.
[9] Cour administrative d'appel de Versailles, 29 July 2014.

ISRAEL

PROPOSAL TO EXTEND EXCHANGE OF INFORMATION RULES

On 3 September 2015, subject to the necessary further legislative procedures, the Israeli Parliament gave initial approval to proposed tax amendments for the years 2015 and 2016. As part of these amendments, and in order to increase the flow of information between Israel and other countries as part of the global efforts to combat tax avoidance within the framework of the BEPS project, the Parliament has proposed to legislate transferring information to foreign tax authorities following a request from a foreign tax authority, or at the initiation of the Israeli Tax Authorities ("**ITA**"), based upon an agreement signed between the two jurisdictions.

Previously, since the Israeli tax code includes vast protection of information obligations regarding an individual's income, such information could only be transferred to foreign tax authorities in accordance with an applicable double tax treaty (which once approved and signed overruled the said protection clauses). This severely limited the possibility of entering into bilateral international exchange of information agreements or similar disclosure agreements, thus also reducing the information Israel received from other jurisdiction.

Under the proposed amendment, the signing of an international agreement allowing exchange of information or a disclosure agreement with a foreign jurisdiction would overrule the specific protection of information clauses in the tax code, and information could be disclosed where:

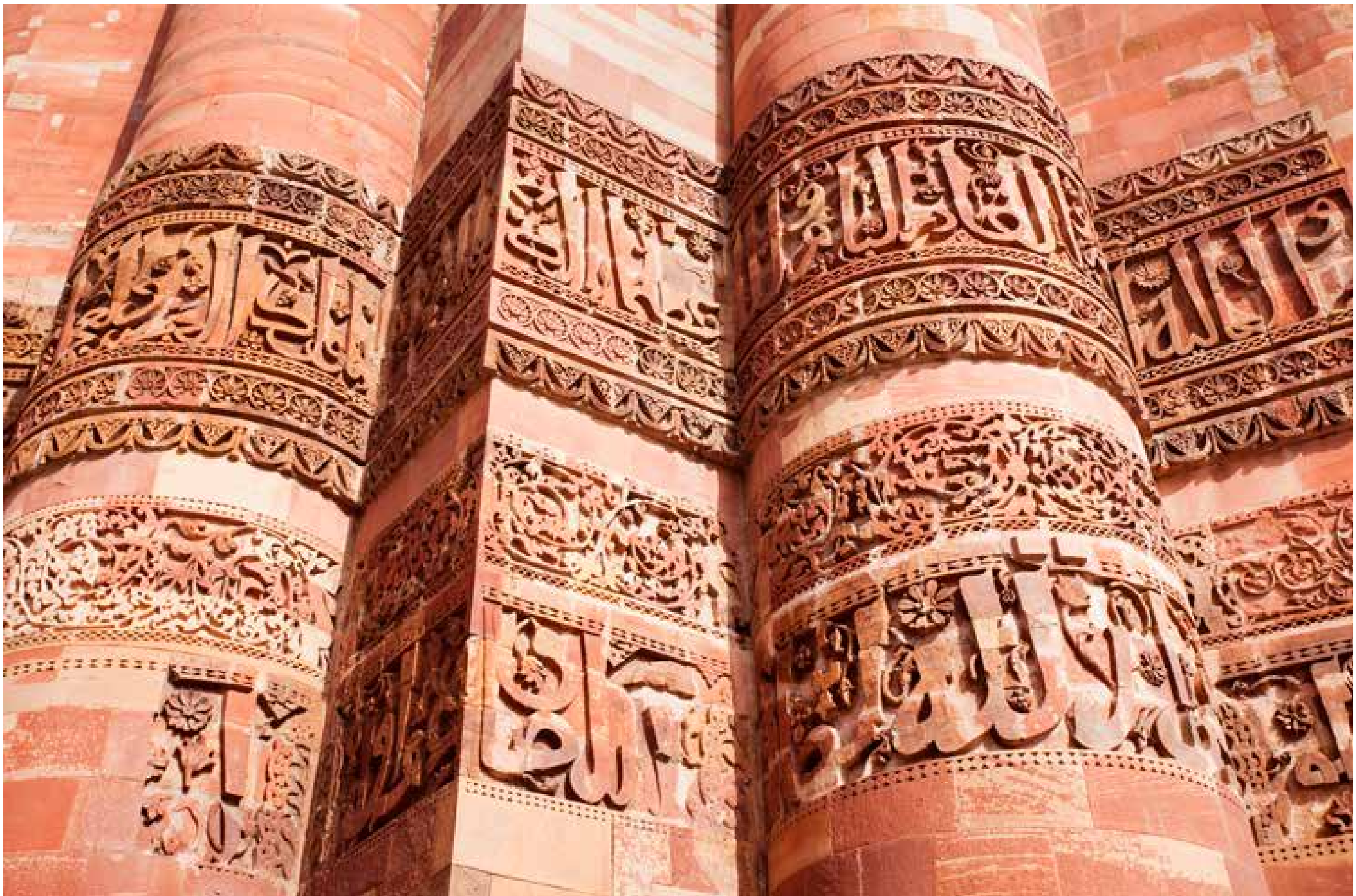
1. The foreign tax authority requires the information in order to enforce its tax code.
2. The use of this information is not legally forbidden for the ITA, (with some exceptions regarding disclosure of financial accounts).
3. The international agreement regarding information exchange or disclosure contains protection of information requirements for the receiving jurisdiction.
4. It was clearly stipulated that the use of the information is for tax enforcement purposes only.

Certain exceptions to disclosure are also mentioned, mainly related to information that is deemed a breach of security or of significant importance. The ITA can also refuse to disclose information if it determines that the receiving jurisdiction has unreasonably withheld information requested by the ITA.

The amendment also allows the ITA to specifically gather information regarding an individual's income (and not just disclose currently held information in order to disclose this to a foreign tax authority in accordance with an international agreement.

For further information please contact:

ELI ALICE
elial@bdo.co.il
+972 3 6374383



NETHERLANDS

NEW POSSIBILITIES FOR DUTCH PARENT COMPANIES WITH EU SUBSIDIARIES

As a result of a decision of the EU Court of Justice (CJEU) on 2 September 2015, new possibilities have emerged for Dutch parent companies with subsidiaries in the EU.

The Dutch fiscal unity rules offer advantages to Dutch subsidiaries which are not available to foreign EU subsidiaries, as foreign subsidiaries cannot be included in a fiscal unity.

The CJEU case relates to Groupe Steria, a French group of IT companies which held a number of foreign subsidiaries. If these subsidiaries distributed dividends to France, 5% of these dividends would be taxed in France, which would not be the case within a French fiscal unity. The CJEU ruled that this limitation of benefits of a fiscal unity is incompatible with the principle of freedom of establishment in the European Union. However, the CJEU also ruled that the possibility to set off profits and losses is only possible within a (real) fiscal unity.

As a result of this court decision, it may be possible for Dutch parent companies with foreign subsidiaries to enjoy these advantages as well. In the Dutch context this may have consequences for:

- **Holding losses** (article 20 sub 4 Corporation Tax Act (CTA)): with respect to Dutch subsidiaries in a fiscal unity, no holding losses arise. With respect to foreign subsidiaries, holding losses may arise;
- **Transfers of assets**: probable extension of payment of the tax due on the profit connected to the transfer of the assets. A transfer within the Netherlands is not taxed.
- **Non qualifying portfolio investment subsidiary**: a foreign subsidiary can be subject to a limitation of the participation exemption, which does not apply to Dutch subsidiaries in a fiscal unity;
- **Participation debt interest limitation** (article 13l CTA): this is not applicable to Dutch subsidiaries in a fiscal unity, but it can be applicable to foreign subsidiaries;
- **Older years**: the thin-cap interest deduction limitation might not be applicable to foreign subsidiaries.

Following the earlier decided *Papillion* court case, the Dutch Ministry of Finance was already drafting new rules for (cross-border) fiscal unity. It is expected that the CTA will also have to be amended as a result of the CJEU Groupe Steria decision.

WILBERT ROMIJN
wilbert.romijn@bdo.nl
+31 10 24 24 600

POLAND

MORE SAFETY FOR POLISH TAXPAYERS?

On 5 August 2015 the President of Poland signed an act introducing to the Polish Tax Code the so-called "*in dubio pro tributario*" rule ('if in doubt, rule in favour of the taxpayer').

This means that from 1 January 2016 (when the rule comes into force) the Polish tax authorities and courts will be obliged to interpret disputable Polish tax regulations in favour of taxpayers instead of the tax authorities, which has commonly been the case so far.

The rule in question is to be introduced so that Polish taxpayers do not suffer adverse consequences of ambiguous regulations in Polish tax law or contradictory interpretations and views taken by the tax authorities and courts in this respect.

Despite some controversies and discussions over the wording of the rule, this is still good news for Polish taxpayers, as the change seems to give them more safety in applying the Polish tax law.

RAFAŁ KOWALSKI
rafal.kowalski@bdo.pl
+48 22 543 16 00

UNITED KINGDOM

MAIN CORPORATION TAX RATE TO BE REDUCED TO 18% BY 2020

The Finance (No. 2) Act 2015 reduces the main corporation tax rate (currently 20%) to 19% from 1 April 2017 and 18% from 1 April 2020.

The UK would then have the lowest corporation tax rate in the G20, increasing its attractiveness to inward investors.

The government estimates that this will benefit over 1.1 million businesses, both large and small, saving GBP 6.5 billion by 2021.

However, the proposed reductions will be funded by bringing forward quarterly corporation tax payment dates for companies whose profits for two consecutive accounting periods exceed GBP 1.5 m.

The reductions may not fully compensate those companies most affected by the sharp increases planned in the minimum/living wage.

The reductions may increase the use of UK-resident companies for UK property investment, as non-resident companies will continue to pay income tax at 20%

The increasing differential between corporation tax and the diverted profits tax rate (25%) may act as an incentive for companies to ensure that they are not liable to pay the diverted profits tax.

The reductions will not apply to the rates of tax on 'ring fence profits' derived from oil extraction and oil rights in the UK, which are currently 30% (main rate) and 19% (small rate).

TONY SPILLETT
tony.spillett@bdo.co.uk
+44 20 7893 3315

ARGENTINA

NEW DOUBLE TAXATION TREATY BETWEEN ARGENTINA AND CHILE

Argentina and Chile recently signed a new double tax treaty (DTT) to avoid double taxation on income and on capital, and to prevent tax evasion and avoidance. To date, compliance with certain formalities is still pending, in order for the treaty to come into force.

It should be remembered that on 29 June 2012 the Republic of Argentina terminated the DTT that had been in force between Argentina and Chile since 1985. That treaty had the peculiarity of giving the state where the income arose the exclusive taxing power.

However, both states have now negotiated a new treaty under the guidelines of the OECD/ UN model. The most relevant aspects of the new treaty are described below.

INCOME TAXATION

Dividends

The new DTT gives enforcement power to the country of residency of the shareholder. For this it establishes limits to the withholding rates that can apply in the source country – 10% if the beneficiary is a company which owns at least 25% of the capital of the paying entity, or 15% in other cases. As the Argentine legislation provides for a withholding rate of 10%, this rate should be applied in each case.

Royalties

The DTT reduces the withholding rates applicable to certain types of payment, including:

– Technical assistance: 21% or 28% under the Argentine legislation; 10% under the DTT.

– Consulting: 31.5% under the Argentine legislation; 10% or 15% under the DTT.

The reduction applies as long as the respective technology transfer pricing contracts are duly registered at the National Institute of Intellectual Property.

Interest

The DTT reduces rates in accordance with the following schemes:

– Interest arising from the financing of imports: 15.05% under the Argentine legislation; 4% under the DTT.

– Interest on loans granted by banks: 15.05% under the Argentine legislation; 12% under the DTT.

– Interest from loans granted by related companies that are not financial entities: 35% under the Argentine legislation; 15% under the DTT.

GUILLERMO JAMIE POCH
gpoch@bdoargentina.com
+54 11 4106 7058

ALBERTO MASTANDREA
amastandrea@bdoargentina.com
+54 11 4106 7000

BRAZIL

THE ECF REPLACES THE DIPJ

In recent years, accounting and tax professionals have experienced significant changes in their work, including the adoption of International Financial Reporting Standards ("IFRS") rules around 2007, followed shortly afterwards by the new reporting obligations introduced by the Public Digital Bookkeeping System ("SPED") and, more recently, the enactment of Law 12,973/14 that brought significant changes to the Brazilian tax legislation.

The ECF – the new corporate income tax return that replaces the DIPJ return – is one of the most important and complete tax returns that companies are required to file. Many years ago, the DIPJ had to be completed in paper form, then on diskette and, since 1998, via a computer program provided by the Tax Authorities. From September 2015, companies must submit the 2014 ECF, generated themselves by following specific layouts, like the other SPED files.

The ECF requires the taxpayer to furnish much more information than the DIPJ did, involving more complexity for tax professionals. The additional required information includes the Book of Calculation of Taxable Income ("LALUR") and the Book of Calculation of Social Contributions ("LACS") that will be part of the block M of the ECF.

LALUR/LACS are mandatory books, which taxpayers must use to keep track of the current income tax base (Part A) and the control over temporary differences and tax losses that will impact the income tax base of future periods (Part B). The good news is that with the introduction of the ECF, taxpayers will no longer be required to keep hard copies of their annual LALUR/LACS. However, the not so good news is that the tax authorities will have more access and control over the taxpayers' information.

With regard to block M of the ECF, it is important to note that the taxpayer must load the initial balances of the temporary differences and tax loss carry forwards. Unfortunately, not all companies adequately control all provisions, foreign exchange and other timing differences, or properly prepare their annual LALUR, or correctly keep track of their current and accumulated tax losses. Some companies have never prepared their annual LALUR; many companies have never prepared Part B of the LALUR and in some instances, key professionals have left the company and all of the relevant historical information has been lost. Companies must therefore carefully check that their LALUR accurately reflects all of their operations.

As well as the additional information requirements of the ECF, tax penalties have also been increased to 3% of the value of the taxpayer's commercial or financial transactions if information in the ECF is missing, inaccurate or incomplete.

The introduction of the ECF and the E-social (also planned for 2015) means that the 2,600[10] hours that Brazilian companies spend, on average, to satisfy the applicable tax and labour law requirements, may significantly increase for 2015 and beyond.

If companies delay preparation of the ECF to the last minute, they would be unnecessarily exposing themselves to a myriad of tax issues and risks.

BDO can assist companies in complying with this new reporting obligation.

HUGO AMANO
hugo.amano@bdobrazil.com.br
+55 11 3848 5880

[10] http://data.worldbank.org/indicator/IC.TAX.DURS.

EGYPT

RECENT AMENDMENTS

There have been several recent amendments in Egypt regarding tax issues, including changes to:

- The corporate tax rate
- Tax on capital gains
- The tax rate applicable to entities operating in special economic zones
- Individuals' income tax rates
- Foreign tax paid outside Egypt, and
- Dividends paid to resident individuals/juridical persons

The changes are summarised below.

CORPORATE TAX

The new corporate tax rate is 22.5% of the annual taxable profit, instead of 25%, except for the Suez Canal Authority, The Central Bank of Egypt, the Egyptian General Petroleum Corporation, and the Oil and Gas Exploration and Production Companies. This change applies on the tax year 2015 (1 January to 31 December) or the tax year ending after the issue date of the law, which is 20 August 2015.

The rate for new entities established in special economic zones is now 22.5%, while existing entities in special economic zones will continue to pay income tax rate at a rate of 10%.

TAX ON CAPITAL GAINS

Taxation of capital gains from listed securities is temporarily ceased/exempted for two years with effect from 17 May 2015.

However, capital gains are subject to tax when they are generated from unlisted securities or shares in companies, at the applicable income/corporate tax rate.

ADDITIONAL TEMPORARY TAX

The additional temporary annual tax of 5% on taxable income in excess of EGP 1 million, which effectively increased the income/corporate tax rate, has been cancelled with effect from June 2015.

INDIVIDUALS' INCOME TAX RATES

Amended income tax rates on individual income, with effect from 21 August 2015, are as follows:

Annual taxable income after deducting the personal allowance (EGP 7,000)	Tax Rate (%)
The first EGP 6,500	0
Between EGP 6,500 and EGP 30,000	10
Between EGP 30,000 and EGP 45,000	15
Between EGP 45,000 and EGP 200,000	20
More than EGP 200,000	22.5

FOREIGN TAX PAID OUTSIDE EGYPT

Foreign taxes applied on revenues received from abroad by resident individuals are deducted from the income tax due on such revenues within limits of the tax due in Egypt on the same revenue. This change applies on the tax year 2015 (1 January to 31 December) or the tax year ending after the issue date of the law, which is 20 August 2015.

DIVIDENDS RECEIVED BY RESIDENTS FROM RESIDENT JURIDICAL PERSONS

Dividends paid to individuals/juridical persons are subject to 10% dividend tax. The percentage is reduced to 5% if the shareholding is greater than 25% of the capital or the voting right only if the period of owning such shareholding is a minimum of two years.

Additionally, dividends received (after applying the above-mentioned dividend tax) by resident individual/juridical persons from resident juridical persons, **will be excluded from the taxable income pool, as well as the related cost of such dividends**. This change applies on the tax year 2015 (1 January to 31 December) or the tax year ending after the issue date of the law, which is 20 August 2015.

MOHANAD T. KHALED
m.khaled@bdo.com.eg
+202 3303 0701

CURRENCY COMPARISON TABLE

The table below shows comparative exchange rates against the euro and the US dollar for the currencies mentioned in this issue, as at 20 November 2015.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Australian Dollar (AUD)	0.66944	0.71635
Egyptian Pound (EGP)	0.11901	0.12735
Euro (EUR)	1.00000	1.06996
British Pound (GBP)	1.42721	1.52724
USD	0.93448	1.00000

CONTACT

Contact Mireille Derouane at the BDO Global Office on **mireille.derouane@bdo.global** or **+32 2 778 0130** for more information.

www.bdointernational.com