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WORLD WIDE TAX NEWS

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AUSTRALIA
RECENT TAX CHANGES

Australia has recently had a change of Federal Government, with the new Government introducing various tax changes. In addition, the previous Federal Government had announced 96 tax amendments that remained un-enacted. The new Government has reviewed all of these announced changes and has confirmed that 34 of them will proceed and the remainder will not proceed.

The recent and proposed tax law changes that are of international interest are detailed below:

TAX RATE CHANGES

– Company tax rate decrease for small to medium companies

From 1 July 2015, the company tax rate is to be reduced by 1.5% from 30% to 28.5% for all companies. However, large companies (taxable income over AUD 5 million) will incur an additional levy of 1.5% to assist in funding the Government's proposed paid parental leave scheme. This levy means that the effective rate of tax for large companies remains the same at 30%. However, as the 1.5% parental leave levy will not give rise to franking credits under the Australian dividend imputation provisions, it will lead to an overall increase in tax payable by the resident shareholders of these large companies when profits are distributed to them as dividends.

– Income tax rate increase for higher income earners

A temporary 2% 'deficit reduction levy' is to be introduced for individuals earning above AUD 180,000 per year. This levy will apply for the 2015, 2016 and 2017 income tax years. Combined with the 0.5% rise in Medicare levy for resident individuals, from 1 July 2014 the effective top marginal tax rate for resident individuals will rise from 46.5% to 49% and for non-resident individuals the top marginal rate will rise from 45% to 47%.

The Government announced that this 2% levy is designed to assist the Government in reducing the size of its budget deficit over the next 3 years.

– Fringe benefits tax rate increase

In line with the increase in the highest marginal income tax rate, the fringe benefits tax rate will increase from 47% to 49% from 1 April 2015. Fringe benefits tax is a tax payable by employers on the value of non-salary and wage benefits that are provided to their employees in respect of their employment.

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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 in Brussels. If you have any comments or suggestions concerning *BDO World Wide Tax News*, please contact the Editor via the BDO International Executive Office by e-mail at mderouane@bwsbrussels.com or by telephone on +32 (0)2 778 0130.

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AUSTRALIA – continuation

MINING AND NATURAL RESOURCES

– Minerals resource rent tax to be repealed

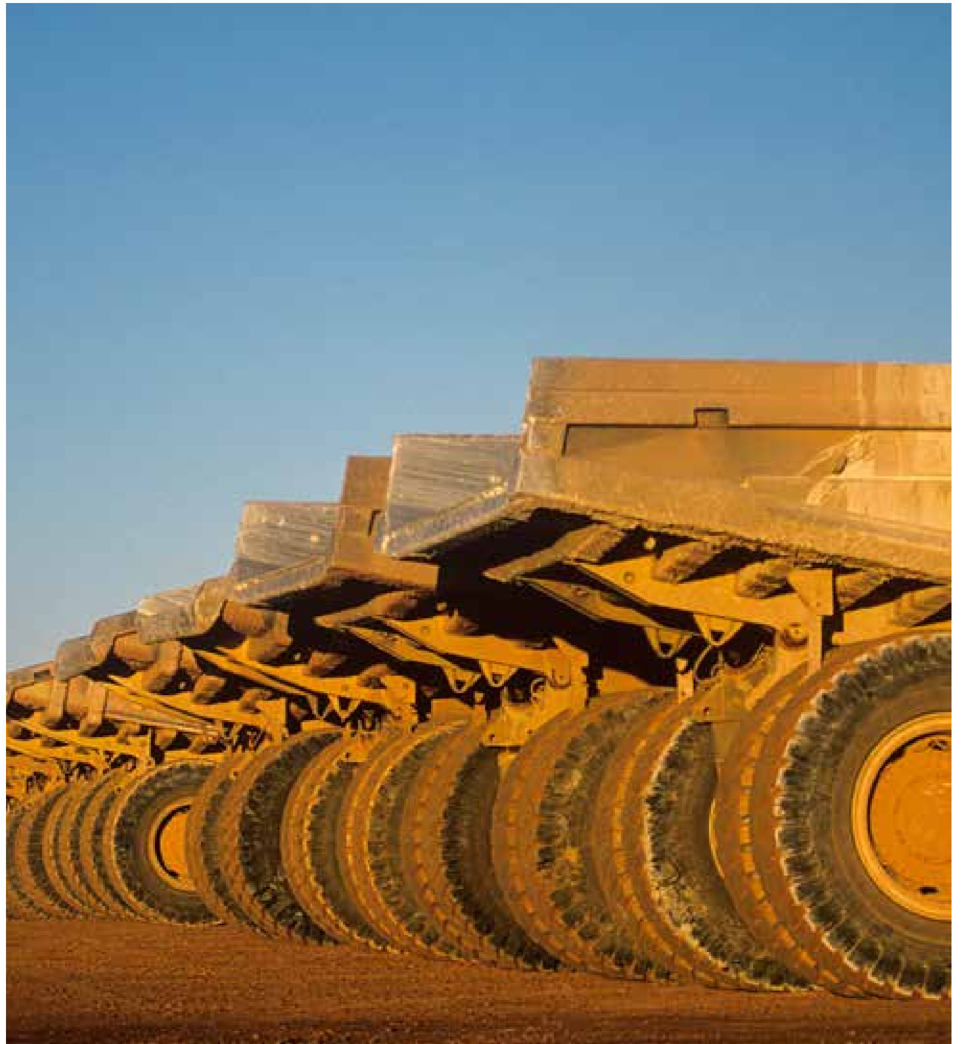
The Minerals Resource Rent Tax (MRRT) is a profit-based tax on the ex-mine gate value of iron ore, coal and other coal derived resources extracted within the Australian territory. One of the election promises for the new Government was to repeal this tax, as it said it was an impediment to further exploitation of Australia's mineral wealth. The repeal of the MRRT is proposed to apply from 1 July 2014, but it has not yet passed through the Australian Parliament and is not expected to do so until after 1 July 2014, when there will be a change in the composition of the Senate.

Australia also has a Petroleum Resource Rent Tax (PRRT), which is similar to the MRRT, but is imposed on the extraction of petroleum based resources within the Australian territory (both offshore and land based). The PRRT will not be repealed and will continue to operate as before the change of Government.

– Minerals exploration development incentive

The new Government will provide an AUD 100 million fund to be used over three years for the introduction of an Exploration Development Incentive (EDI). The EDI will allow investors in early stage mineral exploration entities to receive a credit for expenditure incurred by the exploration entity, and apply this directly against their personal taxable income.

Eligible entities that are in a tax loss position will generate credits through exploration expenditure, which can then be distributed to shareholders for application against their assessable income. The company cannot then offset this expenditure against its future income. The distribution of credits to shareholders will be optional, with explorers able to otherwise carry forward losses. The policy intent of the EDI is to encourage investment in small exploration companies.



AUSTRALIA – continuation

REPEAL OF THE CARBON PRICING SCHEME

The previous Federal Government introduced a "Carbon Pricing Scheme" (also known as 'carbon tax') that aimed to put a price on the emission of carbon dioxide and other greenhouse gases in an effort to reduce Australia's impact on global climate change. The repeal of this Carbon Pricing Scheme was another election promise of the new Government, as it said Australia should be waiting until there was a widely accepted international carbon pricing scheme.

The repeal of the Carbon Pricing Scheme is also to apply from 1 July 2014, but enactment of this change is also waiting for the change in the composition of the Senate on 1 July 2014.

Without the Carbon Pricing Scheme the Government intends to meet Australia's Kyoto carbon emission reduction targets with the introduction of the "Direct Action Plan". The Direct Action Plan represents a complete reversal from the existing Carbon Pricing Scheme. Under the Carbon Pricing Scheme, large emitters make payments to the Government to cover their carbon emission liabilities, whereas under the Direct Action Plan the Government will pay organisations for reducing their carbon emissions.

THIN CAPITALISATION AMENDMENTS

The Government has confirmed proposed changes to the Thin Capitalisation measures as announced by the previous Federal Government. The proposed changes include the following:

– The de minimis threshold will be increased from AUD 250,000 to AUD 2 million of debt deductions (interest)

– The safe harbour debt limit for general entities which are not authorised deposit taking institutions (non-ADI) is to be reduced from 3:1 to 1.5:1 on a debt-to-equity basis

– The safe harbour debt limit for financial entities (non-ADI) is to be reduced from 20:1 to 15:1 on a debt to equity basis

– The safe harbour capital limit for an ADI is to be increased from 4% to 6% of its risk weighted Australian assets

– The worldwide debt limit for outward investing entities (non-ADI) that can be allowed for Australian operations in certain circumstances is to be reduced from 120% to 100% of the gearing of the entity's worldwide group

– The worldwide debt limit method will be extended to inward investing entities (currently only available for outward investing entities), with a debt limit of 100% of worldwide gearing.

TRANSFER PRICING RE-WRITE AND AMENDMENTS

Australia's transfer pricing rules have recently been rewritten with some important conceptual changes. The provisions apply to entities which engage in cross border transactions, without any de-minimis thresholds.

The new provisions are self-executing, as opposed to the old provisions which required a determination from the Tax Commissioner. The amendments require the taxpayer to self assess whether they obtained a transfer pricing benefit, which is defined as having lower taxable income, a higher tax loss, or a greater tax offset than would have resulted if the entity had been dealing at arms length in the relevant transactions. In these circumstances, there is a seven year amendment period for tax assessments. This contrasts with the unlimited amendment period which existed under the old legislation.

In identifying the result expected under an arms length transaction, the legislation requires consideration of the method(s) which are the most reliable and appropriate given:

– The strengths and weaknesses of all methods in the circumstances

– The circumstances of the transactions

– The information available

– The circumstances of the entities involved, including the functions, assets and risks of the entities, any contracts between the entities, and the business strategies of the entities.

Any assessment of the relevant 'arm's length conditions must also consider how to achieve consistency with the OECD *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*.

Where a taxpayer does not contemporaneously maintain documentation supporting its transfer pricing position, it will be deemed not to have a 'reasonably arguable position' for penalty purposes. This means that where a taxpayer's assessment of income tax is increased to reflect a transfer pricing adjustment, the base rate of penalties will automatically be at least 25% where such documentation is not maintained.

FATCA – AUSTRALIA SIGNS AGREEMENT WITH THE UNITED STATES OF AMERICA

The Australian Government has recently signed an intergovernmental agreement with the United States of America (US) under the US Foreign Account Tax Compliance Act (FATCA). The objective of FATCA is to cause the reporting of foreign financial accounts held by US taxpayers in order to detect 'US taxpayers' who are concealing income from the US Internal Revenue Service (IRS). It is important to note that the US taxes its citizens on world wide income whether they are resident in the US or not. Therefore US citizens who are residents of Australia may be 'US taxpayers' and therefore could be subject to these new reporting requirements.

From 1 July 2014, affected Australian financial institutions and certain other organisations that provide accounts will be required to obtain certain information about their account holders that are 'US taxpayers' and report it to the Australian Tax Office (ATO), which will then automatically report the information to the IRS. Those financial institutions that do not comply with FATCA will be subject to a 30% withholding tax on their US sourced income, in addition to Australian penalties for non-compliance with the applicable Australian laws.

The reporting requirements apply to a broad range of Australian financial institutions, including banks, some building societies and credit unions, specified life insurance companies, private equity funds, managed funds, exchange traded funds and some brokers.

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NEW ZEALAND

RESEARCH & DEVELOPMENT TAX CHANGES

Two tax changes designed to encourage business investment in research and development (R&D) activities have been announced.

The first change allows an R&D-intensive start-up company to "cash-out" its tax losses which are attributable to the R&D expenditure.

The second change reflects a relaxation of the capital limitation on certain R&D expenditure which would otherwise be regarded as 'black-hole expenditure" and non-deductible or non-depreciable.

The new measures are expected to come into effect from 2015/16, but with some transitional relief for expenditure incurred from 7 November 2013.

R&D CREDIT – START UP LOSSES

An innovative start-up company will have the option to "cash-out" its tax losses arising from qualifying research and development (R&D) expenditure from the start of the 2015 income year.

The proposed measures mean that companies can receive an up-front cash payment equal to the tax value of the losses rather than having to carry forward the tax loss to apply against future assessable income.

To qualify the company must have an R&D intensity which is measured as a ratio of R&D expenditure on wages and salaries to total wages and salaries. This ratio should exceed 20%. An overall cap will apply on the amount that can be cashed up.

An eligible business will be able to cash out up to 1.5 times the R&D expenditure on salary and wages, provided this amount does not exceed its total tax losses or total qualifying R&D expenditure. The initial cap is set at NZD 500,000, rising to NZD 2 million per business.

Innovative start-up companies will be able to cash-out up to NZD 500,000 of eligible tax losses in the first year, with the cap rising by NZD 300,000 each year to an eventual maximum of NZD 2 million (a cash-out of NZD 560,000 per year at a company tax rate of 28%).

There are claw-back provisions proposed where the company makes a tax-free capital gain by selling intellectual property, selling 90% or more of its shares, or is liquidated or becomes non-resident for tax purposes.

An eligible business will need to assess the benefit of cashing out the losses compared to carrying them forward. This will involve an assessment of the eligible expenditure defined according to the relevant accounting standards, the prospect of future taxable income or income from other sources, and the risk of tax losses being forfeited through the introduction of new investors or changes in shareholder percentages which could result in the company not satisfying the minimum shareholder continuity test of 49%.

BLACK HOLE EXPENDITURE

Black hole expenditure refers to business expenditure which is not immediately deductible for tax purposes and does not form part of the cost of a tax depreciable asset.

Successful R&D

Capitalised development expenditure (incurred on or after 7 November 2013) that relates to a patent, patent application, or plant variety rights will be allowed as part of the costs of these depreciable assets. Currently only legal and administrative costs of registering the asset are treated as depreciable.

Unsuccessful R&D

A one-off tax deduction will be allowed for capitalised development expenditure incurred on or after 7 November 2013 on intangible assets that did not create a depreciable intangible asset and which are written off for accounting purposes. This will be irrespective of whether the assets were used in the business or the R&D was unsuccessful.

There will be a claw back provision if the R&D asset subsequently becomes useful to the business in producing taxable income. The claw-back will, however, become depreciable over the life of the asset. A similar provision will apply if the intangible asset is sold, with the previous write-off being deemed to be income to the extent of the consideration received.

The objective is to ensure businesses are not discouraged from investing in R&D because of the potential adverse tax treatment.

New categories of depreciable intangible property

The schedule of depreciable intangible property is to be extended so that:

- Registered designs and applications for registered designs will become depreciable with a fixed life over 15 years; and
- Copyright in an artistic work which has been used industrially will be depreciable over 16 years for product designs or casting moulds, and 25 years in the case of works of craftsmanship.

Although the effective date for the change is to be from the start of the 2015/16 income year, the treatment will apply to certain expenditure incurred from the date of the release of the original Discussion Document, i.e. 7 November 2013.

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SINGAPORE

TAX AUTHORITY ISSUES CLARIFICATION ON PRODUCTIVITY AND INNOVATION CREDIT PLUS (PIC+) SCHEME

Following the announcement of the new PIC+ scheme during the Singapore 2014 Budget in February 2014 (see WWTN March 2014), the Inland Revenue Authority of Singapore (IRAS) has released its clarification on the PIC+ scheme.

In this article we summarise the clarification and its impact on businesses.

A RECAP

The PIC scheme supports small and medium sized enterprises (SME) in their investments in productivity and innovation by providing enhanced tax deductions or cash payouts.

The PIC+ scheme is an enhancement to the existing PIC scheme which covers years of assessment (YAs) 2011 to YA2015. Under the PIC+ scheme, the expenditure cap for qualifying SMEs has been increased from SGD 400,000 to SGD 600,000 per qualifying activity per YA from YA 2015 to 2018. The combined expenditure cap per qualifying activity for qualifying SMEs has therefore been increased to SGD 1.4 million and SGD 1.8 million for YAs 2013-2015 and YAs 2016-2018 respectively.

A qualifying SME is an entity whose (a) annual turnover is not more than SGD 100 million; or (b) the employment size is not more than 200 workers. This criterion will be applied at the group level if the entity is part of a group.

In addition to companies carrying a trade or business, sole proprietors, partnerships and Singapore branches are also eligible for the scheme.

CLARIFICATION FROM IRAS

The clarification provided by the IRAS has addressed most of the questions and issues raised following the Budget announcement, and is summarised as follows:

Definition of "worker"/"employee"

An employee is defined as an individual who enters into a contract of service with an employer, where the employer pays the employee a salary, and includes:

– Company directors and part-time employees; and

– An individual who works for an entity under a centralised hiring arrangement, i.e. an individual deployed to work for an entity which is not their legal employer.

Definition of "annual turnover"/"revenue"

"Revenue" is income arising from the ordinary activities of a business or the main source of income of a business. The "revenue" is calculated based on the revenue generated during the basis period for the YA, and it is not necessary to have a twelve-month basis period.

Part of a group

A group refers to a parent and its subsidiaries as determined in accordance with the Financial Reporting Standard (FRS) 110 or FRS 27 for financial periods before 1 January 2014. This includes overseas entities.

At what point in time

The determination of employment size and whether an SME is part of a group is made on the last day of the relevant basis period.

Claw-back

There is no claw-back of PIC+ claims previously allowed when the entity no longer satisfies the SME definition.

The IRAS has further clarified that businesses will have to self-assess their eligibility for the scheme using the following conditions:

– For YA 2015, the business that is claiming the PIC+ has to be a qualifying SME for that YA.

– For YAs 2016-2018, the business can enjoy the PIC+ benefits once it satisfies the conditions to be a qualifying SME in any of the YAs. This would apply even when the business does not meet the qualifying conditions in the subsequent YAs. The only exception to this is when there is a change in the parent of the business or if the business becomes part of a group, when the business will have to re-assess its eligibility for the scheme for the YA relating to the basis period in which there is a change of control.

For greater certainty and flexibility, businesses can choose the basis period in which to ascertain if they are qualifying SMEs in the YAs 2015-2016 as follows:

To be qualifying SME in	Relevant basis period
YA 2015	Basis period for either YA 2014 or YA 2015
YA 2016	Basis period for either YA 2015 or YA 2016

For an individual who is a sole proprietor or controlling partner of a partnership; and for Singapore Branches, the eligibility criteria, "revenue" and employment size will be determined as follows:

Business	Application
Sole proprietor	At the individual level by consolidating all the sole proprietor's businesses
Partnership	At the partnership level
Singapore Branch	At head office together with all its branches At group level if head office is part of a group

As this is a "self-assessment" exercise, the onus of proof rests with the taxpayer. Taxpayers are advised to maintain all documentary evidence that proves their eligibility under the scheme. These documents may include group structure or consolidated financial statements or separate financial statements of each entity under the group for the relevant financial period if the entity is part of a group, HR records of its employees, and Central Provident Fund records. These documents must be submitted to IRAS upon request.

SINGAPORE – continuation

OUR COMMENTS

Most of the clarifications are as expected.

A noteworthy observation is the definition of an SME – EITHER the revenue OR the employment size condition. A business with revenue more than SGD 100 m will still qualify for PIC+ scheme if its employment size is below 200, and vice versa. More businesses will therefore fall within the definition of SME and benefit from the scheme.

Interestingly, the definition of employee/worker has not specifically included contract workers who are employed by employment agencies. In such cases, where there is neither a contract of service with the employer nor any centralised hiring arrangement, businesses may still qualify as SMEs although they effectively exceed the 200 headcount. Watch this space to see if the IRAS issues any further clarification.

The definition of "group" includes overseas entities. This is indeed in line with the policy intent of helping local SMEs, as the Singapore operations of a multi-national company may be small, but the size of the group may exceed the threshold.

The testing point for the employment size at the end of the year appears to simplify the process and ease the administration burden on businesses, as it may be difficult to track the average employment size throughout the year.

As "revenue" is calculated based on the revenue generated during the basis period for the YA, for which is not necessary to have a twelve-month basis period, any new start up business can choose a first financial period of less than 12 months to maximise its PIC+ benefits.

A more commendable note is the forward looking move that there will be no claw back of PIC+ claims when a business grows and is no longer regarded as an SME.

All in all, the PIC+ Scheme is definitely welcomed by SMEs as this is indeed a generous scheme in addition to the original PIC Scheme. Given the limited available period, businesses must act fast to reap the benefits!

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THAILAND

TAX RATES CUT IN PREPARATION FOR AEC 2015

With the proposed creation of the ASEAN Economic Community (AEC) in 2015, the number of businesses in ASEAN (Association of Southeast Asian Nations) engaged in cross border trade and investment is expected to increase significantly.

Whilst one of the core elements underpinning the AEC is the free flow of investment and the lifting of restrictions on ASEAN businesses trading in the region, the AEC blueprint does not contain action points to harmonise national tax policies. Member nations are therefore free to use tax policies to compete for investment and trade within ASEAN.

This is demonstrated by Thailand cutting its corporate and personal tax rates, as part of its efforts to improve the kingdom's competitiveness.

CORPORATE INCOME TAX

The corporate income tax rate has been reduced from 23% to 20% for accounting periods commencing on or after 1 January 2013 and by 31 December 2014, and is expected to be extended to later years.

For small and medium enterprises (SMEs), the first THB 300,000 of net profit is exempt from income tax, and the next THB 700,000 is subject to 15% tax. Net profits exceeding THB 1 million are subject to 20% tax.

To be eligible for the SME rates, the following conditions must be met:

1. The company's paid-up share capital must not exceed THB 5 million on the last day of the accounting period; and
2. The income derived from the sale of goods or provision of services during the accounting period must not exceed THB 30 million.

The rate reduction means that Thailand moves from being a nation with one of the highest corporate tax rates in ASEAN to the lowest, apart from Singapore's 17% rate.

PERSONAL TAX

Thailand also recently reduced its personal tax rates, which have effect retrospectively from 1 January 2013.

The highest personal tax rate has been cut from 37% to 35% and the number of tax bands has been increased. For example, net income from THB 1 million to THB 4 million was previously taxed at 30%, whilst the new scales tax net income from THB 1 million to THB 2 million at only 25% and then tax net income from THB 2 million to THB 4 million at 30%.

The new personal tax rate scales are as follows:

Net Income (THB)			Marginal Tax Rate
1	-	150,000	Exempt
150,001	-	300,000	5%
300,001	-	500,000	10%
500,001	-	750,000	15%
750,001	-	1,000,000	20%
1,000,001	-	2,000,000	25%
2,000,001	-	4,000,000	30%
4,000,001	or	above	35%

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KAZAKHSTAN

PROPOSED CORPORATE INCOME TAX EXEMPTION, AND OTHER RECENT CHANGES

CORPORATE INCOME TAX

At the recent opening of the 47th annual session of the Asian Development Bank, the President of the Republic of Kazakhstan, Nursultan Nazarbayev, announced a proposed 10-year exemption from corporate income tax for investors in Kazakhstan.

He stated: "We intend to ensure the most favourable investment climate. To this end, in the current year we will enact a new law to improve investment legislation. We plan to exempt investors from corporate income tax for 10 years, introduce investment subsidies, ensure stability in legislation and predictability for tariffs, and simplify import of foreign labour."

INTERNATIONAL TAXATION

Clarifying amendments to the Tax Code (article 208) have been introduced with regard to treating management and general administrative expenses of a non-resident legal entity as tax-deductible.

Under these amendments, a non-resident legal entity operating in the Republic of Kazakhstan through a permanent establishment (PE) is entitled to treat as deductible only the amounts of Head Office management and general administrative expenses that are documented and directly associated with PE activities in the Republic of Kazakhstan.

Article 208.1 of the Tax Code specifies the types of expenses incurred by a non-resident legal entity that cannot be included in the allocated expenses of such an entity, as well as the list of management and general administrative expenses that are treated as deductible.

VALUE ADDED TAX

Due to the introduction of electronic billing in the Republic of Kazakhstan, regulations were introduced to provide tax payers with the option to issue electronic bills. Thus, the Tax Code establishes a concept of an "E-Billing Information System", as well as other relevant amendments. This will apply from 1 July 2014.

ADMINISTRATIVE VIOLATIONS

Some tax-related articles of the Administrative Violations Code have been changed to provide for a "warning notice" instead of a penalty as a corrective action for first-time violators.

"Officials" have been excluded from being subjects of administrative liability.

Other changes in the Administrative Violations Code provide for a new simplified procedure of imposing administrative sanctions, under which documents for payment of administrative penalties are issued without an administrative violation report if a violator admits a violation and agrees to pay a penalty. For such violators, no administrative papers are prepared, but a certain document (notice or writ) will be issued to a violator for him/her to pay a penalty within ten working days.

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LATVIA

NEW ANTI-AVOIDANCE RULES

Latvia has introduced new anti-avoidance rules in relation to the taxation of income of shareholders and or/employees.

In recent years it has been common practice for Latvian legal entities to make open-ended loans to private individuals (shareholders and/or employees of the company) instead of dividends and salary payments which are subject to personal income tax. In order to reduce the abuse of taxation on private persons' income, the Law on Personal Income Tax has been amended with effect from 1 January 2014. The new anti-avoidance rules refer to loans made to private individuals from 1 January 2014. Similarly, tax will also be due on interest-free or reduced interest loans to private individuals.

NEW RULES FOR LOANS

From 1 January 2014, a legal entity making a loan to a private individual must comply with the following criteria:

- The loan agreement must be in writing;
- The loan must be made and repaid in the form of a bank transfer;
- The loan repayment period must not exceed 60 months (an additional six months are provided for settlement of payment and procedural actions);
- On the day of making the loan the lender must not have tax debts that are outstanding for more than one month;
- The maximum amount of the loan will be:
  - If the borrower receives income from the lender: 30% of the last year's gross income multiplied by 60;
  - If the borrower is an owner and does not receive income from the lender: not in excess of the amount of equity to be referred to the owner as a borrower;
  - The total amount of the loans granted by the lender must not exceed the amount of equity.

An additional requirement applies if a private individual receives a loan from a lender that is a non-resident of the European Union or European Economic Area, or located in the country with which a double tax treaty has not been concluded, or a low-tax or tax-free country or territory – the loan agreement must be executed at the notary office.

If the loan is made by a legal entity after 1 January 2014 and not repaid by the maturity date (maximum 66 months since issuing date), then under certain criteria the lender will be liable for the payment of personal income tax.

With regard to loans made before 1 January 2014, an unpaid loan threshold of EUR 15 000 has been set by the legislation for the purposes of determining liabilities of private individuals.

Furthermore, private individuals are obliged until 30 June 2014 to report to the State Revenue Service details of loans received and unpaid by 31 December 2014 if the amount of the unpaid loan exceeds EUR 15 000. If the private individual has not reported the unpaid amount of the loan exceeding EUR 15 000 it will be considered as income for personal income tax purposes and taxed at a rate of 24%. An additional rate of 22% will apply if the loan is made by a legal entity to an employee, a member of the board, the council or another person whose income might be subject to the social security contributions.

A private individual is not obliged to report details of loans to the State Revenue Service if:

- The lender and the borrower are married;
- The lender and the borrower are relatives within the third degree;
- The lender is a credit institution or a company which has been granted a special consumer credits license.

NEW RULES FOR INTEREST

Private individuals will also be subject to personal income tax on interest payments not made to the lender or on the difference between interest at the market value and the amount actually paid. (The market value of the interest rate to be paid by private individuals for loans is set by the legislation). The difference will be subject to personal income tax at a standard personal income tax rate (2014 - 24%). This treatment will apply to loans made both by resident and non-resident legal entities. The provisions will not apply to loans made by a:

- Credit institution;
- Credit union; or
- Legal entity possessing a consumer credit licence.

If the unpaid amount of a loan is treated as income, the same tax treatment will be applied to the interest payments.

These regulations will end the unlimited use of loans by legal entities to private individuals.

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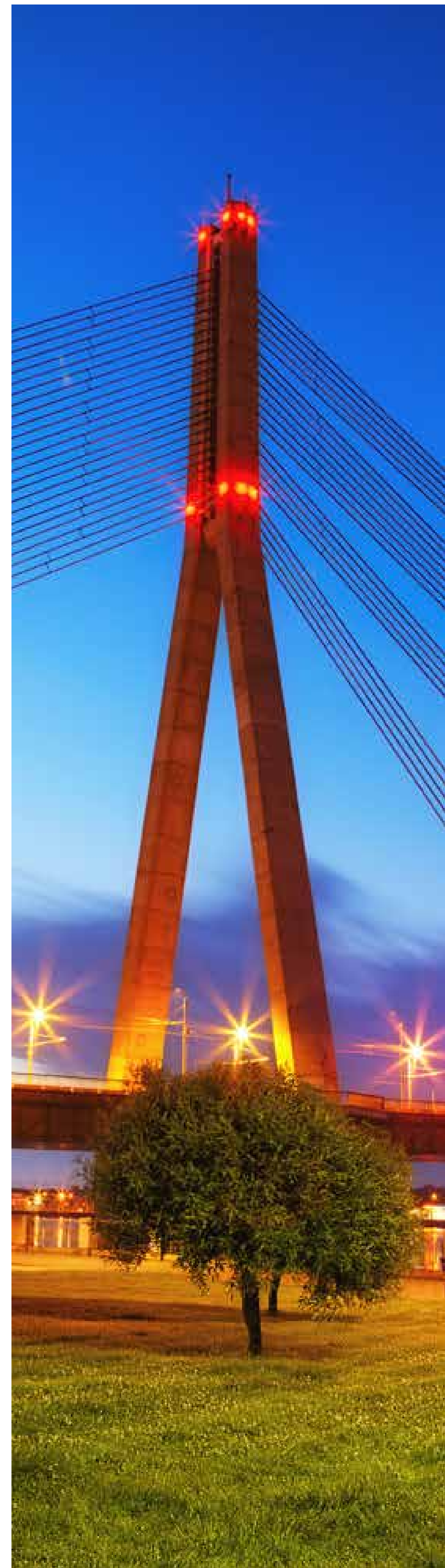

MALTA

INDIVIDUAL INVESTOR PROGRAMME

Malta has introduced an Individual Investor Programme (IIP), under which successful applicants will be granted full citizenship in Malta, following a rigid and thorough due diligence process. The IIP aims to attract investors with expertise and experience to Malta, in order to create new opportunities and make an economic contribution to the country.

WHY MALTESE CITIZENSHIP?

The objectives for obtaining Maltese citizenship and the benefits gained will vary amongst individuals. However, the objectives and benefits may include:

- The gaining of citizenship within a well-respected and stable EU country
- Access to all investment opportunities in Malta and throughout the European Union
- Access to the Schengen Area
- Right of establishment in all EU States and Switzerland
- Visa-free travel to more than 160 countries in the world, including the USA
- Possible tax planning benefits
- Dependence on more than one passport (Malta has no restrictions on dual citizenship)
- Personal security
- A stable political system
- Good quality of life.

APPLICATION REQUIREMENTS

- The principal applicant must be at least 18 years of age
- The applicant must be a resident of Malta for a period of 12 months preceding the issue of a certificate of naturalisation
- The individual is required to make a contribution to the economic development of Malta through the payment of a non-refundable contribution to the Malta National Development & Social Fund/Consolidated Fund
- The individual is required, within four months of the issue of a Letter of Approval in Principle, to provide evidence that:
  - The applicant has a Global Health Insurance coverage of at least EUR 50,000 for the principal applicant and each of the dependants, and must give proof that they can maintain the same coverage for an indefinite period
  - The applicant has acquired real estate in Malta with a minimum value of EUR 350,000 to be held for at least 5 years; or has leased a residential immovable property in Malta for a period of 5 years, at an annual rent of at least EUR 16,000 (Immovable property cannot be let or sublet)
  - The principal applicant has made such other investments in Malta to an amount of EUR 150,000 in stocks, bonds, debentures, special purpose vehicles, or other investment vehicles, amongst others, as may be identified by competent authorities.

Applications must be accompanied by authenticated supporting identification and verification documents in English, together with:

- Police Conduct certificates
- Proof that the main applicant has been a resident of Malta for a period of 12 months preceding naturalisation. *Persons resident in Malta one year prior to approval of their IIP application need not satisfy further residence requirements*
- Medical certificates stating that the applicant and his dependants are not suffering from contagious diseases and are in good health
- An affidavit of support for each dependant who is over 18 years of age.

Furthermore, all applicants aged 18 years and over are obliged to attend, in person, in Malta to undertake an Oath of Allegiance.

The process takes between 6 to 24 months.

MINIMUM CONTRIBUTION REQUIREMENTS AND FEES

The minimum contribution requirements and fees payable are summarised in the following table:

Minimum contribution requirements	For successful applications, the following contributions to the Malta National Development & Social Fund/Consolidated Fund are non-refundable: – Principal applicant EUR 650,000, including EUR 10,000 which is non-refundable irrespective of success of application. The balance of EUR 640,000 is to be contributed upon successful application – Spouse EUR 25,000 – Each dependent child aged 0-17 EUR 25,000 – Each dependent child aged 18-26 EUR 50,000 – Each dependant aged 55 or above EUR 50,000
Due diligence fees	The following non-refundable fees are payable to Identity Malta (The Government of Malta Agency) upon application: – Principal applicant EUR 7,500 – Spouse EUR 5,000 – Each dependent child aged 13-17 EUR 3,000 – Each dependent child aged 18-26 EUR 5,000 – Each dependant aged 55 or above EUR 5,000
Other fees	– Passport fee per person EUR 500 per person – Bank charges EUR 200 per applicant

MALTA – continuation

PERSONAL TAX

In itself, becoming a citizen of Malta under the IIP does not require a transfer of taxability to Malta. However, should the applicant consider this to be advantageous, one may carry out such a transfer.

Individuals who are resident and domiciled in Malta are taxed on their worldwide income. Personal income is taxed at progressive rates with the highest bracket capped at 35%. Persons who move their residence to Malta but whose domicile of origin, or by choice, is outside of Malta are not subject to tax on worldwide income but are subject to tax when income and/or capital gains arise in Malta.

Income arising outside of Malta is only taxed if such income is remitted to Malta. Foreign capital gains are not subject to tax in Malta, even if remitted to Malta and there are no inheritance, gift, or wealth taxes. However, a transfer duty is payable by the heir at 5% of the declared property value.

Individuals who are non-domiciled but resident in Malta can apply for a special tax status, of which the main features are summarised in the following table:

CORPORATE TAX

Malta's corporate tax system is fully compliant with the EU and other international Standards, with over 65 double taxation agreements. Malta operates a very attractive corporate fiscal system under which the effective tax charge on distributed profits is between 0-6.25% depending on various set-ups, facts and circumstances.

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SPECIAL TAX STATUS HIGHLIGHTS	
EU nationals (not domiciled but resident in Malta)	**Non-EU nationals (not domiciled but resident in Malta)**
– 15% tax rate on foreign income received in Malta – Minimum annual tax EUR 20,000 plus EUR 2,500 per dependant – Must own a residential property worth at least EUR 400,000, or rent a property for at least EUR 20,000 per annum	– 15% tax rate on foreign income received in Malta – Minimum annual tax EUR 15,000 – Must own a residential property worth at least EUR 275,000, or rent a property for at least EUR 9,600 per annum

MONGOLIA

UPCOMING REFORMS TO THE TAX SYSTEM

BACKGROUND

Mongolia adopted a new tax system 21 years ago. During these 21 years 101 laws have been approved, of which 46 have been cancelled and 55 are still effective.

After the implementation of the new tax system the first reform of the tax legislation was carried out in 2007. The main aim of that reform was to create a positive environment for businesses. Now Mongolia is planning to make its second reform to the tax legislation. In recent years a wide range of inefficient tax exemptions and reliefs were leading to tax avoidance, to the detriment of equality and a fair principle of taxation in general. Within the existing tax legislation, there are 40 different tax reliefs and more than 180 tax exemptions, which annually amount to MNT 1 trillion, 30% of the total annual taxation income of Mongolia.

PROPOSED CHANGES

The second tax reform is to be implemented in 2014, which will involve amending 17 tax laws.

Mongolia has 23 types of tax, of which four were never applied in practice. These are taxes on inheritances, presents and gifts, a capital city tax, a tax on dogs and a land surface usage tax. The dog tax was considered unnecessary, and draft laws in relation to the others will be discussed on the spring 2014 session of the parliament.

As a result of the reform, the number of tax guidelines for implementation of tax laws will be reduced from the current 24 to 13. The aim of this is to provide clarification and understanding in relation to disputes that have arisen in recent years with regard to tax laws and regulations.

The reform is guided by a policy of making the tax legislation simple and understandable for taxpayers, with no ambiguities. Furthermore, it aims to have a common policy on tax reliefs and exemptions, reflecting and following internationally accepted principles.

As reflected in the government's policy on supporting small and medium sized businesses, companies with a turnover of up to MNT 1.5 billion will be eligible for tax relief of 90% on their corporate income taxes. As a result, companies which are currently paying 10% corporate income tax will pay 1% tax by using this exemption.

One of the particular matters covered in the reform is an increase in the number of years tax losses can be carried forward, in order to assist business investment. The current legislation allows losses to be carried forward two to five years, which was considered short compared to other countries.

For corporate income taxation there will be some positive changes towards supporting businesses:

1. To give 1 to 1.5 years of tax exemption to new companies.
2. To extend tax loss carry forward to five years, to support businesses with high technology and innovative developments.
3. There will no increase in the tax rates within this reform.

From 2014, tax office services are moved online, and individual and business taxpayers will report on their applicable taxes online. Mongolia has already saved MNT 6.4 billion by replacing paper based reporting.

By moving the tax office services online, Mongolia has built the basis for a common and integrated database for tax, customs and state registration offices. This will make it possible to register and control cash and non-cash transactions. VAT invoices will also be moved to an online regime, replacing paper invoices.

The revenue limit for VAT payer registration will be increased to a certain level (MNT 50 million as per the draft amendment) in light of the current economic situation, with the aim of supporting investment and employment.

A new land surface usage tax has been drafted as part of the reform. Until now Mongolia has imposed tax on products extracted from underground, but not for using the surface of the land. Under the new legislation construction companies who are using the land surface will also be liable to pay tax.

The amendments will be effective when they are approved by the Parliament of Mongolia, and they are subject to change during the parliamentary discussion and approval.

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NETHERLANDS

THE CONCEPT OF SOUND BUSINESS PRACTICE IN RELATION TO THE PARTICIPATION EXEMPTION

Recently, the Dutch Supreme Court issued a decision regarding the application of the concept of sound business practice in relation to the participation exemption.

If a Dutch corporate tax payer holds at least 5% of the shares in a subsidiary, then under certain conditions it can benefit from the participation exemption, which exempts dividends and capital gains from Dutch corporate income tax. However, regular losses will not be deductible.

In this case, a Dutch company acquired 4.7% of the shares in a foreign company in 2004, and at that time the shareholding qualified for the participation exemption. In 2007 the Dutch corporation tax act was amended, and as from 2007 onwards shareholdings under 5% no longer qualify for the participation exemption. Due to the transition period of three years, the participation exemption remained applicable to this 4.7% shareholding until 2009.

The acquisition price of the shareholding in 2004 was EUR 35 million. The value at the end of 2009, when the shareholding was excluded from the participation exemption regime, was EUR 14 million. During 2010 the shares were sold for EUR 22 million.

The key issues in this Supreme Court case were:

1. Is the concept of compartmentalisation applicable in this situation?
2. Does the concept of sound business practice oblige the shareholder to revalue its shareholding at the time the participation exemption regime ends?

1. Compartmentalisation

   In a similar case the Supreme Court decided on 14 June 2013 that compartmentalisation is not applicable in this situation, because the denial of the fiscal participation exemption regime is caused by an amendment of the law, and the law does not include specific regulations to cover the effects of the denial of the regime due to the law change. The Supreme Court ruled, in line with a previous decision, that compartmentalisation is not applicable.

2. Sound business practice

   The Supreme Court determined that the concept of sound business practice does not oblige a taxpayer to revalue its shareholding at the time the participation exemption regime ends. This was the view of the tax authorities and would have led to a taxable profit of EUR 8 million (EUR 22 million - EUR 14 million). In the Supreme Court's view the taxpayer may, therefore, maintain the original acquisition price. Consequently, the sale of the shareholding in 2010 results in a tax deductible loss of EUR 13 million, the difference between the original acquisition price of EUR 35 million and the EUR 22 million transfer price when the shareholding was sold in 2010.

FURTHER GUIDANCE ON NON-BUSINESSLIKE LOANS

On 28 February 2014 the Dutch Supreme Court provided further guidance on its shareholders loan doctrine (non-businesslike loans).

In 2001 an investment company (the creditor) concluded a participation agreement with various other parties in order to finance a participation. In this respect, a loan was provided to a company in which the creditor, at the time of providing the loan, did not hold any shares. Furthermore, a guarantee for the debtor to the bank was provided by the creditor. Subsequently, the debtor was declared bankrupt. As a result of this bankruptcy, the creditor deducted the loss on the loan, including the amount of the bank guarantee, from its taxable profit. This deduction was not accepted by the Dutch tax inspector and the Amsterdam Court. According to the Amsterdam Court, the loan was provided based on shareholders' motives and therefore had to be considered as a non-businesslike loan resulting in a non-deductible loss for the creditor. Based on case law as at 3 May 2013, the Supreme Court ruled that in principle a loan can be considered as a businesslike loan if:

- The creditor was not yet a shareholder of the debtor directly before the loan was granted; and
- The creditor became a shareholder of the debtor through the allocation of shares or otherwise became entitled to the profits of the debtor as part of granting the loan.

According to the Supreme Court there may, however, be exceptional situations in which this conclusion is not justified. In particular, this is the case where the creditor acquires a shareholding in the debtor after providing the loan, and the shareholding equals the amount of the loan provided by the creditor. Additionally, an independent third party would not have accepted the credit risk under similar terms and conditions.

However, this was not the case here, and therefore the loan was considered businesslike. The loss on the loan could be deducted.

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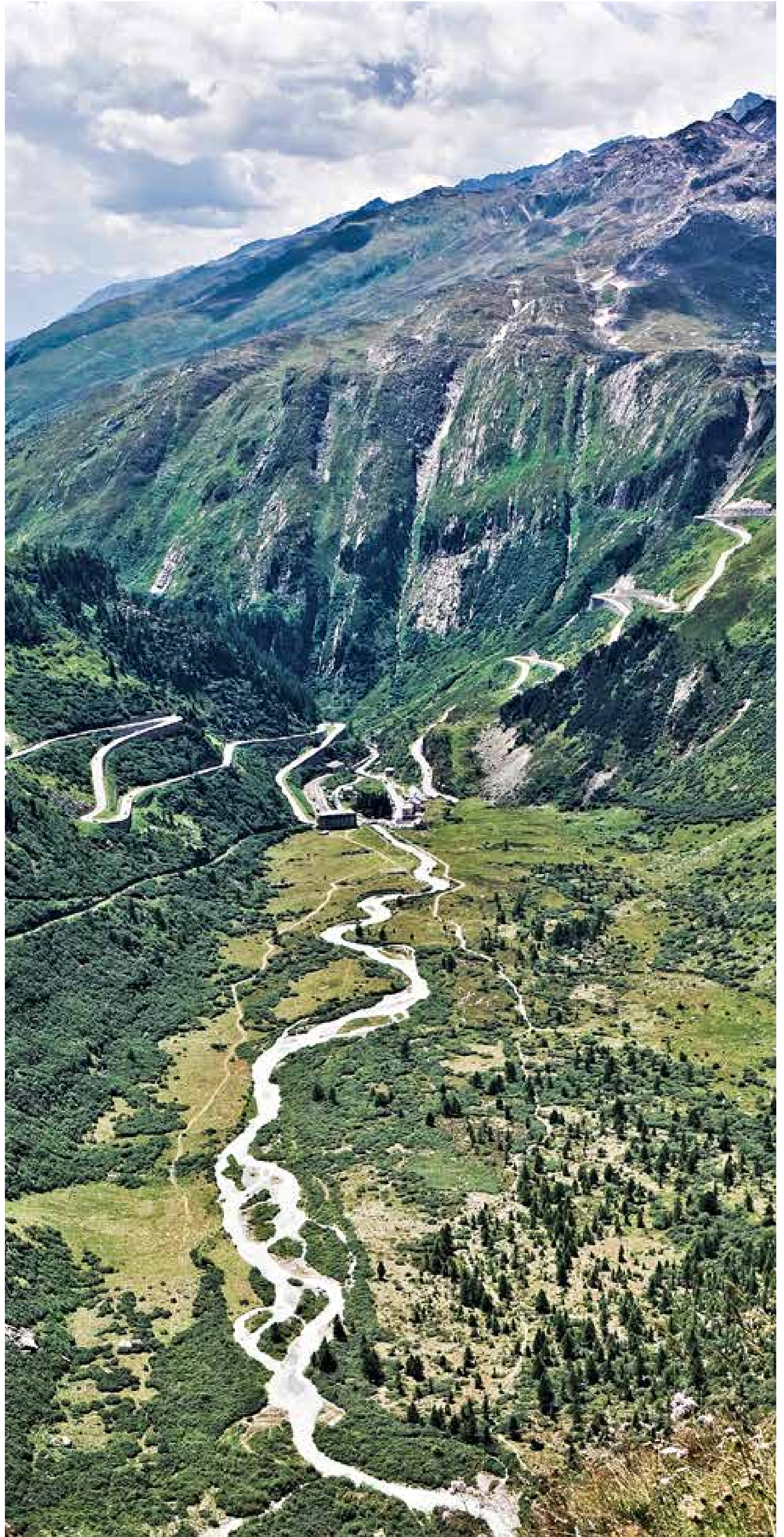
SWITZERLAND

THE END OF SWISS BANKING SECRECY FOR FOREIGNERS

On 6 May 2014 the Declaration on Automatic Exchange of Information in Tax Matters was endorsed during the OECD's annual Ministerial Council Meeting in Paris by all 34 member countries, along with Argentina, Brazil, China, Colombia, Costa Rica, India, Indonesia, Latvia, Lithuania, Malaysia, Saudi Arabia, Singapore and South Africa.

The Declaration commits countries to implement a new single global standard on automatic exchange of information. The standard, which was developed at the OECD and endorsed by G20 finance ministers on 2 May 2014, obliges countries and jurisdictions to obtain all financial information from their financial institutions and exchange that information automatically with other jurisdictions on an annual basis.

In addition to Switzerland, Singapore and Luxembourg, two other major financial centres, will participate in the exchange of information system. The adoption represents a political statement of intent. The formal introduction of global standards is yet to be established and the adoption of the new rules has to pass Swiss governmental procedures for the change of laws. The actual exchange of information between countries is likely to start in 2017 at the earliest.



SWISS NATIONAL COUNCIL SAYS NO TO ABOLITION OF LUMP-SUM TAXATION AND THE CANTON OF TICINO MAINTAINS THE PRIVILEGED TAXATION

On 6 May 2014 the National Council (House of Representatives) voted against the nationwide initiative to abolish lump-sum taxation. However, this vote is in fact a recommendation and the final decision will be taken in a public vote, which most probably will take place later in 2014.

In 2009 the people of canton of Zurich voted against the lump-sum taxation and the cantons of Schaffhausen, Appenzell Ausserrhoden, Basel Landschaft and Basel Stadt followed Zurich's example. The latest news is from the canton of Ticino where the cantonal parliament voted on 6 May 2014 against a parliamental initiative to abolish the cantonal lump-sum taxation.

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UNITED KINGDOM

CAPITAL GAINS TAX ON UK RESIDENTIAL PROPERTY TO BE EXTENDED TO NON-UK RESIDENT INVESTORS

In September 2013, the Government announced that it would extend UK capital gains tax to gains made by non-UK residents disposing of UK residential property from April 2015. A consultation document issued in March 2014 sets out how the Government proposes the CGT charge should be applied.

BACKGROUND

The Government has expressed the view that it is unfair that UK resident investors are subject to UK tax on their UK residential property investments whilst non-UK residents are generally not. Its objectives in extending the charge are for "fairness", "sustainability" and "simplicity".

Currently, non-UK residents are only chargeable to UK tax on their gains where they hold an asset used within a UK permanent establishment or on certain high value residential properties held by certain entities liable to the Annual Tax on Enveloped Dwellings charge.

PROPOSED CHANGE

From April 2015, certain non-UK resident investors will be subject to CGT on gains arising from UK residential property after that date.

WHAT IS MEANT BY RESIDENTIAL PROPERTY?

The extended CGT charge is intended to focus on property used or suitable for use as a dwelling, i.e. a place that is used as a residence, or has the potential to be so used. Unlike the annual tax on enveloped dwellings (ATED), the tax charge will also apply to properties which are part of an investment business, such as property rental businesses.

However, the charge will not apply to:

- Some accommodation for children and students, such as boarding schools and halls of residence;
- Accommodation to provide care, such as nursing homes for the elderly or disabled;
- Other communal accommodation, such as those for use by the armed forces, prisons and similar establishments.

PROPOSALS

The Government is looking at which types of non-resident entity should be subject to the charge, as well as individuals. The consultation document proposes the following:

- **Non-UK resident companies** – unlike the current CGT charge on certain high value residential properties, the Government proposes taxing gains on all residential properties regardless of their value. UK companies are currently subject to tax on gains at a lower rate than individuals and are also able to claim indexation allowance. It is, therefore, proposed to introduce a tailored approach for non-UK resident companies.
- **Partnerships** – partners should be taxed on the gains attributed to them.
- **Trusts** – non-UK resident trustees (of all types of trust) should be subject to CGT on the gains made on UK residential property disposals.
- **Offshore funds** – the charge is not intended to apply to the disposal of shares or units in funds. However, for anti-avoidance reasons, consideration will be given to introducing a charge at the fund level unless the fund meets the genuine diversity of ownership (GDO) test. The GDO test is expected to ensure that most collective investment schemes are excluded from the charge. A further test to exclude funds where the vast majority of their portfolios are commercial properties will also be considered.
- **Pension funds** – will be excluded from the charge.
- **UK real estate investment trusts (REITs)** – non-UK resident investors in UK REITs will not be affected by the new charge.
- **Foreign REITs** – these will not be subject to the charge where they are equivalent to UK REITs.

PRIVATE RESIDENCE RELIEF

Principal private residence relief is intended to provide relief from CGT where an individual disposes of his or her main residence. It is considered that a non-UK resident may genuinely have a UK property which has been his or her main residence, for example where a person emigrates from the UK and then sells his or her UK home.

Where an individual has more than one residence, he or she can nominate one of these to be treated as his or her main residence. The Government considers that non-UK residents may use this mechanism for tax avoidance purposes and is, therefore, considering the following:

- Removing the ability for a person to make the election. Whether a UK property is demonstrably the person's main residence will then be decided under first principles; or
- Introducing a rule that identifies a person's main residence, such as the place in which the person has been present most for any given tax year.

This change would also apply to UK residents, with potentially significant implications for many people who own two homes.

RATE OF TAX

In calculating the rate of tax, it is intended that the annual exempt amount (currently GBP 11,000) will be available to non-resident individuals. The rates of tax above this will be 18% or 28% depending on the level of the individual's total income and gains in the year of the disposal.

The rate of tax to apply to gains made by other non-UK resident entities (companies, funds, etc.) will be confirmed at a later date.

LOSSES

The Government will also ensure that there is a mechanism for claiming losses.

UNITED KINGDOM – continuation

COMPLIANCE

The current self-assessment process relies on voluntary reporting and payment. The Government's preference is, therefore, to introduce a form of withholding tax that operates alongside an option to self-report the tax due. Where a non-UK resident seller has been identified:

- The seller would be given the option to pay either the withholding tax or the actual liability
- The money would be transferred
- A return would be submitted at a later date to allow for any differences to be settled.

The Government believes that this process will be similar to the existing stamp duty land tax (SDLT) process with agents transferring monies due within 30 days.

OTHER CHANGES – SDLT

Since 20 March 2014, the 15% SDLT rate has been extended to certain transactions with consideration above GBP 500,000 (formerly GBP 2 m). This applies to acquisitions by companies, collective investment schemes or partnerships with a corporate partner. Certain reliefs are available (e.g. for commercially let property).

OTHER CHANGES – ATED

From April 2015, a new ATED band for properties with values between GBP 1 m and GBP 2 m will be subject to an annual charge of GBP 7,000. It is also proposed that from April 2016 an additional new ATED band for properties with values between GBP 500,000 and GBP 1 m will be subject to an annual charge of GBP 3,500. ATED applies only to residential properties held by companies, collective investment schemes or partnerships with a corporate partner. Certain reliefs are available (e.g. for commercially let property).

IMPLICATIONS

The proposed changes would significantly alter the way non-UK resident investors are taxed on their capital gains, with a knock-on effect for some UK residents. Responses to the consultation are requested by 20 June 2014, with the new rules due to be implemented in April 2015. No fundamental changes to these proposals are expected, so non-UK resident investors should now consider how best to hold UK residential properties in future, and UK residents with more than one residential property should consider whether any action is required in advance of the proposed changes.

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UNITED STATES

NEW FATCA ANNOUNCEMENTS

With multiple Foreign Account Tax Compliance Act (FATCA) deadlines approaching, the United States Treasury Department and Internal Revenue IRS (IRS) have recently issued guidance pertaining to these deadlines.

INTRODUCTION

In conjunction with the new FATCA compliance requirements, the IRS recently released the final version of the withholding certificate (Form W-8BEN-E), replacing Form W-8BEN, to be completed by foreign entities receiving payments from the United States. Additionally, the Treasury and the IRS issued Announcement 2014-17, which serves to expand the list of jurisdictions considered to have an effective Intergovernmental Agreement (IGA) regarding FATCA with the United States, and also extends the foreign financial institution (FFI) registration deadline by ten days.

FORM W-8BEN-E

On 31 March 2014, as part of the new FATCA regulations, the IRS released the final version of Form W-8BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities). The new form is eight pages long and replaces the one-page Form W-8BEN in the case of foreign entities. Please note that non-United States individuals will be required to continue to fill out a newly-revised Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals). A draft form W-8BEN-E was released in May 2012. One of the changes appearing on the final form is the addition of a chapter 4 (FATCA) status, "certified deemed-compliant investment advisors and investment managers." This new category serves to noticeably reduce the FFI compliance obligations of such entities.

Form W-8BEN-E serves four main purposes, which are to:

1. Establish non-United States status;
2. Claim beneficial owner status;
3. Claim exemption from, or reduction in, United States withholding tax under chapter 3; and
4. Identify the entity's category for chapter 4 purposes.

Form W-8BEN-E should be completed by legal entities that beneficially own the payments being received. If an entity has completed Form W-8BEN for the current year, a Form W-8BEN-E should be submitted in place of the current form.

Additionally, entities should request that their foreign vendors submit Form W-8BEN-E to ensure compliance with FATCA regulations. Form W-8BEN-E should be provided to the withholding agent or person requesting the form; it is not to be submitted to the IRS.

Failure to provide Form W-8BEN-E may result in a loss of treaty benefits and the determination of being non-compliant for FATCA purposes, and therefore, subject any United States source withholdable payments to United States withholding tax.

RELEASE OF ANNOUNCEMENT 2014-17

On 2 April 2014, the Treasury and the IRS stated that they will consider an IGA to be in effect for FATCA purposes if the jurisdiction has substantially agreed upon an IGA with the United States. This determination will enable entities in those jurisdictions to register as an FFI and appear on the IRS's FFI Lists using the privileges provided under IGAs during the process of finalising the IGA between the two jurisdictions.

Appearing on the IRS's FFI List is important as the final regulations require that, to be exempt from the new FATCA withholding, any payment made after 30 June 2014, requires the withholding agent to obtain the FFI's Global Intermediary Identification Number (GIIN), and confirm that the GIIN appears on the IRS's FFI List.

Announcement 2014-17 will afford jurisdictions that have in substance reached an unsigned agreement pertaining to an IGA with the United States to have that IGA considered to be in effect. This treatment is only offered to jurisdictions that meet the requirements prior to 1 July 2014. Currently, there are 26 jurisdictions that have already finalised IGAs with the United States and 19 jurisdictions that have not finalised, but have come to substantial agreements pertaining to IGAs with the United States. This announcement will treat those 19 jurisdictions as having an IGA in effect with the United States. Therefore, entities that reside in, or are organised under the laws of, those jurisdictions will be afforded the benefits provided by an IGA which is in effect with the United States. However, the IRS has set out certain limitations as set forth below.

A jurisdiction that has yet to sign an IGA with the United States by 31 December 2014 will be removed from the list of jurisdictions that are treated as having an IGA in effect. Similarly, the Treasury may also remove a jurisdiction from the list if it determines such jurisdiction is not taking the steps necessary to reach a final agreement. The effect of a jurisdiction being removed from the list will strip the entities of their status provided under the IGA, and, therefore, the affected entities will need to subsequently update their status on the FATCA Web site.

HOW BDO CAN HELP

BDO has the knowledge and expertise to help clients in all matters related to FATCA, including the completion of Form W-8BEN-E, FFI registration, and determination of an entity's status under FATCA, as well as general FATCA systems implementation. Please contact BDO for your FATCA needs and to ensure that your business is FATCA compliant.

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AFRICA ROUND UP

The annual Budgets of a number of African countries have recently been presented to their various Parliaments, and we highlight some of the tax changes below.

BENIN

On 2 January 2014, the Finance Law for 2014 (Law No. 2014-01) was promulgated by the President. Details of the indirect taxation measures, which unless otherwise indicated will apply from 1 January 2014, are summarised below.

VAT and customs duties

The measures under this section also involve the following taxes:

– The statistical tax (*taux de la taxe de statistique* – T. STAT);

– The statistic fee (*redevance statistique* – RS);

– The community solidarity levy (*prélèvement communautaire de solidarité* – PCS);

– The community levy (*prélèvement communautaire* – PC); and

– The road tax (*taxe de voirie* – TV).

Temporary exemptions extended

The exemption from customs duties and VAT applicable on the following products is extended from 31 December 2013 to 31 December 2014:

(i) Computer equipment including software, printers and their spare parts even when imported separately; computer-related equipment is excluded from this exemption;

(ii) Buses and minibuses of all categories, imported, manufactured or sold new in Benin for public transport purposes;

(iii) Imported and local new equipment and materials used for the construction of oil service stations, oil and diesel tanks and new equipment imported for the renovation of these stations and tanks; and

(iv) New tanker trucks imported for the distribution of oil products.

The following products are exempt from customs duties and VAT:

(i) Agricultural machinery and equipment, small processing units and storage of agricultural products including their spare parts and accessories;

(ii) Machinery and equipment for animal husbandry (including aquaculture) and fisheries, small processing and conservation units of livestock products and fisheries including their spare parts and accessories; and

(iii) Products intended for livestock breeding, poultry and aquaculture; this exemption is extended to T. STAT; these products are only subject to RS at the rate of 1%.

Radio tax and television tax

New radio and television taxes are introduced. These taxes are due by persons subject to individual income tax and to corporate income tax in Benin. However, employees whose taxable income does not exceed the first bracket of the employment income tax schedule and persons subject to a lump-sum tax regime are exempt from the television tax.

The annual rates are set as follows:

– XOF 1,000 for the radio tax; and

– XOF 3,000 for the television tax.

Tax on financial activities

Loans, credit transactions and other similar financial facilities are exempt from the tax on financial activities (TAF) when they are realised between decentralised financial institutions approved by the state. The exemption also applies for transactions of the same institutions with banks or with other financial institutions, whether resident in Benin or not.

BURKINA FASO

The Finance Law for 2014 was enacted by the Parliament on 21 November 2013. Details of the Law, which unless otherwise indicated applies from 1 January 2014, are summarised below.

Direct taxation

- Anti-tax haven rules are enacted. Accordingly, tax deductibility is denied on certain payments to persons resident in a foreign country considered, under the General Tax Code, to be a low-tax jurisdiction. A particular country is considered a low-tax jurisdiction if its corporate tax rate is lower than half the Burkina Faso standard corporate tax rate or if the country is non-cooperative in terms of transparency and exchange of information in tax matters. The expenses covered by these rules are interest, arrears and other income from bonds, loans, deposits and securities, royalties for transfers or concessions of exploitation licenses, patents rights, trademarks, processes or secret manufacturing formulae and ancillary rights, as well as other payments for services. The taxpayer is required to demonstrate that such expenses correspond to an actual transaction and are not excessive or of an abnormal nature, in order to be entitled to a tax deduction.

- Thin capitalisation rules are reinforced and clarified. Interest payments to shareholders are deductible on the basis of an interest rate not exceeding the reference rate of the Central Bank of West African States (*taux des avances de la Banque Centrale des Etats de l'Afrique de l'Ouest*) increased by 2 percentage points. Moreover, the overall debt to equity ratio with regard to such shareholders must not exceed 2:1. With regard to interest on loans from third parties other than banks and financial institutions, the deduction is based on an interest rate which must not exceed the reference rate of the Central Bank of West African States.

- Payments for goods and services the value of which is equal to or exceeds XOF 100,000 must be settled through bank transfer or cheque in order to be deductible for income tax purposes.

- The obligation to levy a 20% withholding tax on foreign services applies to the following persons:

  - Individual entrepreneurs subject to income tax under the actual profits regime;

  - Legal entities subject to corporate tax;

  - The states, local authorities and state-owned establishments;

  - Foreign-funded projects; and

  - Non-governmental organisations.

- A special tax regime for economic growth hubs (*pôles de croissance*) is introduced. The incentives provided by Law No. 025-2012/AN of 4 June 2012 on the special tax and customs regimes of investment conventions signed by Burkina Faso are extended to economic growth hubs. The extension applies regardless of the amount invested, the duration of the project or the number of jobs to be created.

Indirect taxation

- An exemption is granted for 1 year from VAT and customs duties on imports of building materials for construction projects licensed under Law No. 057-2008/AN of 20 November 2008 on housing development in Burkina Faso and its implementing Decree No. 2009-222/PRES/PM/MHU/MEF of 20 April 2009.

- A new specific tax on telecommunications enterprises (*taxe spécifique sur les enterprises de télécommunications*) is levied at the rate of 5% on the annual net revenue of telecommunications enterprises.

- The phone tax (*taxe sur l'interconnexion téléphonique internationale*) is abolished.

- A general exemption from registration duties is granted on deeds concluded by companies the capital of which is owned for at least 65% by the state, whereas public work agreements and similar deeds concluded by the same kind of companies are exempt if their values do not exceed XOF 1 million.

Tax administration

- The investigation power of the tax administration is reinforced and clarified. Some specific provisions are included in the Tax Procedures Manual to allow exchange of information and mutual administrative assistance in tax matters under international tax conventions.

- The application of non-compliance penalties is clarified.

- The remittance mechanism of the withholding tax on domestic services (*retenue à la source sur les sommes versées aux prestataires résidents*) is adjusted.

- Taxpayers are required to use a standardised invoice (*facture normalisée*) upon the supply of goods and services, except for those specifically exempt from this obligation, including enterprises without a permanent establishment in Burkina Faso.

BURUNDI

On 31 December 2013, Law 1/32 (Budget Law for 2014) was enacted by the Parliament and published in the Official Journal. The original version of the text of the Law was made available recently. The main provisions apply as from 1 January 2014 and are summarised below.

Income tax

Interest on treasury bonds and loan notes is exempt from income tax.

Indirect taxes

General consumption tax:

Under the Budget Law 2014, the general consumption tax applies at new rates on the following products:

- Wine and spirits: 80% (previously 70%);

- GSM telephone use: 12% (previously 10%); and

- Subscription and purchase of audio-visual recharge cards: 12% (previously 5%).

In addition, the Budget Law maintains the applicable rates on imported vehicles. However, the Law provides the following exemptions:

- Vehicles more than 1 year old and imported for personal use by Burundian citizens coming from a stay abroad; and

- Commercial vehicles used for the transport of persons or merchandise.

Exemptions from indirect taxes are abolished, except when provided by international treaties or specific laws. Imports which were exempt from indirect taxes and customs duties by legislative or governmental legal instruments other than international treaties or specific laws are subject to a 5% flat tax on the customs value.

Customs and tax fraud disclosure

Under article 13 of the Budget Law, a settlement premium for customs and tax fraud disclosure applies at the rate of 10% of the amount of levies to be paid by the fraudster. The premium is payable within one month from the settlement.

CHAD

The new Finance Law 2014 has been enacted, and the main changes, which apply as from 1 January 2014, are:

Corporate income tax

With effect from 1 January 2014, the minimum lump-sum tax applies to:

- Companies subject to corporate income tax;
- Taxpayers deriving business, agricultural or artisanal income subject to individual income tax; and
- Taxpayers deriving non-commercial profits and who have a permanent establishment in the country.

DEMOCRATIC REPUBLIC OF THE CONGO (DRC)

The Finance Law for 2014 (Law No. 14/002) was promulgated by the President on 31 January 2014. Details of the Law, which unless otherwise indicated applies retrospectively from 1 January 2014, are summarised below:

Direct taxation

- New clarifications are introduced to the transfer pricing regulations. The Law specifies that arrangements under which any undue benefit is granted by a resident company to a foreign related party, regardless of the means used for such purpose, would be considered an abnormal act of management and ignored for corporate tax purposes. The resident company would be reassessed accordingly. In order to avoid any tax adjustment, the resident company must provide evidence that the transaction has been carried out independently without any consideration for the group company's interest.
- Anti-tax haven rules are enacted. Under these rules, tax deductibility is denied for royalty payments for the use of patents rights, trademarks, designs and registered patterns, as well as other payments for services paid by Congolese resident companies to legal entities located in a foreign country considered as a low-tax jurisdiction. In order to avoid the application of these rules, the taxpayer must demonstrate that such payments correspond to an actual transaction and are not excessive.
- More restrictive conditions apply to the tax deductibility of outbound interest payments to a shareholder or any other related party. Such payments are deductible only if the loan is repayable within 5 years and the interest rate does not exceed the internationally accepted average interbank rate (*taux moyen interbancaire internationalement reconnu*) in force during the month of repayment of the principal debt.
- The minimum lump-sum tax rate applicable on the annual revenue is increased from 0.1% to 1%, whereas the minimum tax payable depending on the company's size is abolished. These changes apply to corporate taxpayers and also to individual entrepreneurs.

VAT

- Services rendered by foreign oil subcontractors to local petroleum production companies are exempt from VAT. Additionally, a VAT exemption is granted on imports and domestic sales of certain essential goods such as wheat, flour, maize or bread.
- Exporters, enterprises undertaking major investments, mining and petroleum enterprises which are not yet in the production phase, or those liquidating their business, are allowed to claim a refund of their input VAT credit.
- The calculation method of the deductible VAT proportion applicable to certain taxpayers who are not entitled to deduct all their input tax is revised and clarified.
- Any taxpayers whose annual revenue drops below the VAT registration threshold (i.e. CDF 80 million) would cease to be subject to VAT from the following year.

Tax administration

The filing deadlines of several tax returns are extended from 10 days to 15 days following the month of payment of the income. These taxes are:

- Employment income tax (*impôt professionnel sur les rémunérations*);
- Exceptional tax on remuneration of expatriates (*impôt exceptionnel sur les rémunérations des expatriés*); and
- Tax on income from movable capital (*impôt mobilier*).

In addition, the Law clarifies that the filing deadline for the withholding tax return on foreign services is within the 15-day period following the month of payment.

DJIBOUTI

The Finance Law for 2014 was promulgated by the President of the Republic as Law No. 35/AN/13/7ème L of 31 December 2013. Details of the Law, which unless otherwise indicated applies from 1 January 2014, are as follows:

Direct taxation

– An exemption from the minimum lump-sum tax (*impôt minimum forfaitaire*) is granted to petroleum companies where more than 50% of their share capital is owned by the State.

– Members of approved accounting centres (*centres de gestion agréés*) with annual revenue below DJF 50 million are eligible for the 20% income tax allowance. Previously, this allowance was available only to members with annual revenue below DJF 80 million. The new measure applies equally to corporate and individual entrepreneurs.

– The business licence duty (*contribution des patentes*) rates are adjusted. These adjustments include the introduction of new specific rates for start-up businesses operating as importers.

GAMBIA

The Budget for 2014-15 was presented to the National Assembly, and the following proposals announced:

Corporate taxation

The corporate tax rate is reduced to 31%.

Other indirect taxes

Air transport tax is introduced on the sale of air tickets at the rate of 15%.

IVORY COAST

The Finance Law for 2014 (Law No. 2013-908) was promulgated by the President of the Republic on 26 December 2013 and published in the Official Gazette (*Journal Officiel*) of 27 December 2013. Details of the Law, which unless otherwise indicated applies from 1 January 2014, are summarised below.

Corporate taxation

– A 30% corporate tax rate applies to telecommunications and information technology (IT) companies.

– The tax on income from movable capital is reduced from 18% to 15% on bonds, dividends distributed out of profits which are exempt from corporate income tax and other income from movable capital not specifically mentioned in the Law. A new reduced 2% rate applies on bonds and ancillary income from debt securities issued in the Ivory Coast when the maturity of such instruments is equal to or exceeds 5 years.

Indirect taxation

(a) VAT

– The VAT exemption on gambling activities is abolished. Gambling activities include operations performed by the national lottery (*LONACI*), casinos, businesses running slot machines and other similar activities.

(b) Other indirect taxes

– Some amendments are introduced to the excise duty regime. The tax burden is increased from 13% to 15% on beer and cider, while tobacco taxes are clarified and simplified.

– Special measures are introduced for telecommunications and IT enterprises. These include:

- The former tax on telecommunications (*taxe sur les télécommunications*) is replaced by a tax on telecommunications and IT enterprises (*taxe sur les enterprises de télécommunication et des techonologies de l'information et de la communication*). The tax rate is 5% of the company's monthly revenue exclusive of any tax; and

- A new specific tax on phone calls and internet services (*taxe sur les communications téléphoniques et technologies de l'information et de la communication*) is levied at a rate of 3% payable by consumers benefiting from phone and internet services.

Tax administration

– In accordance with the OHADA Uniform Act relating to companies and economic interest groups, taxpayers must add to their annual corporate income tax returns, at the latest by 30 June of each year, the proceedings of statutory meetings held during the year and deeds of any amendments of the company's statutes.

– More severe fines apply to taxpayers who do not deliver the standardised invoice (*facture normalisée*) prescribed by the Law.

Other measures

– The minimum lump-sum tax amount payable by taxpayers subject to the simplified tax regime, which is equal to 2% of annual revenue inclusive of any other tax, cannot be less than XOF 500,000.

– New measures are introduced for the monitoring and follow-up of companies benefiting from incentives as major investors in the housing sector, whereas some sanctions are provided for those having committed an infringement or not respecting their obligations under their licensing agreement.

– Telecommunications and IT companies are required to acquire public treasury bonds for an amount corresponding to 20% of their distribution of dividends transferred outside Ivory Coast.

LESOTHO

The Budget for 2014-15 was presented to the Parliament, and the main proposed tax amendments are as follows:

VAT

The 15% VAT rate on alcohol and tobacco will be abolished. Therefore, the VAT rates will be as follows:

– 14% standard rate;

– 5% for telecommunications and electricity; and

– Zero rate for various essential and basic items.

However, a 4% levy would be imposed on purchases of alcohol and tobacco.

Personal income tax

In order to reduce the effective tax rate on personal income, which has remained one of the highest in Sub-Saharan Africa (encouraging tax avoidance and evasion), the lower and upper personal income tax rates would be reduced to 20% and 30% respectively (previously, 22% and 35%).

Mining sector

With the assistance of the International Monetary Fund (IMF), the government has reviewed the fiscal regime governing the mining sector, and recommendations have been made on required amendments. Accordingly, a new tax regime for the mining sector will be finalised as part of a wider review of the mining code.

Textile sector

The exemption from corporate tax for proceeds of exports of textile products destined outside the Southern African Customs Union (SACU) will be abolished, and therefore the standard 10% rate would be applicable. This tax exemption was introduced in 2006-07 to promote textile manufacturing, but it is inconsistent with Lesotho's commitment under international and regional agreements to remove very low tax rates as a step towards regional integration and to eliminate unfair competition that could arise from differentiated tax applicable to other domestic producers exporting within SACU.

NIGER

The main changes to the General Tax Code, which apply from 1 January 2014, are:

Taxation of oil related activities

The Law introduced new rates applicable to oil research permits, oil exploitation permits and the transport of oil products.

The applicable fixed rates are as follows:

– XOF 3 million for each request for a permit or exclusive authorisation of research; and

– XOF 13 million for each exploitation request and for internal transport of oil products.

In addition, the Law provides a new list of rates applicable to the authorisation of prospecting, the permit of research and the permit of small, large, and artisanal exploitations. The rates vary and range between XOF 100,000 and XOF 20 million. With regard to mining products, the applicable rates range between XOF 5,000 and XOF 1 million.

Tax on the traffic of international incoming calls

Finance Law 2014 introduced a tax on the traffic of international incoming calls (*Taxe sur la terminaison du traffic international entrant*). The tax is to be paid by the operators and applies at the rate of XOF 25 per minute of communication. The Law provides that taxpayers subject to this tax are exempt from VAT.

Capital tax

Capital increases and mergers are subject to capital tax at the rate of 8%.

SENEGAL

The revenue authority issued a Circular (*Arrêté No. 04.12.2013-18667/MEF/DGID*) on 4 December 2013 to implement an electronic tax compliance platform.

Subsequently, an online platform has been put in place in order to allow the filing of tax returns, payments of taxes and the fulfilment of other tax obligations.

The online platform is expected to realise significant savings on compliance and management costs for the taxpayers and the revenue authority.

SUDAN

On 30 December 2013, the Sudan Tax Authority stated that an amendment to the income tax law had been enacted by the President. The amendment introduced a 2.5% minimum tax on the annual revenue of telecommunication companies. The minimum tax is applied retrospectively from 1 January 2013.

It should be noted that the tax regime of telecommunication companies has already been amended by Decision No. 199 for 2013 of the Council of Ministers. The Decision exempted telecommunication companies from the social development duty for a 3-year period from 1 January 2013.

SWAZILAND

The Budget for 2014-15 was presented to the Parliament by the Minister of Finance on 21 February 2014.

The Budget does not contain changes in tax laws.

Much of the growth in revenue will come from improvements in tax administration at the Swaziland Revenue Authority (SRA). In particular, SRA will commence implementing a direct VAT refund system, which is expected to eliminate the delays traders experience in clearing imported goods. The new arrangement is expected to improve trade records and enhance revenue collections.

In addition, the Budget announces that the government intends to undertake a study to review the tax incentives offered to investors in the country aimed at making Swaziland an ideal investment destination. The incentives will target both local and foreign investors.

THE CONGO REPUBLIC

On 30 December 2013, the government enacted Law No. 34/2013 (Finance Law 2014). The main provisions regarding corporate income tax apply as from 1 January 2014 and are summarized below.

Corporate tax

The standard corporate income tax rate has decreased from 33% to 30% for taxable profit exceeding XOF 1,000.

Non-residents

Non-resident companies carrying activities in Congo Republic, intermittently and under precarious conditions, are subject to the lump-sum regime of taxation. In these cases, non-resident taxpayers must comply with special rules regarding deadlines for tax returns and the payment of taxes. Finance Law 2014 details each of the special applicable rules.

In addition, under Finance Law 2014, an advanced withholding tax is to be levied on payments to non-resident subcontracting oil companies if one of the conditions below is met:

- The duration of the activities carried out in Congo Republic does not exceed 6 months; or
- The duration of the activities carried out in Congo Republic exceeds 6 months and the company has no "permanent professional installation" in the territory.

In either of these situations, the tax is due according to the maturity date provided in the contract or in the invoice. However, the subcontracting company must have prior authorisation to exercise its temporary activity. If the company did not apply for previous authorisation, a 20% withholding tax applies.

Tax administration

Finance Law 2014 provides special rules for oil operators. Oil operators are required to provide detailed information to the tax authorities regarding:

- Contracts and subcontracts signed with companies located in Congo Republic or taxpayers related to such companies (name of the entity, date of signature, duration of the contract, object, etc.);
- Payments to oil subcontractors with the amount of taxes withheld; and
- The value of each contract signed with subcontractors.

ORGANISATION POUR L'HARMONISATION EN AFRIQUE DU DROIT DES AFFAIRES (OHADA)

The reform of the OHADA Uniform Act on commercial companies' law was enacted on 5 March 2014.

The most important features of the new Act are summarised as follows:

- The introduction of a simplified joint-stock company (*Société par Actions Simplifiée*) as a new form of doing business.
- The introduction of new rules with regard to joint-stock companies related to shareholders agreements, company statutes, preference shares and hybrid securities.
- The possibility for shareholders and directors to attend statutory general meetings and board meetings from a remote location, through video conference or any other similar telecommunication technology, provided that certain conditions are fulfilled.
- Where a branch registered by a foreign person resident outside the OHADA area has not been affiliated after a 2-year period from its creation to a company incorporated under the law of one of the OHADA member states, the new Uniform Act clarifies that the branch would be removed from the Trade and Personal Property Credit Register (*Registre du Commerce et du Crédit Mobilier* – RCCM).

The new Uniform Act was published in the OHADA Official Gazette on 4 February 2014 (*Journal Officiel Numéro Spécial 04-02-2014*) and will enter into force 90 days after its publication.

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SOUTH AFRICA

RETIREMENT FUND REFORMS

The 2012 Budget announced proposals to reform the private pensions system, including changes to the tax treatment of contributions and benefits. It was originally intended that the changes would take effect from 1 March 2014, but the commencement date has now been moved to 1 March 2015. The main proposals, particularly those affecting the tax treatment, are summarised below.

TAX RELIEF ON CONTRIBUTIONS

Employer contributions to pension, provident and retirement annuity funds will become a taxable benefit for the employee. However, employees will be entitled to a tax deduction for the amount of employer contributions, plus any personal contributions, of up to 27.5% of the greater of their remuneration or total taxable income, subject to a maximum annual deduction of ZAR 350,000.

LUMP SUM LIMITS AND ANNUITY REQUIREMENTS

It is proposed to harmonise the treatment of all types of retirement funds, with individuals being able to take a maximum of one third of their fund as a lump sum on retirement, and the balance of the fund being used to provide a compulsory annuity. However, vested interests will be protected, with the new rules not applying to benefits in respect of contributions made to provident funds before 1 March 2015, or to provident fund members aged 55 or over on 1 March 2015.

The 2014 Budget announced that the maximum tax-free lump sum which can be taken on retirement would be increased from ZAR 315,000 to ZAR 500,000 with effect from 1 March 2014.

Example

Mr Bloggs is employed by XYZ Ltd, receiving an annual remuneration of ZAR 680,000. He also receives net rental income of ZAR 20,000 per annum. XYZ Ltd contributes 15% of his remuneration (ZAR 102,000) to a provident fund and ZAR 60,000 to a pension fund for his benefit. Mr Bloggs also contributes ZAR 15,000 to a retirement annuity fund.

The maximum tax-deductible amount will be ZAR 237,050 ((ZAR 680,000 + ZAR 20,000 + ZAR 102,000 + ZAR 60,000) x 27.5%).

The total contributions of ZAR 177,000 (ZAR 102,000 + ZAR 60,000 + ZAR 15,000) will therefore be fully deductible.

It will be possible to carry forward contributions in excess of the annual maximum amount to future years. Any non-utilised contributions remaining at the date of retirement will be deductible from any lump sum or annuity income for tax purposes.

The introduction of the annual ZAR 350,000 contribution limit may affect some high earners who have been contributing, or who may wish to contribute, higher amounts, and who may therefore need to consider alternative methods of adding to their retirement savings.

DEFINED BENEFIT PENSION PLANS

The proposed tax treatment of contributions to defined benefit pension plans has yet to be clarified. The methodology for calculating the formula to estimate contributions to such plans will be set out in regulations to be issued later in 2014.

LONGER-TERM PROPOSALS

The government intends to move towards mandatory retirement provision for all employed workers over the next few years, with auto-enrolment of employees. The government is consulting with the National Economic Development and Labour Council on measures to cover the estimated 6 million employed South Africans who do not currently enjoy access to an employer-sponsored retirement plan.

As part of this objective, agreement has been reached with the Association of Savings and Investment South Africa on a way forward to reduce the level of charges for retirement savings products. It is also proposed to simplify retirement savings products and make them more portable between providers.

PUBLIC PENSION SCHEMES

The government considers that it may also be appropriate to reform the provision of retirement benefits in the public sector. Emphasis will be placed on ensuring that public pension funds are large enough to provide economies of scale, are well governed, and have benefits which are sufficiently standardised to allow a high degree of portability within the public sector and between the public and private sectors. Appropriate protection of vested rights will be given in any reforms.

NON-RETIREMENT SAVINGS

In conjunction with the pensions reform proposals, it is also proposed to introduce a tax-free account for short and medium-term savings to encourage more discretionary savings by giving greater tax support to savers.

This vehicle will function as a wrapper, exempting all investment returns from income, dividend and capital gains taxes. There will be an annual contribution limit of ZAR 30,000 and a lifetime limit of ZAR 500,000, to be adjusted for inflation on a regular basis.

It is expected that the scheme will offer both interest and non-interest bearing products, possibly including:

- Fixed deposit bank accounts
- Retail savings bonds
- Collective investment schemes, including Exchange Traded Funds
- Property assets such as Real Estate Investment Trusts and Property Listed Stocks.

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2014 BUDGET

The 2014 Budget proposals were presented on 19 December 2013 by the Finance Minister, the Honourable Patrick Chinamasa, and the tax measures went through Parliament in January 2014. The taxation measures of international interest are summarised below.

INCOME TAX

The individual income tax bands remain mainly unchanged except for the introduction of a 50% band on income exceeding USD 20,000 per month. The marginal tax rate on employment income has therefore increased from 46.35% to 51.5%.

The tax free bonus threshold remains pegged at USD 1,000 per annum.

With effect from 1 January 2014, deemed motoring benefits are increased as follows:

Engine capacity	2013 rate (USD per month)	2014 rate (USD per month)
Up to 1,500cc	150	300
1,501 - 2,000cc	200	400
2,001 - 3,000cc	300	600
Over 3,000cc	400	800

With effect from 1 January 2013, the non-taxable portion of a retrenchment/severance package is increased to USD 10,000 or one-third of the package, up to a maximum of USD 60,000.

CORPORATE TAX

With effect from 1 January 2014, royalties paid during the year of assessment will no longer be tax-deductible.

The following indigenisation and empowerment costs are tax-deductible with effect from 1 January 2013:

(a) Any contribution or donation paid by a taxpayer in the year of assessment to a community share ownership trust or scheme established by the taxpayer in compliance with the Indigenisation and Empowerment Act [Chapter 14:33];

(b) The value of shares of a corporate taxpayer that are lent in the year of assessment to an indigenisation partner of the taxpayer pursuant to a corporate vendor-financed loan. The deduction will be spread over the tenure of the loan; and

(c) Loan interest payable by an indigenisation partner in the year of assessment on any loan advanced to him or her to purchase shares in the company of which he or she is an indigenous partner.

With effect from 1 January 2014, receipts by financial institutions attributable to mortgage finance for residential accommodation are exempt from income tax, in addition to the exemption for building societies.

With effect from 1 January 2014, new transfer pricing regulations have been introduced which empower the Commissioner to adjust taxable income where income is split between a taxpayer and an associate.

CAPITAL GAINS TAX

Cessions of property rights are subject to capital gains tax with effect from 1 January 2014.

With effect from 1 January 2014, a capital gains clearance certificate is required where there has been a sale by cession of properties. The same principle will apply to the relinquishing and registration of a membership interest in a condominium.

With effect from 1 January 2013, disposals of shares under an indigenisation scheme are exempt from CGT. The exemption is restricted to "*the amount by which the fair market price of shares sold to an indigenisation partner or community share ownership trust or scheme exceeds the actual price at which those shares were sold*".

VALUE ADDED TAX

Zero-Rating of products:

– In order to avail relief to manufacturers and retailers, white sugar is now zero rated retrospectively with effect from 1 February 2009.

– In order to alleviate the costs associated with importation of crude oil, thereby enhancing local refining of cooking oil, it is proposed to zero rate and suspend customs duty on imported soya bean crude oil.

– With effect from 1 January 2014, local sales of rough diamonds are zero rated to encourage beneficiation/value addition.

The 90 day VAT deferment facility will continue to be available for the import of industrial and capital equipment by companies in the mining, agriculture, manufacturing, and health and aviation transport sectors.

It is proposed to exempt electricity imports from VAT retrospectively with effect from 1 February 2009.

With effect from 1 January 2014, input tax cannot be claimed on the export of unbeneficiated hides, unbeneficiated platinum or raw diamonds.

With effect from 1 January 2014, failure to register for VAT will attract a fine not exceeding USD 30 for every day the taxpayer remains unregistered.

With effect from 1 January 2014, the time period within which a Bill of Entry can be used to claim input tax has been limited to twelve months.

With effect from 1 January 2015, a 15% VAT on exports will be levied on exports of unbeneficiated platinum and rough diamonds.

With effect from 1 January 2014 unprocessed hides will be levied an export tax of USD 0.75 per kg.

WITHHOLDING TAXES

– Taxation of Non-Resident Artists or Entertainers: with effect from 1 January 2014, Section 80 of the Income Tax Act (Chapter 23:06) has been amended to include artists. A 15% withholding tax will be levied on gross fees paid to non-resident performing artists. The withholding tax is due from a withholding agent, which includes a "contractor" of the services of a non-resident artist or entertainer contracted to perform in Zimbabwe. The withheld amount must be remitted to the Commissioner on or before the 10th day of the month following that in which the payment was made, or within such time as the Commissioner may allow.

– The automated financial transaction tax of USD 0.05 is extended to apply to the transfer of funds from a financial institution to a mobile platform.

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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 26 June 2014.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Australian Dollar (AUD)	0.68840	0.93739
British Pound (GBP)	1.24668	1.69767
CFA Franc BCEAO (XOF)	0.00152	0.00207
Congolese Franc (CDF)	0.00078	0.00107
Djibouti Franc (DJF)	0.00393	0.00535
Euro (EUR)	1.00000	1.36164
Mongolian Tugrik (MNT)	0.00040	0.00055
New Zealand Dollar (NZD)	0.63866	0.86969
Singapore Dollar (SGD)	0.58730	0.79976
South African Rand (ZAR)	0.06914	0.09416
Thai Baht (THB)	0.02259	0.03076
US Dollar (USD)	0.73435	1.00000

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