International Tax Insight

September 2013

Editorial

Welcome to the latest edition of Baker Tilly International's premier tax publication. In an increasingly globalised world, the following content aims to cover key tax topics which should be of interest to businesses operating internationally.

This edition features recent international tax developments emanating from Argentina, Brazil, Canada, India, Indonesia, New Zealand, Russia, South Africa, South Korea and the US.

Should you require further information regarding any international tax matter, please do not hesitate to contact a specialist from one of our member firms, which can be located within our Worldwide directory at www.bakertillyinternational.com.

I hope you find this document informative.

Chris Danes

International Tax Executive,
Baker Tilly International

Argentina

Argentina Tax Deal For Energy Exporters

Argentina said on 15 July 2013 that it will allow oil companies to export 20% of the oil and gas they produce in the country tax-free if they invest US$1bn over five years.

Those oil companies that make the US$1bn investment will also be exempt from the foreign exchange controls which the government has imposed. This means that they will be able to keep their earnings in foreign exchange outside Argentina.

The government hopes that these measures will attract investment in the country's Vaca Muerta shale oil field. Oil companies that take advantage of these new regulations will be able to renew their concessions for a 25-year period, and possibly a further 10 years after that.

Brazil

Brazil To Cut Import Tax

The government of Brazil plans to cut import taxes on 100 products mostly used in local industry as part of an effort to ease inflation, Finance Minister Guido Mantega said on 1 August 2013.

The selected products include capital goods, iron and steel, petrochemicals and pharmaceuticals, fertiliser, chemicals, and glass. Import tax rates on the items would be lowered from around 25% to between 8 and 10%, according to Mantega.

Brazil raised the taxes on the 100 items from 8 and 12% to 25% last October, in a bid to alleviate the effects of a depreciation of the real against the dollar.

"In September 2012, Brazilian industry was besieged by imports and the exchange rate was not favourable. A year later, the conditions exist to return to the previous rates and cut costs for the industry that uses these imported products," Mantega said.

The Brazilian real has declined by more than 10% against the dollar so far this year, boosting the competitiveness of Brazilian industries but also adding to inflation.

Canada

Canada Releases Transparency Action Plan And Introduces Offshore Income Rules

Following up on pledges made at the most recent G8 Summit, the Canadian Government has issued an Action Plan for enhancing the transparency of corporations and trusts.

This document outlines the Government's commitment to reforms in three key areas, which it says build on work that has already been undertaken.

In the first instance, it proposes improvements to Canada's anti-money laundering and terrorist financing risk assessment approach. An interdepartmental working group has been set up to develop a comprehensive risk assessment framework, and is investigating how these issues impact in a domestic setting. This group must report back by 2014-15, and the Government will use the results to better inform the development and implementation of effective policies and operational approaches.

In addition, the Government will seek the implementation of amendments to the country's Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations. The changes will improve customer due diligence measures, including those related to corporate and trust beneficial ownership information. From 1 February 2014, reporting entities subject to Proceeds of Crime (Money Laundering) and Terrorist Financing Act will have to comply with these new measures, and the Government will issue guidelines on their obligations prior to this date.

The final headline pledge is that the Government will consult publicly on the issue of corporate transparency. The focus of the consultation will be on improving access for relevant authorities to accurate and timely information, and on securing the disclosure of ownership and shareholder information. The possibility of establishing a central registry for entities incorporated under the Canada Business Corporations Act will also be considered.

Commenting on the Action Plan, Prime Minister Stephen Harper said: "As President of the G-8 in 2013, the UK has called upon member countries to come together to improve corporate transparency by combating money laundering, terrorist financing, and other crimes such as corruption and tax evasion in our respective countries.

"Canada fully recognises the global scale of this complex issue, including the misuse of corporate entities for illicit purposes. This Action Plan describes the measures we have undertaken to uphold a high standard of transparency, and identifies how we intend to improve our regime even further."

Canada To Introduce Rules On Offshore Income

The Canadian Government has also announced the introduction of tougher foreign income declaration requirements, as part of its crackdown on international tax evasion and so-called 'aggressive' tax avoidance.

Under plans announced in Finance Minister Jim Flaherty's latest Budget, Canadians holding overseas property costing over CA$100,000 (US$95,220) will have to provide additional information to the Canada Revenue Agency (CRA). Starting from the 2013 taxation year, they must use a revised Foreign Income Verification Statement (Form T1135) to state which foreign institution or entity holds funds for them outside of Canada. They must additionally hand over details of the specific country to which the foreign property relates, along with information on the income generated from that property.

The CRA is keen to stress that failure to report any income from domestic or foreign sources is illegal, and that it will actively pursue cases of non-compliance. The Budget also proposed a three-year extension to the reassessment period for a tax year in cases of improper, late, or non-filing.

Launching the new T1135, Parliamentary Secretary Cathy McLeod said: "The strengthened reporting requirements are just one example of the actions being taken by our Government to crack down on tax cheats. These measures are great news for hardworking Canadians who pay their fair share and bad news for those who may seek to cheat the system."

Carole Presseault, Vice President of Government and Regulatory Affairs at the Certified General Accounts Association of Canada, commented: "We are pleased to see the Government taking action on this important issue. Increased reporting requirements of large offshore assets will help to ensure that all Canadians are operating on a level playing field when it comes to their taxes. Our members support the fight against tax evasion, as it hurts all Canadians by reducing government revenue that other law abiding taxpayers are required to make up, and providing an unfair advantage to those seeking to cheat the system."

The Government is also seeking the mandatory reporting to the CRA of international electronic fund transfers over CA$10,000. This requirement will be coupled with reforms to the judicial process that will allow the CRA to obtain information from third parties, including banks. It is investing CA$30m in these, and other, initiatives.

India

India Sets Up Tax Administration Reform Commission

The Indian Cabinet has approved plans for the creation of a commission to review the application of the country's tax laws and policies.

The new Tax Administration Reform Commission (TARC) will consist of a Chairman, two full-time, and four part-time members. The intention is for at least two of the part-time members to hail from the private sector, whilst the full-time members will be drawn from backgrounds in income tax, central excise, and customs.

The Commission will sit for 18 months and will look into how India's tax laws and policies work in the context of global best practices. It will recommend measures for strengthening the capacity of the tax system and for removing any ambiguity surrounding it.

The Government's hope is that the Commission's work will pave the way for a stable tax regime, and a non-adversarial tax administration.

Indonesia

Indonesia To Maintain 2013 Tax Target

Minister of Finance Chatib Basri has stated that Indonesia's 2013 tax revenue budget would not be reduced, even though collections only reached IDR485.4 trillion (US$48.8bn) in the first six months of this year to end-June, or only 42% of the full year target of IDR1,159 trillion.

The Minister confirmed that the Directorate General of Taxation (DGT) would not give up on fulfilling its budget, despite the fact that continued global economic uncertainty has caused weak global commodity prices. Whilst tax collections may remain lower from exporting companies in the manufacturing, commodity, mining and plantation product sectors, it plans to maximise tax collection efforts in other sectors in the second half of 2013.

Hoping that tax administration can also be much improved, the DGT is to target businesses that are not yet in the tax system, especially in other sectors such as consumer goods, property and the financial market.

However, the Minister continued, one of the obstacles that has confronted the DGT has been the limited availability of a taxpayers' database. He hoped that information exchange cooperation between the tax agency and the Indonesian Financial Services Authority will resolve that problem in the financial sector.

New Zealand

New New Zealand Revenue Minister Talks Priorities

The New Zealand Government intends to maintain "a broad-base, low-rate tax system that does as little as possible to distort the decisions of businesses and individuals," the new Revenue Minister Todd McClay has said.

McClay told the EMA Central North Island Annual Payroll Conference that "unwise tax changes can see taxes intrude on decisions and tend to encourage individuals and businesses to do things that would not be sensible in the absence of tax decisions."

With this in mind, McClay does not envisage any changes to the country's basic tax frameworks. For him, "the tax system does what it is meant to do and does so relatively efficiently." Instead, he will seek improvements within the system, directed at ensuring fairness and bolstering the economy.

Although the Government says it is on track to return to surplus, McClay is clear that a 'robust' revenue base is required to finance government spending. The Government will therefore concentrate on removing tax loopholes, addressing inequities and anomalies, and enforcing current rules.

In addition, McClay will build on the work begun by his predecessor Peter Dunne to reform New Zealand's tax administration. The cabinet has approved in principle changes to the way the Inland Revenue Department is run, and McClay confirmed that the Department will engage with the business sector and software developers as it moves forward with the plans.

McClay will also introduce the latest of the Government's tax policy work programmes later this year, which will be developed in consultation with the private sector.

Russia

New Businesses In Russia To Receive Two-year Tax Break

Russian Prime Minister Dmitry Medvedev has proposed a two-year tax break for entrepreneurs registering a business for the first time, in order to stem a mass exodus to the illegal economy.

All government ministries have approved the plan and it is expected to come into effect next year.

Due to the Russian government's decision to double social security contributions, 485,000 people canceled business registrations this year. It is believed that a large number of those entrepreneurs who canceled their registrations have continued to operate illegally.

The country had 3.5m registered sole entrepreneurs as of 1 June 2013.

The Finance Ministry has not revealed how much tax revenue will be lost to the Budget on account of the proposed two-year exemption for new businesses. However, economist Alexandra Suslina said the losses would be negligible.

South Africa

South Africa Consults On Budget Tax Reform Bill

The South African National Treasury has published the draft 2013 Taxation Laws Amendment Bill (TLAB), which will give effect to most of the tax proposals announced in the 2013 Budget.

Those tax proposals requiring more consultation (for example, trust reforms and the taxation of long-term insurers), and those that require specific legislation (such as, the employment tax incentive and gambling tax), will be dealt with later this year, whilst others (for example, the carbon tax) will be published for comment next year.

However, included in the draft bill is the provision that, as from 1 March 2015, most individuals will be able to qualify for a higher deduction in respect of contributions made to South African retirement funds and, to ensure greater transparency, employer contributions to any retirement fund will be taxed as a fringe benefit in the hands of the individual.

The sum of the contributions from employer and individual will be deductible in the hands of the individual taxpayer up to 27.5% of the greater of taxable income or remuneration, or up to a monetary cap of ZAR350,000 (US$34,350), whichever is the lower. Employer contributions towards a defined benefit fund will be valued through the application of a formula.

The TLAB includes an amendment that seeks to address tax avoidance through the re-characterisation of income when dividends are paid in respect of services rendered. Under this revised approach, the party receiving the dividend will be taxed on the dividend as ordinary income if the dividend is received or accrued by virtue of services rendered.

Tax base erosion in the form of profit shifting through excessive interest deductions, with income being shifted to low-tax (or zero-tax) jurisdictions, or the conversion of interest income into a different type of income in another jurisdiction, is also dealt with in respect of hybrid debt instruments, with the proposals focusing on the debt instrument itself and its yield.

The proposal denies the interest deduction for the payer and treats the interest payments on hybrid debt instruments as dividends if the debt is unlikely to be redeemed within 30 years, it can be converted into shares, or payments in respect of the instrument are subject to the solvency of the issuer. It also denies the deduction and treats interest as dividends if the interest payment is not determined with reference to a specified interest rate or the time value of money.

A further proposal limits an interest deduction to 40% of the debtor's taxable income if the creditor (together with related parties) holds more than 70% of the equity shares or voting rights in the creditor company. The limit for acquisition debt will be based on 40% of the adjusted taxable income of the acquired company.

In addition, the TLAB attempts to rectify the lack of targeted tax incentives that has hindered the success of South Africa's Industrial Development Zones (IDZs). It is proposed that companies operating within Special Economic Zones (SEZs) (approved by the Minister of Finance after consultation with the Minister of Trade and Industry) will be eligible for accelerated depreciation allowances and an employment incentive.

Companies carrying on qualifying activities within an approved SEZ will also be subject to a reduced corporate tax rate (15% instead of 28%). All SEZs will qualify for value added tax (VAT) and customs relief similar to that for the current IDZs.

To revive the maritime sector in the country, it is further proposed that a new tax regime for shipping companies will be introduced. In the main, the new shipping tax regime exempts qualifying shipping companies from income tax, capital gains tax, dividends tax, and withholding tax on interest. These complete exemptions will be more favourable than the initially proposed tonnage tax for South Africa.

It is suggested that a domestic treasury management company regime will encourage the establishment of group treasury management functions in South Africa, and leverage the country's advantage as a 'gateway to Africa.' In the main, any company listed on the Johannesburg Stock Exchange will be able to establish a South African subsidiary to manage its group treasury functions without adverse currency tax implications.

Finally, introducing a place of supply rule will be introduced into the VAT law. Under the current law, foreign suppliers of e-commerce services are not compelled to register as VAT vendors, owing to the fact that they transact wholly over the internet and have no physical place of business in South Africa. The new rule will ensure that those foreign suppliers to South African customers register for VAT in South Africa. The local e-commerce service industry will benefit as the foreign suppliers will now be on an equal footing with their local counterparts.

South Korea

South Korea Introduces 2013 Tax Bill

The South Korean Ministry of Strategy and Finance has issued its 2013 Tax Revision Bill, which restructures tax incentives and widens the country's tax base, whilst also supporting small and medium-sized enterprises (SMEs) and those on lower incomes.

Firstly, in support of the priority to develop growth engines in the economy and increase SME support, certain service industries, particularly those in the science-technology or ICT sectors, will be granted increased research and development (R&D) support and SME tax incentives.

In addition, in other SME-related tax revisions, investment tax incentives offered to startup SMEs against their initial investment will be extended from five years to seven years; a 50% individual income or corporate tax reduction will be offered for sales of technology by SMEs; and mergers between high tech companies will be exempt from gift tax.

Tax incentives for angel investments will be expanded. Angel investors will generally be eligible to receive a 50% tax deduction for investments worth up to KRW50m (US$45,000), and will then be eligible to receive a 30% deduction on any additional investments above that level.

There will be tax credits for the acquisition of SMEs, whose investments in R&D exceed 5% of revenue and, when company owners sell their shares and reinvest in venture companies, sales taxes will be suspended until the reinvested stocks are sold. Venture or startup company employees will be allowed to pay taxes in three year instalments on their stock option transactions.

The same tax rules as in the main KOSDAQ stock exchange will be applied to the KONEX, a new stock market for startup businesses. Startup investment funds will receive tax credits when they invest in KONEX listed companies, and there will be no capital gains taxes on dividends and stock transaction taxes.

To help achieve its employment targets, the Government will increase tax deductions for job-creating investments by counting one regular part time employee as 0.75 of a full time employee, an increase from 0.5. To promote SME employment, the government will continue to provide tax deductions for social security insurance costs, introduce a tax deduction of KRW1m per part-time employee that has been hired as a full-time employee, and expand the job-sharing tax credit to all SMEs.

For individual taxpayers, the Earned Income Tax Credit (EITC) will be expanded and the Child Tax Credit (CTC) will be adopted in 2015. Single-member families will be eligible for the EITC in addition to families with children, and the number of families receiving the EITC and CTC will be increased as the income ceiling will also be raised: families with two children or less and annual income of KRW25m or less will be eligible for the EITC, and the CTC of KRW500,000 per child will be given to families earning KRW40m or less per year.

Income tax deductions will be applied to taxes owed instead of income, which should increase the tax burden on high income earners, although the current income tax deduction method will be maintained for the basic income tax threshold, the public pension and national health care insurance deduction, and the earned income tax deduction. The latter will also be adjusted to minimise tax exemptions.

In order to broaden the tax base, value added tax will now be applied to cosmetic surgery, and the income of religious leaders, like monks and priests, will be taxed as gifts from 2015, with religious groups being subject to withholding taxes. High-income farming will be taxed when its earnings exceed a certain level, although necessity food farming, such as rice and barley, will continue to be tax-exempt, and government employees will be subject to income tax on their allowances, also from 2015.

In order to properly tax overseas income and property, individuals who do not meet the requirement of reporting overseas bank accounts and overseas investment will be fined. The issue of receipts will be required for cash transactions of more than KRW100,000.

Overall, the changes are expected to produce a net increase of almost KRW2.5 trillion in tax revenues, with gross revenues increasing by KRW4.5 trillion and being offset by KRW2 trillion in reductions. The tax revision bill will be submitted to the National Assembly at the end of September.

US

IRS Opens FATCA Online Registration Portal; Issues Draft FATCA Reporting Form

Having recently made available a draft of the Foreign Account Tax Compliance Act (FATCA) registration form for foreign financial institutions (FFIs), the United States Internal Revenue Service (IRS) also opened its online registration portal for those institutions on 19 August 2013.

FFIs can now begin their FATCA compliance by providing the required information for their operational branches and other members of their expanded affiliate groups, in which the institution is the lead organisation.

The IRS has confirmed that registration can be accomplished most efficiently and effectively through the electronic online process that will avoid the need to print, complete and mail paper forms. Within a secure environment, the new registration system enables FFIs to establish online accounts, customise home pages to manage accounts, designate points of contact to handle registrations, oversee member and/or branch information, and receive automatic notifications of status changes.

FFIs are being encouraged by the IRS to become familiar with the system, create their online accounts and begin submitting their information. Starting in January 2014, they will be expected to finalise their registration information by logging into their accounts, making any necessary changes and submitting the information as final.

As registrations are finalised and approved in 2014, registering FFIs will receive a notice of registration acceptance, and will be issued the Global Intermediary Identification Number needed to demonstrate FATCA compliance.

It has been disclosed that the first IRS FFI List will be posted electronically in June 2014, and that it will be updated monthly. To ensure inclusion in the June 2014 list, FFIs will need to finalise their registrations by 25 April 2014.

Draft FATCA Reporting Form Issued

The IRS has also issued an early draft release of Form 8966 by which foreign financial institutions (FFIs) and withholding agents will report account holder or recipient information to satisfy the requirements of FATCA.

FATCA is intended to ensure that the IRS obtains information on accounts held abroad at FFIs by US taxpayers. Failure by an FFI to disclose information on their US clients, including account ownership, balances and amounts moving in and out of the accounts, will result in a requirement to withhold 30 percent tax on US-source income.

While the IRS has yet to issue instructions for completing Form 8966, the IRS stresses that FFIs should not rely on the draft for filing their reports. While it does not usually release drafts until it believes it has incorporated all changes, it points out that unexpected issues sometimes arise, or legislation is passed, necessitating a change to a draft form. In addition, forms generally are subject to Office of Management and Budget approval before they can be officially released.

The five parts of the draft form consist of sections for the identification of the filer, account holder or recipient information, identifying information of US owners that are specified US persons, account financial information, and information if reporting accounts.

The IRS has also informed all stakeholders that they may still submit comments about the draft form, each of which will be carefully considered.

Disclaimer

Baker Tilly International is a worldwide network of independent accounting and business advisory firms united by a commitment to provide exceptional client service. Baker Tilly International provides no professional services to clients but acts as a member services organisation. Baker Tilly International Limited is a company limited by guarantee and is registered in England and Wales.

International Tax Insight is designed for the information of users. Every effort has been made to ensure that at the time of preparation the information contained is accurate. Information within **International Tax Insight** is not designed to address a particular circumstance, individual, or entity, nor is it intended to be a substitute for detailed research or the exercise of professional judgement. No responsibility for loss, however arising, to any person acting or refraining from acting as a result of any material in this publication will be accepted by Baker Tilly International Limited.

Global Office
25 Farringdon Street
London EC4A 4AB
United Kingdom

T: +44 (0)20 3201 8800
F: +44 (0)20 3201 8801

info@bakertillyinternational.com
www.bakertillyinternational.com