Welcome

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

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

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Changes to capital gains tax rates approved

On March 16, 2016, the President sanctioned the conversion into law of Provisional Measure 692 (PM 692/2015) by Law No. 13,259/2016.

Pursuant to Law No. 13,259/2016, capital gains earned by individuals arising on the alienation of Brazilian assets and rights of any nature are subject to income tax at the rates below. Currently, the Brazilian tax legislation provides that non-residents should be subject to the same rules as Brazilian individuals.

- 15% on the portion of the gain not passing 5 million Brazilian real (BRL)
- 17.5% on the portion of the gain exceeding BRL 5 million and not passing BRL 10 million
- 20% on the portion of the gain exceeding BRL 10 million and not passing BRL 30 million, and
- 22.5% on the portion of the gain that passes BRL 30 million.

The text of the law provides that the law should enter into effect from the date of publication, producing effects from January 1, 2016. While a number of paragraphs specifically dealing with how the law would treat capital gains in relation to transactions occurring prior to December 31, 2015 were removed from the final text converted into law, there remains a question around the validity of the law in respect of transactions resulting in an increase to the tax due for the 2016 tax year.

PwC observation:
Taxpayers undertaking or intending to undertake reorganisations, sales, or acquisitions of Brazilian investments should consider how the changes to the rates may impact their transactions. Further, taxpayers should monitor challenges in relation to the constitutionality of the law in respect of transactions resulting in an increase to the tax due for the 2016 tax year.
China amendments the assessment guidelines for High and New Technology Enterprises (HNTEs)

Chinese government authorities recently amended the assessment guidelines for high and new technology enterprises (HNTEs) via Guokefahuo [2016] No.32 (Circular 32). Circular 32 has taken effect since January 1, 2016. The highlights of the amendment include:

Expanding the scope of high and new technology areas eligible for the HNTE tax incentive

Circular 31 amended Catalogue of High and New Technology Areas Specifically Supported by the State (the new Catalogue) by adding some new cutting edge technologies, (e.g. additive manufacturing, inspection certification services, etc.) and defining the areas with more technology-oriented terminologies rather than defining relevant products per se.

Adjusting certain assessment criteria

Some of assessment criteria for a HNTE were adjusted to reflect business needs. Noteworthy amendments include:

- The requirements that enterprises need to obtain proprietary intellectual property (IP) rights of core technology in the last three years through various ways, or through an exclusive Licence with a term of more than five years, are removed under Circular 32, meaning that the enterprises must own the core technology IP rights.
- The criteria that ‘the ratio of the number of science and technology personnel with diploma or above to the total number of employees for the current year shall be above 30%’ is removed. Circular 32 now only stipulates that ‘the ratio of the number of personnel participating in the R&D and related technology innovation activities to the total number of employees for the current year shall not be less than 10%’.
- Circular 32 lowers the ratio of the total R&D expenses against the total sales revenue from 6% to 5% for small scale enterprises with sales revenue less than 50 million renminbi (RMB) (inclusive) in the latest year. However, for other enterprises with sales revenue greater than RMB 50 million, the ratios remain unchanged.
- Circular 32 further requires that ‘the applicant should not have serious security or quality accidents, or incidents seriously violating environmental laws during the preceding year before the application’.

Streamlining administrative procedures

Circular 32 simplified the administrative procedures for HNTE qualification and established the new compliance requirements for HNTEs in China. It also established a new government compliance audit/tax audit mechanism on existing and new HNTEs.

PwC observation:

Circular 32 has addressed certain issues in the old HNTEs rules. However, there are still issues that are left unexplained. In addition, Circular 32 further extended the burden of proof to taxpayers which requires HNTEs in China to establish and maintain effective control, management, and documentation support system to deal with future potential audits. On the other hand, as HNTE is one of the major tax incentives in China available to enterprises including Foreign Investment Enterprises, eligible enterprises should still try to leverage this tax incentive regime to reduce their effective tax burden in China.
Availability of reduced penalty interest rate in Poland

On January 1, 2016, an amendment to the Polish Tax Ordinance Act introducing preferential (reduced) interest rates on late payment of taxes entered into force.

Since January 1, 2016, three interest rates thresholds have been introduced:

- ordinary interest (8%)
- reduced interest, and
- increased interest.

The reduced interest is 50% of ordinary interest (i.e. 4%) and may be applied to adjustments of tax returns filed within six months from the deadline to submit the adjusted tax return form.

According to the transitional provisions, the reduced rate may also be applied to tax arrears which arose before January 1, 2016 (i.e. within the statute of limitation, which is five years).

The reduced rate may be applied, only if:

- the adjusted tax return forms are effectively filed, and
- corresponding tax arrears are settled within six months since the amendment regulations entered into force (i.e. by end of June 2016), on condition that the tax authorities do not identify said arrears first.

The increased rate of 150% of ordinary interest rate applies to value-added tax (VAT) and excise duty liabilities that were understated by taxpayers and disclosed during tax audit or tax proceedings.

PwC observation:
In case of material tax arrears (e.g. resulting from unsettled capital gains tax on disposal of shares held in land rich companies via a regulated market by foreign investors), application of the reduced penalty interest rate may significantly reduce the overall amount due to the tax office.

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Romania

Significant changes introduced by the New Tax Code

The main purposes of the new legislation include providing clarity and predictability of domestic corporate taxation, stimulating economic growth and investments, simplifying the tax collection process, and reducing compliance costs for taxpayers. The amendments will take effect from January 1, 2016 or January 1, 2017.

General provisions

The Romanian anti-abuse rules in the New Tax Code define ‘artificial cross-border transaction’ as a transaction or series of transactions without economic substance that normally would not be used as part of normal business practices and is intended to avoid tax or obtain tax benefits that otherwise could not be achieved. The anti-abuse rules provide that for such transactions advantage of double tax treaties (DTTs) cannot be taken.

Corporate income tax (CIT)

The New Tax Code unconditionally exempts from CIT any dividends received by Romanian corporate taxpayers from Romanian legal entities. For dividends received from foreign legal entities, the existing conditions for applying the participation exemption will remain effective (i.e. exemption applies if there is a minimum shareholding percentage of 10% for an uninterrupted period of at least one year).

For dividends distributed between Romanian legal entities that do not meet the exemption conditions, the dividend withholding tax (WHT) will decrease from 16% to 5% effective January 1, 2016.

Interest deductibility

Among the few unfavourable changes, the restrictions on the deductibility of interest expenses and foreign exchange losses for non-bank loans have been tightened. The deductible rate of loan interest has been reduced from 6% to 4%. For purposes of calculating the debt-to-equity ratio, loans with a repayment term of longer than one year for which no interest is due under the loan instrument now will be taken into consideration.

Income tax

The New Tax Code reduces the dividend income tax rate from 16% to a 5%.

WHT

The tax rate for dividend income derived by non-residents from Romania will decrease from 16% to 5% effective January 1, 2016. This is similar to the rate that applies to the distribution of dividends to Romanian legal entities and Romanian resident individuals.

The New Tax Code reintroduces the exemption for interest related to financial instruments and receivables issued by Romanian companies traded on a regulated stock exchange market paid to a non-affiliated party of the issuer.

Construction tax

The controversial tax on special constructions that introduced heavy taxation for certain asset-intensive industries (e.g. utilities and telecommunications) will be eliminated on January 1, 2017 (January 1, 2016, for agricultural constructions).

PwC observation:

The amendments in the New Tax Code generally are favourable for business. The concerned changes reduce the tax burden for companies, and should reduce variability in interpretations of the tax law. Additional tax benefits include making dividend income tax-exempt for Romanian holding companies, as long as the dividends are provided by their Romanian subsidiaries. The standard WHT rate was reduced to only 5% for dividends not qualifying under the participation exemption regime. In the same line, the dividend income obtained by Romanian individuals is taxed at a 5% income tax rate. Multinational companies (MNCs) doing business in Romania should determine the possible impact of the new legislation on their operations.

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United Kingdom

UK disclosure of tax avoidance schemes - new financial products hallmark

Changes to the UK’s disclosure of tax avoidance schemes (DOTAS) regime took effect from February 23, 2016, including the introduction of a new ‘financial products’ hallmark. The DOTAS regime requires promoters and users of tax avoidance schemes to disclose information to the UK tax authority, HM Revenue & Customs (HMRC), about arrangements that fall within the scope of certain ‘hallmarks’.

The new financial products hallmark is widely defined to include shares, loans, derivative contracts, and similar instruments. The new rules apply when:

- a financial product is included in arrangements, and
- a main benefit of including the financial product is the obtaining of a tax advantage, and either
- the financial product contains terms which are only included in order to obtain a tax advantage, or
- the arrangements include contrived or abnormal steps in order to obtain a tax advantage.

Situations potentially within the new financial product hallmark include:

- structures involving hybrid instruments or hybrid entities
- loans on unusual terms which cannot be wholly explained by commercial factors
- arrangements with more than one class of share capital
- arrangements where shares or loans are issued and redeemed or written off, and
- arrangements involving financial products where there is a risk of the general anti-abuse rule (GAAR) applying.

PwC observation:

Despite the apparent breadth of these rules, HMRC has indicated that many transactions will not be within the scope, and we have discussed with HMRC how the new rules will be applied in practice. HMRC has not yet published guidance, but transactions which HMRC has indicated should not be caught by the hallmark include: choosing debt rather than equity to fund a particular activity/transaction, listing securities which benefit from the Quoted Eurobond exemption and the use of foreign currency clauses in loan notes.

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Final US Model Income Tax Treaty could significantly reduce access to treaty benefits

On February 17, 2016, the US Treasury Department (Treasury) issued a new US Model Income Tax Convention (the 2016 Model), which is the baseline text Treasury will use in negotiating tax treaties. According to an accompanying Treasury press release, the 2016 Model ‘includes a number of new provisions intended to more effectively implement the Treasury Department’s longstanding policy that tax treaties should eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance’.

The 2016 Model includes several novel provisions, including a new article denying treaty benefits for income subject to ‘special’ (i.e. preferential) tax regimes, a rule eliminating benefits for income allocable to so-called ‘exempt permanent establishments (PE)’, a mechanism for partial termination of treaties where a treaty partner reduces its corporate income tax (CIT) rate below a certain threshold, and new restrictions in the treaty’s Limitation on Benefits (LoB) article. The revised Model also includes rules denying treaty benefits for payments made by so-called inverted companies to connected persons, and provisions requiring disputes between the treaty partners to be resolved through mandatory binding arbitration. Treasury has indicated that it intends to release its Technical Explanation of the Model later this year.

Several of the changes were anticipated because in May 2015 Treasury released draft versions of some provisions of the revised Model, inviting comments. In response to numerous comments, Treasury has revised some of the proposals in the May 2015 drafts.

The fundamental differences between the 2016 Model and the prior 2006 Model are that companies will find it more difficult to qualify for treaty benefits under the new standards and, for those companies able to qualify, the benefits will be more restrictive. Publicly traded companies that meet the substantial presence test found in recent treaties likely will continue to qualify for treaty benefits. However, companies that qualify for treaty benefits under any of the other tests in the relevant LoB article of a treaty will need to consider carefully whether they would continue to qualify under a new or renegotiated treaty that includes the provisions in the new Model.

PwC observation:

The 2016 Model Treaty reflects a stark shift in focus by the US Treasury in its treaty policy from the goal of encouraging cross-border investment by reducing incidences of double taxation to an overarching concern of preventing the use of income tax treaties to facilitate stateless income. The result of this shift in focus is that many common business structures that should not be viewed as abusive may be unable to benefit from a treaty that incorporates the 2016 Model’s provisions, particularly because of the restrictive LoB article. It is unclear whether treaty partners negotiating income tax treaties with the United States will be willing to accept such restrictive and complex LoB provisions, but residents of any country that is considering negotiating or renegotiating an income tax treaty with the United States should closely monitor the status of negotiations and analyse whether they could qualify for benefits under a treaty that incorporates the 2016 Model’s provisions.
New FIRPTA Regulations conform and update changes from the PATH Act

The Treasury and the Internal Revenue Service (IRS) issued temporary and final regulations on February 17, 2016, that generally conform and update the existing regulations to changes made to the Foreign Investment in Real Property Tax Act (FIRPTA) by H.R. 2029, (herein ‘the PATH Act’). The PATH Act was signed into law on December 18, 2015.

The PATH Act (i) increased the general rate of withholding on dispositions of US Real Property Interests (USRPIs) from 10% to 15%, (ii) exempted certain foreign retirement funds from the application of FIRPTA, (iii) increased the amount of stock a foreign person may own in a publicly traded real estate investment trust (REIT) from 5% to 10%, (iv) added a new exception for qualified shareholders in REITs, and (v) modified the ‘cleansing rule’ and the definition of a ‘domestically controlled’ qualified investment entity.

PwC observation:
Foreign investors should be aware that going forward, all FIRPTA-related notices must be sent to the Ogden FIRPTA unit. Further, dispositions and distributions of USRPIs that were previously subject to 10% withholding are now subject to 15% withholding. Additionally, entities that qualify as a qualified foreign pension fund (QFPF) should be aware that they can provide a certificate of non-foreign status in order to avoid withholding tax (WHT). Entities that have concerns under Section 897(l) should consider submitting comments to the Treasury and IRS.

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Revised Section 704(b) regulations clarify partnership allocations of creditable foreign tax expenditures

The Treasury Department (Treasury) and Internal Revenue Service (IRS) issued revised Section 704(b) regulations on February 3, 2016. The new rules address certain situations involving partnership’s allocations of creditable foreign tax expenditures (CFTEs), expanding and clarifying regulations first issued in 2006 and revised in 2012. The basic purpose of those regulations is to ensure that partnerships allocate foreign taxes among partners in the same manner as they allocate the income to which those taxes relate.

In general, Section 704(b) rules treat a partnership’s allocations of CFTEs as not having substantial economic effect, because tax credits allocated to a partner are assumed to provide a dollar-for-dollar benefit that offsets the burden of the expense allocation. Thus, CFTE allocations are respected only if they reflect the partners’ interests in the partnership (PIP).

Existing regulations under Section 704 provide a safe-harbour method for partnerships to allocate CFTEs in a manner deemed to be in accordance with PIP. The preamble to the revised regulations asserts that they are ‘necessary to improve the operation’ of the existing safe harbour. Specifically, the revised regulations address three issues: (i) the effect of allocations (or distributions of allocated amounts) and guaranteed payments that give rise to foreign-law deductions in computing the income in a CFTE category, (ii) the effect of a transferee partner’s Section 743(b) adjustment on income in a CFTE category, and (iii) the application of the inter-branch payment rules in particular with respect to withholding taxes (WHTs). These inter-branch payment rules implicate Section 909.

The specific modifications in the revised Section 704(b) regulations are important not only for their direct effect on certain taxpayers, but also for what they indicate about ongoing efforts by Treasury and the IRS to prevent taxpayers from gaining tax benefits by splitting foreign taxes from the associated foreign income. The revised regulations are generally effective for partnership tax years that both (i) begin on or after January 1, 2016 and (ii) end after the February 2016 date of publication in the Federal Register. There is also a modification to existing transition rules for certain inter-branch payments. Treasury and IRS issued the revised regulations in temporary and proposed form and have requested public comment.

PwC observation:
The specific modifications in the revised Section 704(b) regulations are important not only for their direct effect on a certain set of taxpayers, but also as an indicator that Treasury and the IRS continue to be wary of perceived efforts by taxpayers to gain tax benefits by splitting foreign taxes from the associated foreign income. The request for comments in the regulation preamble indicates that Treasury and the IRS are continuing to consider these rules further; taxpayers and their advisors should discuss whether providing comments could be useful in helping the government understand real-world application of the rules. Taxpayers with global structures involving partnerships and hybrid entities that may incur foreign taxes should continue to be alert for developments in this area.
**Proposed Tax Legislative Changes**

**Hong Kong**

**Corporate tax proposals in the 2016/17 Hong Kong budget**

The Financial Secretary of Hong Kong delivered the 2016/17 budget on February 24, 2016. The budget did not propose any change to the Hong Kong profits tax rates, which remain at 16.5% (for corporations) and 15% (for unincorporated businesses). As a supportive measure to ease the burden of enterprises amid a slowdown of the local economy, a waiver of 75% of Hong Kong profits tax for year of assessment 2015/16, subject to a ceiling of 20,000 Hong Kong dollars (HKD), was proposed in the budget.

In addition, the following profits tax incentives were proposed in the budget:

- Expanding the scope of tax deduction for capital expenditure incurred for the purchase of intellectual property (IP) rights to layout-design of integrated circuits, plant varieties, and rights in performance.
- Examining the use of tax concession to boost aircraft leasing business and explore business opportunities in aerospace financing.

The implementation of the above budgetary proposals is subject to the enactment of the relevant legislative amendments.

**PwC observation:**

Under the existing tax law of Hong Kong, deduction is only allowed for capital expenditure incurred on purchase of limited categories of IP right (i.e. patents, know-how rights, copyrights, registered designs, and registered trademarks). The expansion of the scope of tax reduction for acquisition costs of IP rights would help promote Hong Kong as an IP trading hub in the region. On the other hand, tax concession for the aircraft leasing and aerospace financing industries would allow Hong Kong to enhance its tax competitiveness and maintain its status as a key transportation and logistic hub in Asia as Hong Kong does not currently have any tax incentives or concessionary tax treatments for these industries.

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Luxembourg government announces 2017 tax changes

On February 29, 2016, the Luxembourg Finance Minister announced changes to the Luxembourg corporate and personal tax systems planned for 2017. The changes are the outcome of extensive discussions over the last 18 months regarding possible reforms of the Luxembourg tax system. The changes include, notably, a reduction of the corporate income tax (CIT) rate from 21% to 18% (in two steps), and an increase of the personal tax rates for individuals earning more than 150,000 euros (EUR). For corporations, the most important measures are the following:

Reduction of the CIT rate
The CIT rate is proposed to be reduced from 21% to 18% over the next two years. The announcements do not foresee any change to the ‘solidarity surtax’ on the CIT rate, nor any change in the rate of municipal business tax due by companies. The CIT rate would be reduced to 19% for 2017, leading to an overall tax rate for companies of 27.08% in Luxembourg City for FY 2017 (including the solidarity surtax of 7% on the CIT rate and the 6.75% municipal business tax rate applicable).

The CIT rate would be further reduced to 18% for 2018, leading to an overall tax rate of 26.01% in Luxembourg City for FY 2018.

Increase of the minimum net wealth tax (NWT)
A minimum NWT charge was introduced on January 1, 2016, for all corporate entities having their statutory seat or central administration in Luxembourg. The measures imposing this new charge have very many similarities with the outgoing provisions for a minimum CIT charge, which were abolished with effect from the same date.

For holding and finance companies - being those for which the sum of their fixed financial assets, transferable securities, and cash at bank (as reported in their commercial accounts presented in the standard Luxembourg form) exceeds 90% of their total gross assets and EUR 350,000 - the minimum NWT would be increased from EUR 3,210 (including the solidarity surtax) to EUR 4,815 (including the solidarity surtax).

The minimum NWT applicable to all other corporations having their statutory seat or central administration in Luxembourg would remain unchanged.

Restrictions on the use of future losses
It is proposed to limit the use of losses generated as of January 1, 2017. It is understood from the Finance Minister’s press presentation that such losses would only be available to offset the taxable profits of subsequent periods up to a maximum of 80% of the taxable profits of each period. Also, losses generated after January 1, 2017 would only be able to be carried forward for a maximum period of ten years.

Losses that arose before January 1, 2017 should not be affected in any way by either of these limitations.

PwC observation:
These measures, planned to take effect progressively from January 1, 2017, are now likely to be included in a Bill, to be voted by the Luxembourg Parliament later in 2016.
Poland

First draft of amendment to the Polish CIT and PIT Laws published

On February 25, 2016, the Polish government published draft amendment to income tax laws. This draft amendment would introduce a number of important changes relating to catalogue of categories of non-resident income subject to taxation in Poland, exclusion of deferral of taxation of share exchange, where one of primary aims of this transaction is tax avoidance, rules of taxation of in-kind contribution of assets (other than going concern) and application of withholding tax (WHT) exemption for interest and royalties depending on whether the recipient is beneficial owner thereof.

Catalogue of non-resident income subject to taxation in Poland

Draft amendment would introduce to the corporate income tax (CIT) law and expand in the personal income tax (PIT) law a catalogue of income categories of non-resident taxpayers which are deemed earned in the territory of Poland, hence subject to taxation in Poland. Besides income related to business activities carried out in Poland and Polish real property, such categories would include income from receivables settled by entities resident in Poland, regardless of the place where the agreement is concluded or performance is executed.

Income earned in Poland would also include income from securities and derivatives quoted on Polish stock exchange, as well as direct or indirect transfer of shares in a company, partnership or investment fund whose assets are composed in at least 50% of real state or rights to real estate located in Poland. Also, dividends, interest, and other payments subject to WHT paid by Polish tax residents would be deemed earned in Poland.

New requirements regarding WHT exemption for interest and royalties

It is proposed that the condition for application of exemption from WHT of interest and royalties paid to associated companies from the European Union, would be that the interest recipient is beneficial owner thereof.

In order to apply the WHT exemption, the Polish payer would have to obtain a written statement which, besides, other items would confirm that the recipient company or permanent establishment (PE) is the beneficial owner of the payment.

Annihilation of shares in case of demerger

Draft amendment addresses also certain ambiguities relating to demerger of companies where the number of shares in a company being demerged remains unchanged while the nominal value thereof is decreased.

Taxation of in-kind contributions

The proposed amendment changes rules on recognition of taxable revenues related to in-kind contribution of assets other than a going concern.

Taxable revenues would no longer be equivalent to the face value of the shares issued in exchange for the contribution. Instead, in practice, taxable revenue would correspond to the market value of the contributed assets.

This change would eliminate existing controversies regarding taxation of in-kind contributions. At the same time, it would negatively affect execution of intra-group restructurings.

PwC observation:
The draft amendment is currently at an early legislative stage within the Council of Ministers and is now open for public consultation. It is envisaged that the changes to the legislation would generally become binding as of January 1, 2017, while CIT taxpayers whose tax year will begin before that date would still be subject to ‘old’ regulations until the end of such tax year. We will monitor the further legislative procedure.
United Kingdom

**Dates of significance: The UK Budget and the EU Referendum**

**UK Budget and Finance Bill 2016**
The UK Chancellor of the Exchequer, George Osborne, will present the UK’s Budget on March 16, 2016. In addition to the government’s proposals for changes to taxation, the Budget sets out the government’s plans for the economy based on the latest forecasts from the Office for Budget Responsibility. The draft Finance Bill 2016 will be issued shortly after the Budget and this should contain revised clauses on the new anti-hybrid rules, which will apply to payments made on or after January 1, 2017. The draft hybrid clauses were originally issued in December 2015 for public consultation. The government is also scheduled to publish its business tax roadmap around the time of Budget, setting out its plans for business taxes over the rest of the Parliament.

**EU Referendum**
The UK government has committed to holding a Referendum on June 23, 2016 on whether or not to remain a Member State of the European Union, following a renegotiation with the EU (European Union) on EU obligations. There is considerable public debate on the EU Referendum and for corporate groups it raises questions about issues ranging from tax and regulation to immigration and trade. A period of uncertainty until the outcome of the Referendum is known is inevitable.

**PwC observation:**
The business tax road map is a one off statement which is intended to provide clarity and certainty on the government’s approach to tax policy over the remaining course of this current Parliament.
**OECD announces agreement on framework for broader BEPS participation in BEPS stage two**

As we enter the second phase of the Organisation for Economic Co-operation and Development (OECD)-led Base Erosion and Profit Shifting (BEPS) project, the OECD has agreed a new framework that would, if approved, allow all interested countries and jurisdictions to become part of an inclusive dialogue on an equal footing. This dialogue would cover clarifications (and work left to complete on standard setting), implementation and monitoring. It would include, for developing countries, the development and provision of practical toolkits that address the top priority issues they have identified.

The involvement in standard setting of any non-OECD members that wish to sign-up on the specified terms is unprecedented in the tax area. This new framework, alternatively referred to by the OECD as the BEPS Implementation Forum, provides for all interested countries and jurisdictions to participate as BEPS Associates in an extension of the OECD’s Committee on Fiscal Affairs (CFA). The participant would have to commit to implementing the BEPS package of minimum standards and pay an annual fee of an amount reflecting its economic circumstances.

The proposal for broadening participation in the BEPS project will be presented to G20 Finance Ministers for approval at their next meeting on February 26 and February 27 in Shanghai, China. If endorsed at that meeting, the new forum will hold its first meeting in Kyoto, Japan on June 30, 2016 and July 1, 2016. Other stakeholders will want to watch closely to see how they might be able to participate.

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**PwC observation:**

The OECD and G20 countries will extend their cooperation on BEPS until at least 2020 to complete pending work and ensure an efficient targeted monitoring of the agreed measures. Now other countries and jurisdictions have the opportunity to participate on an equal footing.

All countries and jurisdictions, whether developing or developed, are invited to participate in this new inclusive BEPS implementation forum.

This is an unprecedented move by the OECD in the tax field. The potential for countries and jurisdictions to sign up, as an equal partner on relatively straightforward terms, to set international tax standards on BEPS is a big step. The role of the Transparency Forum, heralded as a successful benchmark, was only in implementation and monitoring.

Countries and jurisdictions will have to evaluate the benefits and costs of joining the forum as BEPS Associates. In that regard, the OECD cites as benefits:

- Implementing measures protecting the tax base, such as the development of provisions to avoid treaty abuse and provisions for Country-by-Country Reporting (CbCR).
- Being part of an inclusive dialogue on an equal footing to directly shape the standard setting and monitoring processes on BEPS issues.
- Accessing capacity building support for the implementation process including guidance on developing Action Plans for BEPS implementation.

The OECD Secretariat offers to assist potential members with any issues relating to ‘the commitment process’.

Businesses and other stakeholders will be keen to monitor the development of the forum and how they may be able to interact with it during the significant phases of BEPS stage two. Business has a lot of concern with the outputs of the BEPS process. Therefore, it may be concerning that the plans neither include an opportunity nor mention the need for business input in the implementation and monitoring process.
United Kingdom

The UK Public Accounts Committee report on corporate tax settlements

The UK Parliament’s Public Accounts Committee (PAC) issued a report on February 23, 2016 which makes five main general conclusions and recommendations as a result of its inquiry into HM Revenue & Customs’ (HMRC’s) tax settlement with Google. In January 2016 it was announced that an investigation by HMRC resulted in Google paying a further 130 million pounds (GBP) to settle its corporation tax liabilities over the last ten years.

The report’s conclusions and recommendations concern transparency about tax settlements in general, the time taken to complete tax investigations and settlements, penalties for tax avoidance by multinational companies, the need for changes in international tax rules to prevent tax avoidance and consistency with investigations by other tax authorities.

Prior to the PAC hearing, HMRC issued a factsheet setting out its approach to multinational organisations. Subsequently, on March 1, 2016, HMRC published a Policy paper to explain how the profits of non-UK resident companies are potentially subject to tax in the UK.

PwC observation:
The PAC’s recommendations are not binding on the UK government. The convention is that government departments’ respond to such reports within eight weeks. HMRC’s publications are intended to dispel some misunderstandings which have arisen around how HMRC ensures compliance among multinationals and help to inform the understanding of the relevant international tax rules.

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The Hong Kong government announced recently that the tax information exchange agreements (TIEAs) signed with Sweden and Greenland entered into force on January 16, 2016 and February 17, 2016 respectively. The two TIEAs were signed in August 2014.

Both TIEAs will be effective from year of assessment 2016/17 in Hong Kong. For Sweden and Greenland, the TIEAs will take effect for exchange of information (EOI) in respect of the taxable periods beginning on or after the date of entry into force or where there is no taxable period, for all charges to tax arising on or after the date of entry into force.

PwC observation:
As of February 2016, Hong Kong has signed TIEAs with seven jurisdictions (i.e. six Nordic jurisdictions and the US) and all of the TIEAs signed have entered into force. However, these TIEAs are based on the 2002 Organisation for Economic Co-operation and Development (OECD) Model TIEA which only provide for EOI upon request. Subsequent to the signing of a TIEA with the US, Hong Kong signed an intergovernmental agreement (IGA) with the US to implement FATCA in Hong Kong. Upon enactment of the draft legislation on implementing automatic exchange of information (AEOI) in Hong Kong, if Hong Kong wishes to put in place AEOI with the remaining six TIEA partners, it will have to renegotiate and amend the TIEAs signed in order to provide for a legal basis for exchanging information on an automatic basis.

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