INTRODUCTION OF THE BEPS INITIATIVE AND INTERNATIONAL TAX NEWS

International Tax

INTRODUCTION

The **Fiscal Countdown**, a monthly summary of international tax news, provides you with regular insights into the introduction of the OECD's BEPS initiative and the ongoing international tax reforms. This Twenty Second edition deals with the new measures published in February by the OECD, the EU, and in 33 countries: Algeria, Australia, Bahrain, Barbados, Botswana, Cambodia, Chad, China, Columbia, Costa Rica, Cyprus, Estonia, Finland, France, Germany, Hong Kong, India, Israel, Japan, Mexico, the Netherlands, Nigeria, Poland, Singapore, Slovakia, South Africa, Sri Lanka, Thailand, Turkey, Uganda, the UK, the USA and Vietnam.

OECD

The OECD released additional guidance to give greater certainty to tax administrations and multinational enterprise groups on the implementation and operation of BEPS Action 13 on Country-by-Country Reporting (CbCR). Accordingly, the existing guidance on the implementation of the CbCR has been updated to add: (i) a definition of total consolidated group revenue, relevant to determine whether a filing obligation exists; and (ii) whether non-compliance with the confidentiality, appropriate use and consistency conditions constitutes a Systemic Failure, which could trigger an obligation for local filing of the CbC report.

EUROPEAN UNION

The current Bulgarian Presidency of the Council of the European Union (EU) presented an EU-BEPS Roadmap (the Roadmap) outlining its plans for work in the field of BEPS.

The European Commission is about to unveil its proposals for the EU's digital tax strategy. Major EU states like France and Germany want to take action now, but Ireland stands in their way.

The EU Committee voted to approve the Common Consolidated Corporate Tax Base (CCCTB), which would create a single EU corporate tax regime. The committee also approved the Common Corporate Tax Base (CCTB), a separate, complementary measure that would create the basis for the harmonized EU corporate tax system. These proposals would

EUROPEAN UNION (CONTINUED)

look to an entity's "digital presence" within an EU member state, which may make the entity liable to tax even if it does not have a fixed place of business in that country. These proposals will be voted on by the EU Parliament as a whole in March.

EU 27 member states develop their approach to post-Brexit arrangements.

ALGERIA

Algeria's 2018 Finance Act amends Indirect Tax Code.

AUSTRALIA

Australian Taxation Office releases draft practical compliance guide on Diverted Profits Tax.

BAHRAIN

Bahrain implements Excise Tax Law.

BARBADOS

Barbados signs Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

BOTSWANA

Botswana issues 2018 Budget including draft of transfer pricing rules.

CAMBODIA

Cambodia clarifies transfer pricing documentation requirements for FY 2017.

CHAD

Chad enacts 2018 Finance Law including but not limited to institution of TP documentation, Limitation in the deduction of charges paid in non-cooperative tax jurisdictions and New rule for deduction of intercompany loan interest.

CHINA
China issues implementation rules on withholding tax deferral treatment on direct reinvestment.

COLUMBIA
Colombia signs tax treaty with UAE.

Colombia releases transfer pricing information statement for tax year 2017.

COSTA RICA
The Costa Rican Government published Resolution DGT-R-001-2018, which addresses the disclosure of information by companies residing in Costa Rica for purposes of the Country-by-Country (CbC) reporting requirement.

CYPRUS
Cyprus extends VAT grouping to companies with an establishment in Cyprus.

ESTONIA
Estonia has implemented a lower income tax rate of 14% for regular profit distributions compared to the standard rate of 20% (from gross amount), effective 1 January 2018.

FINLAND
The Finnish Ministry of Finance has issued a draft bill and a request for comments by 26 February 2018 on the new interest deduction limitation rules stemming from the EU Anti-Tax Avoidance Directive (the Directive). The new interest deduction limitation rules are scheduled to be applied as of 2019.

The tax administration published new Guidance No. A129/200/2017 on transfer pricing documentation, replacing the Guidance of 2007. The documentation obligation is divided into a master file and a local file. Taxpayers are required to prepare annual documentation and to provide additional explanatory notes.

FRANCE
The French Government presented to the French Senate a bill to ratify the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS under BEPS Action 15 (MLI) where it is waiting to be further approved.

GERMANY
Germany's Government–Coalition Agreement includes list of planned tax legislative proposals for 2017–2021 including but not limited to a commitment to:

• support a Common Consolidated Corporate Tax Base (CCCTB) and minimum tax rates ;
• fight tax evasion, tax avoidance, unfair tax competition and money laundering ;
• introduce measures for appropriate taxation of the digital economy ;
• implement at the European Union's (EU) Anti-Tax Avoidance Directive (ATAD and ATAD2) ; and
• adoption of tax incentives for research and development (R&D) activities.

HONG KONG
the Hong Kong Government gazetted the new law which empowers the Chief Executive in Council to give effect to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and other tax agreements that apply to Hong Kong.

INDIA
The Finance Minister of India presented the Union Budget (Budget) for the tax year 2018-19. The following summarizes the key proposals relevant from an OECD BEPS perspective.

The Budget proposes an amendment to the definition of the term "business connection." A business connection is equivalent to a PE rule under the Indian domestic tax law and is used to evaluate if a nonresident (NR) taxpayer has a taxable presence in India. The scope of the term business connection is now expanded to cover the following:

• Activities carried out through a person who habitually plays the principal role leading to conclusion of certain contracts. This provision is largely aligned with recommendations of Action 7 of the OECD BEPS project.

•"Significant Economic Presence," which is defined as: (i) systematic and continuous soliciting of business activities or engaging in interaction with users in India through digital means, subject to certain thresholds to be prescribed; or (ii) transaction in goods, services or property carried out by an NR in India including provision of download of data or software in India, subject to certain thresholds to be prescribed.

Additionally, the following clarifying provisions were introduced from a CbCR perspective:

• The Indian constituent entity (with an NR parent) would be required to furnish CbCR in India if the parent entity has no obligation to file such report in the home jurisdiction.

• The due date for filing a CbC report is revised to 12 months from the end of reporting accounting year of the ultimate parent entity (UPE), if the UPE is resident in India or an Indian constituent entity is subject to CbCR in India.

The Budget needs to be approved by both Houses of the Indian Parliament and assented by the President of India to be enacted.

ISRAEL
Israel's Tax Authority releases draft circular for comments on business restructuring in multinational groups.

Israel's Tax Authority releases draft circulars for comments on transfer pricing methods and profitability ranges.

JAPAN
The 2018 Japanese tax reform bill was submitted to the Diet (Japanese Legislature). The bill contains a modification to the domestic PE definition. The modification in general follows the OECD's recommendations in the BEPS Action 7 final report.

The tax reform bill is expected to be passed by the Diet by the end of the March and become effective on 1 April 2018. The revision to the PE definition will apply to fiscal years beginning on or after 1 January 2019.

MEXICO

Mexico has incorporated recent tax developments into its tax legislation, which include changes to the due date for the *Tax Situation Information Return* (*Declaración Informativa sobre Situación Fiscal* or *DISIF*) and deadlines to file some of the transfer pricing returns for fiscal year (FY) 2017.

NETHERLANDS

Dutch Government confirms retroactive law changes to fiscal unity regime following CJEU's ruling that certain elements of regime are not in line with EU right of establishment.

NIGERIA

Nigeria Federal High Court upholds TAT judgment on VAT imposed on bandwidth services provided by nonresident companies.

POLAND

Poland became the fourth country to deposit its instrument of ratification for the MLI.

SINGAPORE

Singapore amends Goods and Services Tax.

SLOVAKIA

Slovakia's new tax law effective 1 January 2018, includes but is not limited to change of agent permanent establishment (PE) definition and special VAT scheme applicable to accommodation and travel services.

SOUTH AFRICA

South Africa's Minister of Finance, delivered his 2018 Budget Review including but not limited to:

- approved six special economic zones (Coega, Dube Tradeport, East London, Maluti-a-Phofung, Richards Bay and Saldanha Bay). Qualifying taxpayers operating in these zones will benefit from a reduced corporate rate and will qualify for an employment tax incentive for workers of all ages.

- refining the rules for debt-financed acquisitions of a controlling interest in an operating company.

- the increase of the standard rate of VAT from 14% to 15% with effect from 1 April 2018.

SRI LANKA

Sri Lanka's 2018 Budget includes indirect tax proposals.

THAILAND

Thailand proposes new VAT bill on foreign e-business.

TURKEY

Turkish Tax Authority publishes VAT guidance for nonresidents providing E-services to Turkish resident individuals. Turkey's Ministry of Finance has announced that amendments have been made with respect to the application process for Advance Pricing Agreements (APAs).

UGANDA

Uganda issues public notices on consolidating VAT sales and use of improper tax invoices.

UK

The United Kingdom (UK) has recently introduced new registration and reporting requirements which may impact both UK and non-UK trusts and which should be considered by all affected parties.

The United Kingdom (UK) Government launched its much anticipated consultation on the corporate intangible fixed assets regime (IFA regime).

USA

Guidance to implement provisions in the *Tax Cuts and Jobs Act* (TCJA) continues to dominate United States (US) Treasury and Internal Revenue Service (IRS) discussions, both within and outside the Government.

VIETNAM

Vietnam implements indirect tax changes for 2018.

CONTACTS

Frédéric Barat
Attorney at law, Partner
Tél. : +33 (0) 1 49 97 45 86
Mobile : +33 (0) 6 63 32 84 55
frederic.barat@avocats-mazars.com

Pascal Luquet
Attorney at law, Partner
Tél. : +33 (0) 1 49 97 48 32
Mobile : +33 (0) 6 63 36 27 62
pascal.luquet@avocats-mazars.com

Frédéric Lubczinski
Attorney at law, Senior Manager
Tél. : +33 (0)1 49 97 36 24
Mobile : +33 (0)6 67 67 26 97
frederic.lubczinski@avocats-mazars.com

Mickaël Duquenne
Manager
Tél. : +33 (0)1 49 97 47 33
Mobile : +33 (0)6 63 02 81 38
mickael.duquenne@avocats-mazars.com