International Tax Insight

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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, Australia, Canada, China, France, India, Netherlands, Poland, Sweden 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

Argentine Tax Reform Comes Into Force

A new law in Argentina which introduces significant changes to the taxation of dividends and capital gains came into force on 23 September 2013 upon being published in the Argentine Official Gazette. The new law applies to taxable events that take place from the day of the law's entry into force.

Under the new law a 15% income tax will be applied to net gains from the sale of shares, bonds and other securities. Prior to the law coming into effect foreign parties (non-Argentine residents) were exempt from tax on such transactions.

For foreign investors, the tax amounts to 13.5% of the gross sale price, based on a presumption that the net gain is 90% of the gross sale price.

If both the seller and the buyer are foreign parties, the buyer is required to pay the tax to the Argentine authorities, according to the law.

Certain dividend and profit distributions made by Argentine companies, trusts and certain mutual funds would be taxed at a rate of 10% under the new legislation. Profit remittances made by permanent establishments and branches of nonresidents to resident individuals and individual and corporate nonresidents would also be subject to the tax. Dividend and profit distributions made to resident companies would continue to be exempt from tax.

Australia

Australia Releases Carbon, Mining Repeal Legislation

The Australian's Coalition Government has said that scrapping the carbon tax will leave the average household approximately AU$550 (US$521) better off in 2014-15.

The new Government had pledged that its first parliamentary act of business would be to introduce repeal legislation.

The bills remove the carbon tax, end the carbon tax on fuels used in shipping, rail and air transport, and on synthetic greenhouse gases. The Climate Change Authority will be abolished, and the Australian Competition and Consumer Commission will be given further powers to take action against businesses engaging in post-repeal 'price exploitation.'

Unveiling the draft legislation, the Environment Minister Greg Hunt stressed that businesses and manufacturers will see their compliance costs fall by AU$100m a year, while the economy overall will receive a boost, employment will go up, and cost of living pressures will be eased. Around 440 pages of legislation will be axed.

Australia To Repeal Mining Tax

The Australian Government has also released draft legislation for the repeal of the Minerals Resource Rent Tax (MRRT) from 1 July 2014.

A joint media statement released by Treasurer Joe Hockey, the Industry Minister Ian Macfarlane, and Finance Minister Mathias Cormann describes the MRRT as "a complex and unnecessary tax which struggled to raise the substantial revenue predicted by the Government." Originally intended to raise AU$45bn (US$43.3bn), the new Government is predicting that the MRRT will only generate around AU$4bn in revenue.

The MRRT was introduced to fund a number of spending measures proposed by the former Labor Government. According to the new administration, these initiatives "came at a significant cost to the Budget, to the point where the Government is borrowing money to pay for these commitments." Repealing the MRRT package is expected to contribute more than AU$13bn of savings to the Budget's bottom line, on an underlying cash basis over the forward estimates.

Speaking to journalists, Hockey said: "Getting rid of things like the mining tax and the carbon tax will help to grow the Australian economy, there is no argument about that. Particularly getting rid of the carbon tax has direct links to an improvement in economic growth. I would say to you that the best thing we can do to get the economy growing is to give consumers confidence, not only that they will hold their jobs, but that they can get even better jobs. Secondly, if they have got that confidence it will flow through to business confidence.

"A confident consumer is a confident business. That in turn will help to generate job security. You have got to get rid of the speed humps. Speed humps are excessive regulation, excessive taxation and ultimately poor, inconsistent Government. We are addressing all of those things."

Canada

Canada, EU Finally Ink Trade Deal

After more than four years of negotiations, the European Union (EU) and Canada have reached a political agreement on a Comprehensive Economic and Trade Agreement (CETA).

The deal will remove over 99% of tariffs between the two economies, and is designed to create new market access opportunities in services and investment. A joint declaration, issued by European Commission President José Manuel Barroso and Canadian President Stephen Harper, describes the CETA as "a 21st century, gold standard agreement that will create new opportunities on both sides of the Atlantic, generating more trade and investment, thus promoting growth and supporting more European and Canadian jobs."

A majority of duties will be eliminated as soon as the agreement enters into force, and industrial tariffs will be fully liberalised. By the end of the transitional period, Canada and the EU will liberalise, respectively, 92.8% and 93.5% of trade lines in agriculture. A chapter on technical barriers to trade contains provisions to improve transparency and foster closer contacts between the EU and Canada in the field of technical regulations.

The agreement will remove or alleviate barriers to investment, and create a more level playing field on intellectual property rights. All sub-federal levels of government in Canada have committed themselves to bilaterally opening their procurement markets, and the deal provides for an efficient dispute settlement mechanism that covers most areas.

Once implemented, the CETA is expected to boost bilateral trade in goods and services by 22.9%. Around half of the EU's anticipated overall gross domestic product (GDP) gains will come from changes to trade in services regulations, and could amount to up to €5.8bn (US$7.9bn) a year. Total EU exports to Canada are estimated to increase by 24.3%, while Canada bilateral exports to the EU should rise by 20.6%.

Annual real income gains of approximately €11.6bn for the EU and €8.2bn for Canada, respectively, are anticipated within seven years of the CETA's implementation.

Harper said that "with this agreement the number of countries with which Canada has free trade agreements will triple from 14 to 42, providing us with free trade access to over half of the entire global market place. It has been the stated desire of Canadian national governments since the 1970s to significantly broaden our trade relations beyond the United States and most particularly to secure such a relationship with Europe.

"This we have now achieved. And a potential for both our economies that measures in the billions of dollars. Of course most importantly both for Canadians and Europeans this agreement will help create good, well paying jobs. On our side of the Atlantic all regions and provinces stand to benefit. Whether you are a fisherman in Atlantic Canada, an industrial worker in Ontario or Quebec, a forester in Western Canada, increased trade with Europe will inevitably benefit you."

An estimated one in five Canadian jobs are tied to trade, with trade the equivalent of 60% of the country's GDP.

Barroso spoke of "a truly historic occasion. It is the first time that the European Union agrees a trade agreement with a G8 occasion and it will also be the biggest agreement of Canada ever. This is also a landmark achievement for the transatlantic economy and a stepping stone to an integrated transatlantic market, something I have been advocating for a long time and I am proud that this Commission is taking the necessary steps in that direction.

"This agreement will boost our trade and investment relations and will contribute to generate more growth and jobs in the European Union and Canada."

In 2012, Canada was the EU's 12th most important trade partner, accounting for 1.8% of the EU's total external trade. The EU is Canada's second largest trading partner, after the US, absorbing around 9.5% of Canada's total external trade. The value of bilateral goods last year reached €61.6bn.

China

China Publishes White Paper On Trade Cooperation With Africa

China's State Council has recently published a white paper on "China-Africa Economic and Trade Cooperation" that looks at the further development of sustainable Chinese trade with the African continent, particularly within the context of regional integration efforts.

It is disclosed that, by 2009, China had become Africa's largest trade partner, and Africa is also now China's major import source. By 2012, the total volume of China-Africa trade reached US$198.5bn, a year-on-year growth rate of 19.3% since 2009. Of this, US$85.3bn consisted of China's exports to Africa, up an average 16.7% annually, and US$113.2bn was contributed by China's imports from Africa, up 21.4%.

In addition, as the volume of China-Africa trade continues to grow, its proportion of China's and Africa's respective total foreign trade volume has also increased. For example, from 2000 to 2012, the proportion of China-Africa trade volume, as a part of Africa's total foreign trade volume, rose from 3.8% to 16.1%.

China points out that it has already opened its markets to African products through tariff exemptions. All of the 30 least developed countries in Africa that have diplomatic ties with China enjoy zero-tariff treatment for 60% of their exports to China, covering 4,762 items. By the end of 2012, 22 of them had seen RMB910m (US$148.7m) of tariff exemptions, involving US$1.49bn of goods.

It is said that, through China-Africa trade, "Africa's exporters have obtained access to a stable market, higher pricing and greater benefits." Over the past three years, China's imports from Africa have increased particularly in bulk commodities, such as crude oil and agricultural products.

China plans that, over the next three years, it will take multiple measures to promote the healthy development of China-Africa trade. These include implementing the "Special Plan on Trade with Africa," which will expand the scope of zero tariff treatment for African products exported to China and increase China's imports from Africa.

In addition, China will help African countries improve their customs and commodity inspection facilities, provide support for African countries to promote intra-regional trade facilitation, and push forward trade development generally within Africa.

Finally, cooperation between China and African regional organisations has been, and will be further, strengthened. Since 2011, the Chinese government has signed Framework Agreements on Economic and Trade Cooperation with both the East African Community and the Economic Community of West African States, to expand cooperation in promoting trade facilitation, direct investment, cross-border infrastructure construction and development aid.

France

France Presents 2014 Finance Bill

French Finance Minister Pierre Moscovici and Budget Minister Bernard Cazeneuve have presented the country's 2014 finance bill (PLF 2014) to the Council of Ministers, providing for a raft of tax measures designed to boost employment and to modernise and preserve France's social model.

The draft budget aims to reduce the public deficit by almost 1% of gross domestic product (GDP) in 2014, with the effort shared and distributed fairly. The adjustment is to be largely based on expenditure cuts: 80% of the fiscal effort, around €15bn (US$20bn), is to be derived via expenditure savings and a further €3bn is to flow from compulsory tax rises.

For households in France, the Government aims to re-index the income tax scale to inflation following a two-year consecutive freeze implemented by the previous Government. Furthermore, the tax discount mechanism (décote) is to rise by 5% to €508. At a cost of around €900m, the measures are expected to benefit in the region of seven million households in France, of which 200,000, currently subject to taxation, will not be taxed in 2014.

As part of efforts to consolidate and to modernise the country's social model, the Government plans to reform its family and retirement policies. Consequently, the "family quotient" income tax break ceiling will be further lowered from €2,000 to €1,500 next year, affecting around 1.3 million households. The Government also plans to abolish the tax reduction accorded to parents with children at secondary school or in higher education.

Within the framework of the Government's pension reform plans, the PLF 2014 provides for a rise in social contributions of 0.3% in 2014, an effort to be shared between employees and employers. The rise is to be fully offset for businesses, however, to prevent a rise in the cost of labor. In addition, the 10% pension supplement accorded to parents with three or more children is to be subject to income tax in future.

To support activity in the housing sector, the draft budget provides for a reduction in value-added tax (VAT) in the social housing sector and provides for a reform of the taxation of real estate capital gains, to restore fluidity to the housing market. Further, the Government plans to create a tax incentive for institutional investment in 'intermediate' housing.

To enable the Government to facilitate the energy transition, the PLF 2014 introduces a 'carbon base' in existing energy taxes, which is to increase progressively while at the same time respecting the Government's commitment to stabilizing compulsory levies in 2015. The 'climate energy contribution' (CCE) is forecast to yield €340m in 2014, reaching €4bn in 2016.

According to the Government, "the taxation of companies will be stabilised between 2013 and 2014." Moreover, the CICE competitiveness and employment tax credit will serve to actually reduce the tax burden on labor in 2014. From 1 January 2014, the CICE tax credit will amount to 6% of gross payroll for remuneration equal to or below 2.5 times the minimum wage.

Determined to fundamentally reform corporation tax, the Government intends to abolish the annual minimum tax levied on turnover (IFA) and to replace the tax with a contribution on gross operating surplus (EBE), within the framework of the PLF 2014. The new EBE is to be imposed on companies realizing a turnover in excess of €50m and levied at a rate of 1%.

To encourage innovation, the PLF 2014 provides for a strengthening of the regime for young innovative enterprises in France (JEI). The legislation introduces a specific depreciation to support small- and medium-sized companies investing in robotics. In addition, the tax regime for capital gains derived from securities is to be reformed to ensure that the system is more readable and more attractive in future, and to encourage long-term investment and risk taking.

Finally, the 2014 finance bill provides for an 'exceptional solidarity tax' to be imposed on high remuneration paid out by companies, for a period of two years. The tax is to be levied at corporate level on the share of individual gross remuneration in excess of €1m. The rate of the contribution will be equal to 50% of the amount and capped at 5 % of corporate turnover. The exceptional solidarity tax is to apply to 2013 and 2014 income and is expected to generate €260m in 2014 and €160m in 2015, affecting 470 companies and 1,000 executives.

Based on a positive growth forecast of 0.9% in 2014, compared to 0.1% in 2013, the PLF 2014 aims to enable the Government to reduce the deficit to below 3% of GDP by the end of 2015 and to return to a structural balance by the end of its five-year term in office.

India

India Finalises Safe Harbor Rules

The Indian Government has unveiled the final version of its new transfer pricing safe harbor rules.

The announcement comes just one month after the Finance Ministry launched a consultation on draft proposals. This rapid progress is in contrast to the more protracted process of reforming India's transfer pricing rules that has been underway since 2009. That year's Finance Act stipulated that the calculation of an arm's length price was to be subject to safe harbor rules. No agreement could be reached on what shape the new regime was to take, and eventually a committee was established in 2012 to draw up provisions.

The committee drafted safe harbors for the IT and ITES sectors, contract research and development (R&D) in the IT and pharmaceutical sectors, financial transactions involving corporate guarantees and outbound loans, and auto ancillary equipment manufacturers. The Government said that it had accepted the majority of the committee's recommendations.

Following the consultation, which closed on August 26, the Government has confirmed that the rules will be applicable for the five assessment years beginning in 2013-14. A taxpayer will be able to opt to use the regime for a period of their choice, providing that this does not exceed five assessment years.

The Assessing Officer (AO) in each case will pass their reference on to the Transfer Pricing Officer (TPO) within two months of the taxpayer's application. Within two months of this reference, the TPO must pass an order determining the validity of the taxpayer's decision to use the rules. If the authorities reject the application, a hearing will be held and a reasoned order passed, to which the taxpayer will have the right to file an objection. The Commissioner will have two months to respond.

If the option is declared valid, it will remain so for the requested period, unless the taxpayer voluntarily opts out. The taxpayer will need to submit a statement regarding the significance of the international transaction, its nature, and the operating margins or rate of interest/commission for the relevant assessment years covered under the safe harbor period. The option may be deemed invalid if there is a change in the facts and circumstances relating to the eligibility of the taxpayer or of the international transaction. The ruling will only be withdrawn once the Commissioner has consulted with the taxpayer.

Netherlands

Dutch Government Unveils 2014 Tax Plan

The Dutch Government has unveiled details of its 2014 Tax Plan, providing for a raft of tax measures aimed at combating tax fraud, redressing the public finances, securing solid tax revenues, and simplifying the tax system.

The 2014 Tax Plan provides crucially for the non-indexation of tax brackets, and for an extension of the crisis levy. In addition, the package contains plans to temporarily extend the gift tax exemption from 1 October 2013, to 1 January 2015. The extension will ensure that family or third party gifts of up to €100,000 (US$133,527) will remain exempt from gift tax, provided that the funds are used for the benefit of the taxpayers' own dwelling. Normally, gift tax exemption is only granted in the case of gifts from parents to dependents aged between 18 and 40, up to a maximum of €51,407.

One of the central pillars of the Government's tax package is to make it more attractive to work and to ensure a fair distribution of income. Consequently, the Government intends to increase the maximum employed person's tax credit by a total of €836 over a period of four years, with a planned rise of €374 in 2014. For taxpayers earning 225% more than the minimum wage, the amount of the employed person's tax credit will be dependent on income. Furthermore, the maximum general tax credit will rise by a total of €196 over a period of four years for those with income of up to €19,645. For taxpayers earning in excess of €19,645, the general tax credit will be linked to income.

Although the Government initially planned to increase the tax on beer and wine by 14% and on spirits by 5%, it finally decided to raise the excise duty on all alcoholic beverages by 5.75% instead, to prevent tariffs varying too much from prices in other countries, notably Germany. The Government aims to increase the consumption tax on non-alcoholic beverages, and to raise the excise duty on diesel and LPG. However, the Government confirmed plans to postpone the planned tobacco tax rise until 1 January 2015.

The Netherlands' 2014 Tax Plan is designed to achieve structural savings totaling €6bn. The budget provides for a reduction in the deficit to 3.3% of gross domestic product in 2014. Without intervention measures, the deficit would rise to 3.9%.

Poland

Poland Modernises Tax-Free Shopping Administration

The Polish Ministry of Finance on 3 September 2013, announced that it will expand the roll out of dedicated counters at its borders to handle electronic requests for value-added tax (VAT) refunds under its VAT-free shopping special scheme.

The announcement comes after the success of a pilot at Poland's road border crossing with Belarus in Terespol. The Ministry has said new facilities will be established across the nation's frontiers with Belarus and Ukraine to allow eligible non-EU persons to submit claims for VAT refunds electronically in respect of purchases made in Poland, cutting the burden on taxpayers at the border. The first set of new dedicated counters was installed at the border with Dorohusk, Ukraine, on 2 September 2013.

Commenting on the success of the Terespol pilot, the Ministry said: "During past months, we can say that the kiosks have helped improve the administration of the [VAT refund] regime, cutting the burden on consumers entitled to a VAT refund to a minimum."

As a result of the pilot, the number of taxpayers availing themselves of VAT refunds in Terespol increased from 530,000 applications in the first half of 2012, to close to 690,000 during the same period in 2013, the Ministry reported.

The EU-wide VAT refund scheme seeks to ensure that goods are taxed in the place where they are destined for use, to prevent double taxation, which would occur if both the EU and the visitor's home country taxed the goods upon export and import, respectively.

The scheme has its basis in EU VAT law and is mandatory for goods exceeding €175 (US$225). Member states are afforded the discretion of extending the benefit to goods below that value. Poland allows VAT refunds on goods valued over PLN200 (US$61).

Sweden

IMF Recommends Reducing Swedish Tax Incentives

On 30 August 2013, the Executive Board of the International Monetary Fund (IMF) concluded its Article IV consultation with Sweden.

In their assessment the Executive Directors commended the Swedish authorities for their sound policy management, including a supportive fiscal and monetary stance and ongoing financial reforms. However, they noted that growth has slowed partly due to subdued trading with important partners in the wider Nordic and European region. Meanwhile, risks also remain tilted to the downside. High household debt and financial fragilities pose important challenges, particularly given the large size of Sweden's financial sector and significant cross-Nordic linkages.

The Directors suggested a comprehensive but gradual strategy to further improve the health of the banking system and household finances, including measures to strengthen banks' funding and liquidity positions and a phased-in reduction of tax incentives to contain the buildup of household debt.

US

IRS Discloses Delay to 2014 Tax Season

The Internal Revenue Service (IRS) has announced a delay of approximately one to two weeks to the start of the 2014 United States filing season to allow adequate time to program and test tax processing systems following the 16-day federal government closure.

Acting IRS Commissioner Danny Werfel said that the IRS is exploring options to shorten the expected delay and will announce a final decision on the start of the 2014 filing season in December this year. The original start date of the 2014 filing season was January 21, and with a one- to two-week delay, the IRS would start accepting and processing 2013 individual tax returns no earlier than January 28 and no later than February 4.

In fact, it was added that the government closure had come during the peak period for preparing IRS systems for the 2014 filing season. Programming, testing and deployment of more than 50 IRS systems is needed to handle processing of the nearly 150m tax returns, and their updating is a complex, year-round process with the majority of the work beginning in the fall of each year.

About 90% of IRS operations were closed during the shutdown, with some major workstreams closed entirely during this period, putting the IRS nearly three weeks behind its tight timetable for being ready to start the 2014 filing season. Furthermore, there are additional training, programming and testing demands on IRS systems this year in order to provide additional refund fraud and identity theft detection and prevention.

"Readying our systems to handle the tax season is an intricate, detailed process, and we must take the time to get it right," Werfel stated. "The adjustment to the start of the filing season provides us the necessary time to program, test and validate our systems so that we can provide a smooth filing and refund process for the nation's taxpayers."

"In the days ahead, we will continue assessing the impact of the shutdown on IRS operations, and we will do everything we can to work through the backlog and pent-up demand," Werfel continued. "We greatly appreciate the patience of taxpayers and the tax professional community during this period."

The IRS stressed that it will not process paper tax returns before the start date. There will therefore be no advantage to paper filing before the opening date, and taxpayers will still receive their tax refunds faster by using e-file with direct deposit. The April 15 tax deadline is set by statute and will remain in place, but the IRS has reminded taxpayers that anyone can request an automatic six-month extension to file their tax return.

The IRS is continuing to see heavy demand on its toll-free telephone lines, walk-in sites and other services from taxpayers and tax practitioners, after its reopening. During the closure, the IRS received 400,000 pieces of correspondence, on top of the 1 million items already being processed before the shutdown. It is encouraging taxpayers to continue to use automated applications on the IRS website, whenever possible.

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