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Africa Tax News

November 2019

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Mauritius

Mauritius deposits its instrument of ratification of the MLI

On 18 October 2019, Mauritius deposited its instrument of ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (the MLI) with the Organisation for Economic Co-operation and Development (OECD). Mauritius submitted the final list of 44 tax treaties entered into by Mauritius and other jurisdictions that Mauritius would like to designate as Covered Tax Agreements (CTA), i.e., tax treaties to be amended through the MLI as well as its list of reservations and notifications. The MLI will enter into force for Mauritius on the first day of the month following the expiration of a period of three calendar months beginning on the date of the deposit by Mauritius of its instrument of ratification, i.e., 1 February 2020.

Controversy trends

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Nigeria

The Federal Inland Revenue Service establishes a Non-Resident Persons' Tax Office

On 19 October 2019, the Federal Inland Revenue Service (FIRS) notified taxpayers that it has established a Non-Resident Persons' Tax Office (NRPTO) to handle the tax affairs of non-resident persons, which includes companies established outside Nigeria as well as non-resident individuals that derive income or profit from Nigeria. The objective of the office is to enhance tax certainty, promote voluntary compliance, reduce tax disputes and avoid incidence of double taxation for these persons.

Commencing from 1 January 2020, non-resident taxpayers are required to submit their tax returns, correspondence and inquiries relating to all the taxes administered by the FIRS to the NRPTO.

South Africa

South African Revenue Service (SARS) relaunches the Large Business Centre (LBC)

On 23 October 2019, the SARS re-launched the LBC, a unit focused on revenue collection from large corporate companies. The unit was dismantled in 2014 in a move said to have significantly impacted tax collection. At the re-launch, the current head of SARS, Edward Kieswetter, noted that the unit would service all companies listed on the Johannesburg stock exchange, multinational firms, business enterprises with a turnover of more than R1 billion (approximately) and high-net-worth individuals with total assets over R75 million. He stressed the need for voluntary compliance among businesses and rebuilding public trust, which he said had declined in the past five years.

Digital developments

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Nigeria

The Federal Inland Revenue Service to introduce electronic filing of transfer pricing and country-by-country (CbC) reporting

On 29 September 2019, the FIRS held a demonstration of its proposed electronic transfer pricing filing portal for tax consultants and taxpayers. The portal is expected to be operational by December 2019 and will be available for submission of transfer pricing returns, country-by-country (CbC) reports and CbC notifications. Taxpayers who prefer to file hard copies at the office of the FIRS will still be allowed to do so.

Registration of technology transfer agreements (TTA) automated

On 2 September 2019, the National Office for Technology Acquisition and Promotion (NOTAP) issued a public notice announcing the automation of the technology transfer registration process. All new applications and renewals may now be processed via the NOTAP online portal.

Prior to this announcement, registration and approval of agreements relating to technology transfer were processed manually. It is expected that the automation of the registration process will lead to better co-ordination and greater efficiency.

NOTAP is responsible for registration of all foreign technology transfer agreements having effect in Nigeria. Registration of technology agreements is one of the criteria's required for tax deductibility of related fees.

Uganda

URA issues guidelines for non-residents to account for VAT

On 24 October 2019, the Uganda Revenue Authority (URA) issued a public notice instructing non-resident persons on the procedure to account for value-added tax (VAT) on electronic services supplied in Uganda. Non-residents supplying electronic services in Uganda are required to register for VAT purposes online using the URA web portal. Registered non-residents must:

- File monthly VAT returns online and make payments by the 15th day of the following month
- Make payments via a bank of choice listed on the URA web portal in cash or by check, demand draft, electronic funds transfer, Visa or MasterCard credit card, point of sale and real-time gross settlement and SWIFT transfer

Non-residents also have the option of appointing a tax representative to assist them in accounting for VAT and making the required payments.

Other legislative developments

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Nigeria

Federal Executive Council approves increase in VAT rate from 5% to 7.5%

On 8 October 2019, the Finance Minister presented the 2020 budget to Parliament, along with the Finance Bill. Notably, the Finance Bill proposes an increase of the VAT rate from 5% to 7.5%. The bill also contains a proposal to introduce a threshold for VAT registration set at NGN 25 million (approximately US$80,000) in turnover per annum. If passed into law, businesses below the threshold will no longer need to charge VAT when they sell goods or provide services to customers. However, such businesses will still be required to pay VAT when they purchase goods and services liable to VAT.

South Africa

2019 tax bills introduced into Parliament

On 30 October 2019, the Minister of Finance introduced the final 2019 tax bills into Parliament, in addition to the Medium Term Budget Policy Statement (MTBPS). The tax bills will become law upon approval by Parliament and assent by the President. The bills give effect to various tax proposals contained in the 2019/2020 Budget including:

- Provisions to address abusive arrangements aimed at avoiding anti-dividend stripping provisions
- Amendment of the special interest deduction rules in respect of share acquisitions funded by debt to allow for deductions after an unbundling transaction
- Harmonization of the timing of de-grouping provisions for intra-group transactions and controlled foreign company (CFC) rules
- Amendment of the tax treatment of foreign reinsurance businesses operating branches in South Africa
- Amendments of provisions relating to the taxation of a REIT
- Revision of the special economic zone anti-profit shifting and anti-avoidance measures
- Reduction in the CFC high-tax exemption threshold from 75% to 67.5%
- Extension of the CFC anti-diversionary rules

- Clarification of the interaction of capital gains tax and foreign exchange transactions rules
- Revision of the VAT corporate reorganization rules
- Introduction of a time period for the validity of declarations and undertakings in respect of withholding taxes on interest, royalties and dividends

Zambia

Government delivers 2020 Budget to Parliament

On 27 September 2019, the Minister of Finance delivered the 2020 Budget to Parliament The following housekeeping measures were proposed to the tax laws:

- Exemption from withholding tax for interest payable to banks and financial institutions.
- Reduction of interest payments on government securities to non-residents from 20% to 15%
- Introduction of a provision in the Property Transfer Tax (PTT) Act to allow the Commissioner General to determine a nil realized value for certain transfers of property within a group of companies in respect of indirect share transfers which do not result in a change to the effective shareholding by the company owning, directly or indirectly at least 10% of shares in a company incorporated in Zambia
- Introduction of an anti-avoidance provision in the PTT Act to exclude from exemption, transfers between a group of companies that have only been members of a group for a limited period of three years
- Amendment of transfer pricing provisions to:
    - provide for price premium adjustments
    - empower the Commissioner General to issue specific guidelines on pricing of minerals
    - empower the Commissioner General to request a resident or non-resident person to provide, upon request, third-party sales agreements and third-party invoices relating to the sale of base and precious metals between related or associated parties
    - extend the use of reference pricing to adjust the pricing of purchases between related or associated persons
    - deem the agreed sale price between a resident or non-resident person with an unrelated person to be the reference sale price for tax purposes of the resident where the agreed price is higher than the reference price and the sale to the unrelated person of the base or precious metal that does not involve further milling, blending, treatment, refinement or transformation
- An announcement was made that the Government has abandoned its plan to replace VAT with a sales tax. Instead, the Government opted to improve the compliance and administrative challenges of VAT. The sales tax had originally been scheduled to commence on 1 April 2019, but was postponed multiple times before it was abandoned.

Treaty updates

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African Continental Free Trade Area Agreement (ACFTA)

On 7 October 2019, Mauritius deposited its instrument of ratification for the African Continental Free Trade Area Agreement (ACFTA). The ACFTA has so far been signed by 54 countries and entered into force on 30 May 2019.

Kenya and Mauritius

On 16 October 2019, Kenya and Mauritius signed an amending protocol in Washington D.C. to update the Kenya and Mauritius tax treaty signed on 10 April 2019. Additional information will be provided when the text of the treaty becomes available.

For further advice on any information provided above, please contact: Go to top

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