# Global Tax Alert

# Report on recent US international tax developments 29 December 2017

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Final US tax reform legislation <u>H.R. 1</u> became law on 22 December 2017, bringing with it a comprehensive overhaul of the US tax system. All companies are now reviewing how to respond to the new requirements that will affect many areas of their businesses, including financial statements, tax accounting, supply chain, capital structure, and liquidity. Among the more pressing concerns are the income tax accounting consequences of the new legislation.

From a financial reporting perspective, the enactment of H.R. 1 requires companies, under Accounting Standards Codification (ASC) 740, *Income Taxes*, to recognize the effects of changes in tax laws and rates on deferred tax assets and liabilities and the retroactive effects of changes in tax laws (including the one-time transition tax) in the period in which the new legislation is enacted. The enactment date in the United States is the date the bill becomes law, which is when the President signs the bill, i.e., 22 December 2017.

Under US GAAP (Generally Accepted Accounting Principles), these financial statement effects of changes in tax law are recorded as a discrete item and part of tax expense or benefit in continuing operations, regardless of the category of income or loss to which the deferred taxes relate. Under IFRS (International Financial Reporting Standards), the tax effects related to deferred taxes must be backwards traced to the component of income to which they relate.



Realizing the difficult task for many companies to record the effects of the new tax law in their financial statements including the period of enactment, the Securities and Exchange Commission (SEC) staff recently issued <u>Staff</u> Accounting Bulletin (SAB) 118 - Income Tax Accounting Implications of the Tax Cuts and Jobs Act, and Compliance and <u>Disclosure Interpretation 110.02</u>, addressing the tax reform legislation. This guidance allows companies to record in the period of enactment, a reasonable estimate of the effects. If a reasonable estimate cannot be made, companies can wait and record the effects in a later period (up to one year), when a reasonable estimate can be made. The SEC had previously acknowledged the operational and accounting challenges companies may face if US tax reform were enacted.

Among many other issues, companies will need to review the tax accounting aspects related to the international tax changes. For instance, companies that had not provided deferred taxes on unremitted earnings of foreign subsidiaries under the exception in ASC 740-30-25-18(a) for earnings that would not be remitted for the foreseeable future, will now have a one-time transition tax for the mandatory income inclusion on unremitted post-1986 deferred foreign earnings of specified foreign corporations.

Existing net operating loss and foreign tax credit carryforwards could be used to offset the transition tax. The final bill, however, includes certain limits on a company's use of foreign tax credits in the future, including any excess credits generated from the mandatory income inclusion of previously deferred foreign earnings. Companies will be required to include in income from continuing operations in the current year, the tax impact of the mandatory inclusion of the greater of accumulated post-1986 deferred foreign income determined as of either 2 November 2017 or 31 December 2017, regardless of whether the associated earnings are actually repatriated to the United States.

European Union officials have said they are reviewing the recently enacted US tax reform legislation and reportedly are considering "all possible measures" if the legislation is found to contravene World Trade Organization (WTO) or other international agreements. A European Commission spokesperson was quoted as saying there is particular concern with respect to some of the international provisions in the legislation. Specifically, the official pointed to the legislation's base erosion and anti-abuse tax and global intangible low-taxed income tax as being potentially discriminatory. The official said the Commission "will now examine the final bill in greater detail, including how these measures will be implemented."

For additional information with respect to this Alert, please contact the following:

# Ernst & Young LLP, International Tax Services, Washington, DC

Arlene Fitzpatrick

arlene.fitzpatrick@ey.com joshua.ruland@ey.com

Joshua Ruland

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