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OECD

On 18 April 2018, the OECD and the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) invited comments on a draft [practice note](#) that will help developing countries address profit shifting from their mining sectors via excessive interest deductions. The practice note complements action by the Platform for Collaboration on Tax and others to produce toolkits on top priority tax issues facing developing countries. Building on BEPS Action 4, part of the draft practice note examines the key initial policy considerations that countries must consider when examining interest limitation rules, and it outlines additional supporting measures that reinforce limits on interest deductions. The practice note is for policymakers and tax authorities in capacity-constrained developing countries where mining is occurring. Stakeholders can submit their comments on the draft by email to CTP.BEPS@oecd.org by 18 May 2018.

On 9 April 2018, the OECD published [additional Transfer Pricing Country Profiles](#) (TPCPs) for 14 countries reflecting the existing transfer pricing legislation and practices for each country (namely, Australia, China, Estonia, France, Georgia, Hungary, India, Israel, Liechtenstein, Norway, Poland, Portugal, Sweden and Uruguay). The profiles of Belgium and the Russian Federation have also been updated. The profiles, prepared by means of questionnaires filled out by the countries, focus on the domestic legislative measures based on major transfer pricing issues including the transfer pricing methods, arm's-length principle, transfer pricing documentation, comparability analysis, intangible property, intra-group services, cost contribution agreements, administrative approaches to avoiding and resolving disputes, safe harbors and other implementation measures. The TPCPs also compared the state of the countries domestic legislation with the OECD Transfer Pricing Guidelines to reflect the extent

to which the countries are following the guidelines. The TPCPs for another nine countries are forthcoming (namely, Argentina, Chile, Finland, Greece, Iceland, Italy, Korea, South Africa, and Turkey).

Australia

On 26 March 2018, the Australian Taxation Office (ATO) launched a consultation to help understand practical issues experienced when complying with cryptocurrency tax obligations. This consultation is limited to record-keeping as it relates to cryptocurrency transactions, and exchanging one cryptocurrency for another cryptocurrency. The consultation period closed on 20 April 2018. This ATO consultation has been timed to coincide with updates made to the cryptocurrency guidance on the ATO website on 16 March 2018.

India

On 14 April 2018, the Indian Tax Administration issued a press release inviting comments on proposed modifications to the rules and forms relating to private tax rulings in the country. By background, one of the priority areas of Action 5 of the OECD Action BEPS Plan is improving transparency through a framework for the compulsory spontaneous exchange of information on certain rulings, including rulings on permanent establishments. Under the Action Plan, the exchange of information on the rulings is suggested, in addition to the countries of residence of the entities entering into the relevant transaction, with the countries of residence of the parent entity and the ultimate parent entity. The Indian Tax Administration has therefore proposed a modification in the rules and forms prescribed for a private tax ruling in India, inter alia seeking information to comply with the above suggestions. Comments from stakeholders and general public are invited on the proposed modification to the rules and forms by 30 April 2018.

Korea

On 13 February 2018, Korea promulgated the revised Enforcement Decree of Korean tax laws (the 2018 Enforcement Decree) to provide more specific guidance on the 2018 tax reform bill (the 2018 Tax Reform Bill) which was enacted on 19 December 2017. Among others, the 2018 Enforcement Decree specifies: (i) the corporate accumulated earnings tax computation methods, (ii) the

effective date of the increased noncompliance penalties on transfer pricing documentation requirement and (iii) the case for the limitation on expense deductions relating to hybrid financial instruments. The 2018 Enforcement Decree also removes a revision to tighten the capital gains tax exemption qualification on a foreign corporation's transfer of listed shares.

See EY Global Alert, [Korea promulgates Enforcement Decree for 2018 tax reform bill](#), dated 7 March 2018.

Lithuania

On 15 January 2018, Lithuania's Ministry of Finance issued a draft Decree (No. 1K-123), introducing the requirements for preparing the Master File and Local File documentations. With some exceptions, the new requirements are generally in line with the OECD's BEPS Action 13. If the draft legislation is approved, qualifying Lithuanian entities and permanent establishments will have to comply with significantly stricter transfer pricing documentation requirements for financial years starting on or after 1 January 2018.

According to the Decree, the requirement to prepare the Master File applies to international entities if revenues in the previous tax period were greater than €15 million. The requirement to prepare the Local File applies to entities if revenues in the previous tax period exceeded €3 million.

The deadline for preparing the Master File and Local File is set by the 15th day of the 6th month of the subsequent tax period. Also, an additional six-month extension applies for preparing the Master File for FY 2018. It is noteworthy that the data related to each controlled transaction will have to be updated in the transfer pricing documentation for each tax period. Taxpayers will have to submit the transfer pricing documentation within 30 days of the corresponding notice by the tax authorities.

Penalties will apply in the case of noncompliance.

Panama

On 2 April 2018, the Resolution N° 201-1937 (the Resolution) replaced Form No. 930 (V1.0), *Transfer Pricing Information Return* with a new version (Form No. 930 V2.0 (Form 930)). The new Form 930 added among other things a new section with "Questions related to the taxpayer" and "Questions related to the multinational enterprise (MNE)" where some of the questions are related to the information

required in Article 11 of Executive Decree 390, published on 24 October 2016 (regarding the Master File). On this new section, among the Questions related to MNE, the following information should be provided: (i) the ultimate parent entity's country of tax residence, (ii) the last fiscal year available and the MNE group's consolidated amount of revenue for that year, (iii) currency that was used to consolidate the income of the MNE group, (iv) consolidated amount of revenue of the MNE group of the last available period, and (v) the date of the exchange rate for the currency used to consolidate the income.

The new version Form 930 is effective from 9 April 2018 and it should be used to report the information corresponding to fiscal year 2018 and subsequent years.

See EY Global Tax Alert, [Panama publishes new version of transfer pricing information return](#), dated 16 April 2018.

Poland

On 12 March 2018, the OECD released the third batch of peer review reports relating to the implementation of the BEPS minimum standard under Action 14 on improving tax dispute resolution mechanisms. Poland was among the assessed jurisdictions in the third batch. Poland requested that the OECD also provide feedback concerning their adoption of the Action 14 best practices, and therefore, in addition to the peer review report, the OECD has released an accompanying best practices report.

Overall, the report concludes that Poland meets most of the elements of the Action 14 minimum standard. In the next stage of the peer review process, Poland's efforts to address any shortcomings identified in its Stage 1 peer review report will be monitored.

See EY Global Tax Alert, [OECD releases Poland's peer review report on implementation of Action 14 minimum standard](#), dated 13 April 2018.

Qatar

On 11 April 2018, the cabinet of Qatar approved the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Convention). The Convention will be an important platform that will enable Qatar to implement initiatives on international tax cooperation, including the automatic exchange of Country-by-Country (CbC) reports under BEPS Action 13.

Singapore

On 12 March 2018, the OECD released the third batch of peer review reports relating to the implementation of the BEPS minimum standard under Action 14 on improving tax dispute resolution mechanisms. Singapore was among the assessed jurisdictions in the third batch. Singapore requested that the OECD also provide feedback concerning their adoption of the Action 14 best practices. Therefore, in addition to the peer review report, the OECD has released an accompanying best practices report.

Overall, the report concludes that Singapore meets almost all the elements of the Action 14 minimum standard. In the next stage of the peer review process, Singapore's efforts to address any shortcomings identified in the Stage 1 peer review report will be monitored.

See EY Global Tax Alert, [OECD releases Singapore's peer review report on implementation of Action 14 minimum standard](#), dated 11 April 2018.

Spain

On 5 April 2018, the Spanish 2018 draft Budget Law was published in the Spanish *Official Gazette*. Both the Spanish Congress and Senate have to pass it. Among many other measures, the draft Budget Law introduces amendments to the Patent Box regime.

The Spanish Patent Box regime currently in force provides for a 60% exemption on net income derived from the licensing of qualifying intellectual property (IP) subject to the compliance with certain requirements which essentially remain unchanged. The amendments introduced are aligned with the OECD modified nexus approach. The Patent Box regime is extended to utility models, copyrighted advanced software produced as result of research and development activities and to supplementary protection certificates for medicinal and phyto-pharmaceutical products. Information related to industrial, commercial or scientific experience, secrets procedures, formulas (i.e., know how) have been disqualified.

Further, the concept of net income derived from the licensing of qualifying IP is clarified and certain restrictions to losses derived from qualifying IP are established.

The draft Budget Law provides a transitional regime, only applicable for assignment/transfer agreements signed before 1 July 2016.

Sweden

On 4 April 2018, the Swedish Ministry of Finance opened consultations regarding the European Union proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services. Among those invited to review the proposal are several public bodies and educational institutions as well as various stakeholders, such as gaming and technology companies. The respondents are expected to *submit* their comments before 23 April 2018. The consultation is meant to help the Swedish Government comment on the proposal and the material of the proposed directive.

Thailand

During the week of 2 April 2018, the Thai Revenue Department reported the result of the public consultation held from 17 January 2018 to 9 February 2018 for the draft bill in relation to the Value Added Tax (VAT) rules for nonresident e-commerce. Of the 23 comments received, 17 expressed disagreement with the proposed draft bill while 6 were in agreement. Basically, the report consists of clarification by the Revenue Department on various technical and practical issues which includes but not limited to, scope of e-business, VAT obligation and input tax recoverability of Thai VAT registrant foreign e-commerce operators, non-recoverable self-assessed VAT by Thai VAT registrant service recipients, etc. As for the next steps, the Thai Revenue Department will take the comments received from the public into consideration for further amendment of the draft bill.

See EY Global Tax Alert, [Thailand reports on public consultation regarding new VAT rules for nonresident e-commerce](#), dated 11 April 2018.

United Kingdom

On 16 April 2018, the UK Tax Authority published a draft of proposed changes to the United Kingdom's (UK's) list of reservations and notifications under the Multilateral Instrument (MLI). The UK had submitted a provisional list at the time the MLI was signed, setting out 119 treaties that the UK intended the MLI should cover (with the relevant treaty being amended if the counterparty also listed it as a covered treaty). The proposed changes do not alter the UK's positions under the MLI but instead make changes to:

- ▶ Amend errors in the original notification
- ▶ List agreements omitted from the original list in error

- ▶ Include agreements signed since the signature of the MLI as relevant
- ▶ Remove from the list agreements where it has been agreed that modifications will be made by bilateral arrangements

Agreements with the Faroes, Kyrgyz Republic and United Arab Emirates, along with an amending instrument for the arrangement with Ukraine, have been added and the agreement with Germany has been removed to be updated by way of a bilateral agreement.

The final list of reservations will be submitted to the OECD on deposit of the UK's instrument of ratification, following the completion of the legislative procedures to give effect to the draft Double Taxation (Base Erosion and Profit Shifting) Order 2018 which, when made, will introduce the MLI into UK domestic legislation. The UK is aiming to ratify the MLI by the summer.

United States

In [Notice 2018-31](#) (the Notice), the United States (US) Internal Revenue Service (IRS) has set forth modified reporting requirements for Form 9975, *Country-by-Country Report* (CbC report), for US MNE groups that qualify as specified national security contractors. The US Treasury and IRS intend to amend the CbC reporting regulations under Internal Revenue Code Section 6038 to incorporate the modified reporting requirements described in the Notice, and those amendments would apply to CbC reports and amended CbC reports filed after 30 March 2018.

See EY Global Tax Alert, [US issues CbC reporting guidance for specified national security contractors](#), dated 11 April 2018.

Zambia

On 6 April 2018, the Zambian Transfer Pricing (Amendment) Regulations 2018 (the 2018 regulations) were published in the *Government Gazette*. The 2018 regulations govern transfer pricing transactions between residents (and permanent establishments of nonresident companies) and their related nonresident entities as well as documentation requirements. The 2018 regulations are to be considered in light of the OECD Guidelines on Transfer Pricing for Multinational Enterprises and Tax Administrations as well as the United Nations Practical Manual on Transfer Pricing for Developing Countries.

See EY Global Tax Alert, [Zambia publishes Transfer Pricing \(Amendment\) Regulations 2018](#), dated 17 April 2018.

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