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Global Tax Alert

Report on recent US international tax developments - 15 March 2019

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A United States (US) Treasury official this week said that the final global intangible low-tax income (GILTI) regulations will be released by this summer and the loss stock basis adjustment rules in the proposed Internal Revenue Code¹ Section 951A regulations will be part of a further "round 2" project. He was quoted as saying that the delay should not be interpreted as meaning the Government is stepping back from the original proposal rules, noting the rationale behind the loss stock basis adjustment rules remains intact. The official added that when those rules are finalized, they will be prospective.

The European Union (EU) has commented to Treasury and the Internal Revenue Service (IRS) on the proposed regulations under the Section 59A Base Erosion and Anti-abuse Tax (BEAT). The European Commission wrote that although they support the BEAT objective to reduce tax avoidance and aggressive tax planning, the proposed regulations "introduce trade distortions or discrimination that would appear to be incompatible with World Trade Organization (WTO) rules and other international commitments taken by the US." More specifically, the Commission contends that the BEAT is "discriminatory in a manner that is inconsistent with the ... WTO requirement of national treatment in trade in services because it would in effect only apply to outbound payments to foreign related companies, and would not apply to comparable payments to US related companies." Section 59A, enacted by the *Tax Cuts and Jobs Act*, is currently under review by the Organisation for Economic Co-operation and Development

(OECD) Forum on Harmful Tax Practices, which has indicated it will not issue any decisions until the related final regulations are released.

On the digital taxation front, a senior US Treasury official this week said he is confident that OECD negotiations on tax issues related to the digital economy will lead to consensus on new international principals for allocating taxing rights. The comments came in the lead up to the 13-14 March public consultation on the proposals in the recent OECD [consultation document](#) released in February. The official was quoted as saying that the momentum in the ongoing negotiations makes a final agreement probable.

An OECD official this week was quoted as saying that the immediate goal is to finalize a digital taxation work plan that will be presented to G-20 Finance Ministers and leaders in June. The OECD working parties will then be tasked with the necessary technical work that will continue through the rest of the year. In the meantime, the head of the Tax Policy and Statistics Division at the OECD Centre for Tax Policy and Administration confirmed on 13 March that the organization is studying the economic impact of various digital taxation proposals.

Endnote

1. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.

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