2019 September

tax newsletter

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PKF Worldwide Tax Update

Welcome

In this third quarterly issue for 2019, the PKF Worldwide Tax Update newsletter again brings together notable tax changes and amendments from around the world, with each followed by a PKF commentary which provides further insight and information on the matters discussed. PKF is a global network with 400 offices, operating in over 150 countries across our 5 regions, and its tax experts specialise in providing high quality tax advisory services to international and domestic organisations in all our markets.

In this issue, featured articles include discussions on:

- Key tax changes in Ecuador, Turkey, Tanzania and the United Arab Emirates
- VAT developments from Bulgaria and the United Arab Emirates
- Double tax treaties from Russia
- Expat tax from South Africa
- Excise law from Oman
- Substance rules from Belgium and Jersey
- Interesting higher court case law from Belgium and Germany
- An update on the MLI from Ukraine and Russia

We trust you find the PKF Worldwide Tax Update for the third quarter of 2019 both informative and interesting and please do contact the PKF tax experts directly (mentioned at the foot of the respective PKF Commentary) should you wish to discuss any tax matter further or, alternatively, please contact any PKF firm (by country) at www.pkf.com/pkf-firms.

2019/20 Worldwide Tax Guide

The latest PKF worldwide tax guide features 140 countries. Its resounding success is a result of the energy, time and support of individuals and firms of the PKF family and we owe a big thank you to all of them. We are extremely grateful to all those that have provided country submissions, and to each person who has supported this very marketable and impressive publication.

We thank you for your continued support.

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Belgium

No Belgium withholding tax due on dividend distributed to Madeira parent company

On 4 January 2019, the Court of Appeal of Brussels has ruled that no Belgium withholding tax is due on a dividend distributed by a Belgium tax resident subsidiary to a parent company based in the Madeira Free Zone. According to the Brussels Court, a Madeira based company qualifies as a "parent company" as defined in the EU Parent-Subsidiary Directive (PSD). Specifically, for the purpose of the PSD a "good" parent company is a company that is subject to corporate income tax without the option of being exempt of tax. Companies based in the Madeira Free Zone were exempt from corporate tax until 31 December 2011. However, this Portuguese tax exemption only applies to income derived from other companies based in the Madeira Free Zone and to income derived from offshore sources. In addition, this Portuguese tax status is subject to numerous strict conditions imposed by the European Commission in order not to qualify this Portuguese tax regime as state aid. Therefore, the Belgium Court considered the Portuguese tax exemption as "conditional" implying that there is still a risk that the Madeira based parent is eventually taxed on the Belgium-sourced dividend and, for that reason, it concluded that the Madeira parent company meets the PSD test entailing that it is eligible for a Belgium dividend withholding tax exemption.

PKF Comment

*This case law is very much welcomed by the Belgium business community as it provides more clarity regarding the interpretation of the PSD in particular cases like a parent company based in a Free Zone. As the Belgium dividend distributing subsidiary is exposed to all the risks and penalties when Belgium withholding tax rules would be infringed, it is good to have more administrative guidelines in this respect as a result of relevant case law. If you believe the above measures may impact your business or require any advice with respect to Belgium taxation, please contact Kurt De Haen at kurt.dehaen@pkf-vmb.be or call **+32 2 460 0960** for any further questions.*

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Belgium applies "formal interpretation" when doing foreign management and control test

On 23 November 2017, the Brussels Court of Appeal has applied a very "formal interpretation" when doing the foreign management and control test. The facts were as follows: a Belgium Group has a holding company in Luxembourg ("LuxCo"). LuxCo does not have its own personnel whilst LuxCo's address was located at the office of a Luxembourg trust office. Most of the LuxCo Directors were Belgium tax resident individuals that were also working for the Belgium tax resident affiliates of the Group. As a result of these facts, the Belgium tax authorities were keen to treat LuxCo as a company subject to Belgium corporate tax as it would actually be managed and controlled "in Belgium". However, the Brussels Court of Appeal does not follow the line of reasoning of the Belgium tax authorities. Indeed, after an in-depth factual analysis, it appeared that, although some LuxCo Board decisions were prepared "in Belgium", it could be evidenced that the various items put on the LuxCo Board of Directors agenda were actually debated "in Luxembourg" and that sometimes the final Board decision "in Luxembourg" deviated from what had been prepared before "in Belgium". As a result, LuxCo qualifies as a Luxembourg tax resident company for Belgium tax purposes.

PKF Comment

As always, "tax residence" discussions can be very subjective and are therefore very delicate, also taking into account that the outcome of a tax residence analysis has a significant impact on the company at hand. As a result, it is of paramount importance to make sure that there is sufficient and clear evidence available to be able to demonstrate that a company has been effectively managed and controlled in a particular country. If you would have further questions in this respect, please contact Kurt De Haen at kurt.dehaen@pkf-vmb.be *or call* ***+32 2 460 0960****.*

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Bulgaria

Self-charge of VAT regime on imports of certain goods

The self-charge of VAT (as opposed to VAT payment at Customs) may be applied on the import of some non-excise products which are not intended for end consumption and are listed in detail in Appendix 3 to the Bulgarian VAT Act.

Pursuant to the new rules the importer may postpone immediate payment of import VAT at Customs, provided that it will be self-charged by the importer in the VAT return for the corresponding period.

The self-charge system will be applied as from 1 July 2019 onwards.

PKF Comment

The tax consultancy team of PKF Bulgaria has substantial knowledge and expertise and is in the position to provide assistance at each stage of Bulgarian tax planning and compliance procedures to both foreign and local individuals. We have successfully consulted our PKF clients, who operate in various fields of business, on how to be compliant with the rapid changes of tax legislation in the everchanging business environment. For further information or advice concerning Bulgarian tax planning, please contact Venzi Vassilev on venzi.vassilev@pkf.bg *or call* ***+359 2439 4242****.*

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Chile

Tax Authority rules on tax credits deductible from withholding additional tax on dividends and withdrawals of accounting profits remitted abroad

One of the regimes of the Chilean tax system for companies determining their profits based on a balance is the so-called semi-integrated regime, under which the corporate income tax partially constitutes a deductible credit for the personal taxes of the entrepreneur, partners or shareholders. Under such a regime, taxable profits are determined on the basis of equity for tax purposes, from which capital contributions and non- taxable income or tax-exempt income are excluded. Companies must monitor in a special record their taxable income and credits consisting of the corporate income tax of First Category (27%) and the credit for income taxes paid abroad on foreign-sourced income. This last credit corresponds to the portion of such foreign tax paid that the law states as imputable directly to the final taxes of the entrepreneur, partner or shareholder. Therefore, when the taxable profits recorded at the beginning of the year are distributed or withdrawn, they are linked to

the aforementioned credits and up to the amount of the balances recorded in the tax record.

In the event that the company, at the time of making a distribution or withdrawal of profits determined in the financial statements, does not have taxable and non-taxable profit balances, or the distributions or withdrawals exceed the existing balances, then the Chilean IRS has indicated that they are provisional withdrawals or distributions, whose situation must be determined at the year-end. In this regard, the Chilean IRS has determined that the credit contained in the corporate First Category tax of companies must also be considered, which is relevant to determine the withholding tax on the profits that are being remitted abroad. If the credit used exceeds the amount determined at year-end, the company must refund the excess. However, the IRS has concluded that the credit for foreign income taxes cannot be used in advance by the entrepreneurs, partners or shareholders. One of the reasons is that it requires a special calculation to determine which part of the tax paid abroad can be used directly as a credit against the withholding tax.

PKF Comment

The First Category Tax (27%) affecting companies under the partially integrated tax regime is a credit against the withholding taxes of foreign investors. Upon being consulted recently, the IRS has indicated that in the case of profits remitted abroad, said credit can be off-set against the withholding tax of the entrepreneur, partner and stockholder without domicile or residence in Chile, even if the company does not have taxable and non-taxable profits at the moment of remittance. Subsequently, it is the responsibility of the company to pay the part of the credit that has become excessive at year-end. However, the foreign income tax, for the part that can be a credit against personal withholding tax, cannot be used in advance. If you believe the above measures may impact your business or require any advice with respect to Chile taxation, please contact Antonio Melys Alvarez at amelys@pkfchile.cl or call ***+56 22650 4332****.*

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Ecuador

Various tax updates

Capital gains tax

Capital gains derived by non-residents from the sale of shares in local corporations are subject to a single income tax at a progressive rate ranging from 2% to 10% and should be disclosed on Form 119.

An Ecuadorian company whose shares are directly or indirectly disposed of must act as a substitute for the foreign company and will be held jointly liable for paying capital gains tax. The sale of shares by non-resident companies, which directly or indirectly own shares of domiciled or permanent resident companies in Ecuador, will be taxed in the following cases:

- When 100% of shares of the domiciled or permanent resident company in Ecuador equal at least 20% of total shares of the non-resident company.
- When the amount of the operation:
  - Exceeds 300 times the basic fraction (USD 11,310 in 2019) of the exempt income tax base for individuals and 10% of common shares of the non-resident company.
  - Exceeds 100 times the basic fraction (USD 11,310 in 2019) of the exempt income tax base for individuals and is less than 10% of common shares of the non-resident company.

Neither of the above will apply if more than 50% of the shareholder composition of the company whose shares are being disposed of resides or is domiciled in a tax haven or a lower tax jurisdiction, or if the effective beneficiary is a tax resident of Ecuador. In any of these cases, the operation will be subject to tax on the total capital gain.

A 5% fine on the effective amount of the operation will be imposed upon verification by the tax administration that no filing has been done or a filing containing errors on Form 119.

PKF Comment

This new provision aims to attract foreign investment aligning the tax treatment of capital gains in Ecuador with other jurisdictions. Moreover, the tax impact of capital gains is reduced to 2%-10% considering that before they were treated as ordinary income and taxed at the normal corporate tax rate of 22%.

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Tax on the remittance of funds abroad ("ISD")

Procedure for the informative filing of transactions exempt of "ISD"

On 27 February 2019, the tax administration issued a procedure to benefit from the exemption of "ISD":

- Payments abroad for imports and distributions of dividends for new productive investments which subscribe to investment contracts with the Ecuadorian Government: the originator of the wire transfer should complete the "Informative Form of Exempt Transactions not Subject to ISD" and file it with the bank prior to wiring the transfer along with a copy of the investment contract.
- Payments for imports of capital goods and raw materials: a copy of the customs declaration. When the transfer is wired before the import, a copy of the purchase or proforma invoice should be presented.
- Distribution of dividends to effective beneficiaries: original bank certification of the wire transfer to the local bank account or any other bank document certifying the inflow of currencies, and document issued by the legal representative certifying the name of the effective beneficiary and tax residence.
- Distribution of dividends to effective beneficiaries residing in Ecuador for companies reinvesting profits in new productive assets: the originator of the wire transfer should complete the "Informative Form of Exempt Transactions not Subject to ISD" and file it with the bank before wiring the transfer along with a document issued by the legal representative certifying that the effective beneficiary is a shareholder, partner or participant of the dividend-distributing company and tax resident in Ecuador, and a copy of the shareholders' minutes of the dividend-distributing company in which it was decided to reinvest at least 50% of profits in the acquisition of new productive assets.

Recurrent exporters: Procedure for requesting a refund of "ISD" and conditions and thresholds for its refund

On 5 April 2019, the tax administration issued the procedure applicable to recurrent exporters for requesting an "ISD" refund. ISD not used as a tax credit, cost, or expense, and that has not been recovered or compensated in any manner can be requested to be refunded on a monthly basis. January 2018 will be the first period eligible for requesting a refund. Refund requests will expire after 5 years.

On the same date, the tax administration determined that in order to be entitled to request a refund the following criteria should be met:

- Be considered a recurrent goods exporter, according to provisions of the tax law.
- Import raw materials, inputs and capital goods included in Resolution No. CPT-03-2012 and subsequent amendments, applicable to the period in which the imports were made.
- Present the tax return.

The maximum amount that can be refunded is subject to the following formula: ISD max = fx * ISD paid
Where "fx" equals: Total exports/Total sales*100%.

PKF Comment

The Government's objective is the gradual elimination of ISD as established in the "Productive Promotion and Attraction of Foreign Investment Law". For further information or advice concerning Ecuador tax, please contact Manuel Garcia at mgarcia@pkfecuador.com *or call* ***+593 4 236 7833****.*

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Germany

German Federal Tax Court denies "blocking effect" of rules corresponding to Art. 9 OECD-Model regarding Sec. 1 German Foreign Tax Act

If the income of a taxable person from a business transaction with another country is reduced by the use of conditions which do not correspond to the arm's length principle, the income shall not be stated at the agreed value but at the value of the third-party comparison (Sec. 1 German Foreign Tax Act – "Außensteuergesetz").

Regarding this rule, the German Federal Tax Court ("Bundesfinanzhof" - BFH) recently ruled as follows: If the value of a loan from a German parent entity to its foreign subsidiary decreases as a result of non-arm's-length conditions, such as a lack of collateral, the German tax

authorities are allowed to disregard the expense resulting from the decrease in the loan value on the basis of the aforementioned provision even if, in the case at hand, a double tax treaty corresponding to the OECD-Model is applicable. Insofar the Court changed its view, as in prior decisions it held that Art. 9 OECD-Model prevented the mentioned application of German unilateral tax law (so-called "blocking effect of Art. 9 OECD-Model"). In this respect the BFH now shares the view adopted by the German tax authorities. Furthermore, it should be noted that the BFH ruled that the lack of collateral cannot be compensated by higher interest rates.

PKF Comment

Please note, however, that for loans between corporate types of entities, as from 2008 and subject to certain further conditions, another unilateral rule denying a corporate tax deduction for profit reductions in connection with the loan was inserted in the German Corporation Tax Act ("Körperschaftsteuergesetz"). Additionally, on loans from individuals or partnerships to related corporate types of companies, similar rules in the German Income Tax Act ("Einkommensteuergesetz") have become applicable in the meantime. The latter-mentioned rule, however, requires in principle a participation of the taxpayer in the borrower of at least 25%. Insofar as this participation quota is not reached by a partner, the new decision of the Federal Tax Court is therefore still relevant. The above-mentioned BFH decision will have far-reaching consequences for German enterprises and their future financing behaviour. In a press release, the BFH announced that it would further specify its new approach when deciding on additional appeals that are currently pending before it.

Please contact Dr. Dietrich Jacobs at dietrich.jacobs@pkf-fasselt.de *or* ***+49 40 35552 131*** *and Thomas Rauert at* thomas.rauert@pkf-fasselt.de *or* ***+49 40 35552 137*** *for any further information or assistance you may need with regard to transfer pricing regulations in Germany.*

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Italy

New control compliance rules for Italian limited companies

The New Italian Law on business crisis and insolvency extends corporate controls to limited liability companies. According to the legislator, a greater transparency of accounting information will benefit the entire economic and social system, ensuring better and timelier crisis management.

The Italian system provides two separate control functions: supervision and external auditing. The supervision is entrusted to a board of auditors/single auditor (control body) and it concerns the following areas:

i) Supervision of the directors' administration;

ii) Supervision of the compliance of the law and the bylaws;

iii) Supervision over the adequacy and functioning of the organisational structure, internal control system, accounting and administrative system;

iv) Supervision over the financial statements and the managerial report;

v) Last but not least, supervision of potential business crisis signals. The aforesaid activities do not involve the external audit process which can only be demanded by individuals or legal entities listed in the public register of statutory auditors, held by the Ministry of Economy and Finance.

Legislative Decree No. 14/2019 modified article 2477 of the Civil Code; according to the new provision, companies must appoint a board of statutory auditors or a certified external auditor if one of the following occurs:

i) In case of mandatory consolidated balance sheet;

ii) The company controls another one which is subjected to an external audit;

iii) For two financial consecutive years one of the limits reported below has been overstepped:

1) total assets are greater than EUR 4 million;

2) total revenues are greater than EUR 4 million;

3) the employee average number during the year is higher than 20 units. Regarding point iii) the obligation to appoint the control body or the external auditor ends if, for three consecutive financial periods, none of the abovementioned limits have been overstepped.

Before the legislator's intervention the quantitative limits reported above were lighter. The new law provision expands corporate control to "micro-companies" which are exposed to higher risks in terms of corporate control.

PKF Comment

The reduction of the quantitative limits will have a considerable impact on a large number of small and medium-sized companies that will be obliged to appoint a board of statuary auditors or a certified external auditor soon.

We believe that the introduction of strength rules will allow for a faster emergence from the businesses crisis and for an easier consequent management of the same.

*For further information on the new control compliance rules for Italian limited companies, please contact Stefano Quaglia at s.quaglia@pkf-tclsquare.it or Angeletti Irene at i.angeletti@pkf-tclsquare.it or call **+39 0108 183 250.***

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Jersey

Amendments to economic substance legislation

Jersey introduced economic substance legislation on 1 January 2019 and has already made some amendments to that legislation. This has resulted in Jersey being put on the "white list" by EU Finance Ministers.

The legislation can be found under Taxation (Companies – Economic Substance) Law 2019, and the amendments are currently in draft. Guidance was also issued at the same time as the amendments.

The principles align with international standards, and they are broad in scope to include all Jersey tax resident companies including foreign-incorporated companies. There are three key steps in the legislation;

- To identify the relevant activities
- To impose substance requirements; and
- To ensure there are enforcement provisions in place.

Companies are required to have "real economic activity" and "substantial economic presence".

PKF Comment

*The Jersey model is based on substance and real presence. The principles are sector-specific as not one size fits all and they are broad in scope as commented on above. Guernsey is also introducing a similar law/ requirement and has been working alongside Jersey. The new guidance is helpful to a point as it is not complete. If you believe the above measures may impact your business or require any advice with respect to Jersey taxation, please contact Rob Behan at robb@pkfbba.com or call **+44 1534 858 490**.*

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Recent and future changes to UK taxation with an impact in Jersey

From April 2019, the introduction of UK capital gains tax on non-UK residents owning UK commercial property has an impact in Jersey. A consultation that has just finished in the UK about non-UK residents paying a 1% Stamp Duty Land Transaction surcharge when purchasing property in England and Northern Ireland, may also have an impact in Jersey if it changes the law.

From 6 April 2020, so for the 2020/2021 tax year, non-UK resident landlords will be subject to corporation tax resulting in new tax returns which need to be submitted online and new filing and payment deadlines.

PKF Comment

*The above points touch on changes to UK taxation that may have an impact in Jersey. If you believe the above measures may impact your business or require any advice with respect to Jersey taxation, please contact Rob Behan at robb@pkfbba.com or call **+44 1534 858 490**.*

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Oman

Introduction of Excise Tax law

Excise Tax has been implemented by the GCC in stages in accordance with the Common Excise Tax Agreement (signed in 2016). The Kingdom of Saudi Arabia was the first country in the GCC to implement Excise Tax in 2017, which was followed by the United Arab Emirates (2017) and the Kingdom of Bahrain (2018).

Royal Decree 23/2019 issued the Oman National Excise Tax Law on 13 March 2019, which was officially published in the Official Gazette on 17 March 2019. The effective date for the implementation of the Excise Tax Law is 15 June 2019. The Excise Tax Executive Regulations are expected to be issued within six months from 15 June 2019.

The Excise Tax is a tax on specific goods which are harmful to the individual health and/or to the environment. It is a consumption tax which is ultimately borne by the consumer and is collected by businesses (i.e. liable person) on behalf of the Secretariat General for Taxation (SGT).

A) Obligations of the taxpayer: Importers of excisable goods, manufacturer, holder, licensee and other liable persons dealing in excisable goods need to get registered for Excise Tax with the SGT (before 15 June 2019), declare details of excisable goods, submit periodical Excise Tax returns, pay excise taxes and maintain records at least for a period of 5 years.

B) Excisable goods: Excise Tax will be levied on the following goods;

   (i) Tobacco and Tobacco Derivatives: This product includes, but is not limited to, cigars, cigarettes, cigarillos, water pipe tobacco, and other tobacco products. The excise tax rate for tobacco and its derivatives is 100%.

   (ii) Carbonated Drinks: This is any aerated beverage, except unflavoured carbonated water. It includes carbonated water with added sugar or other sweeteners or flavors such as cola or soda derivatives. It also covers concentrates, powder, gel or extracts intended to be made into carbonated beverages. The excise tax rate for carbonated drinks is 50%.

   (iii) Energy Drinks: This is any beverage that is marketed or sold as an energy drink, containing stimulant substances that provide mental and physical stimulation. It also covers concentrates, powder, gel or extracts intended to be made into energy drinks. The excise tax rate for energy drinks is 100%.

   (iv) Other Special Purpose Goods: Special purpose goods for Excise Tax purposes include goods that are consumed under specific conditions and authorisations. Presently, only alcohol and pork products have been named as special purpose Excise Goods. The excise tax rate for special purpose goods is 100%.

C) Valuation: Excise tax will be calculated as a percentage of the Excise Tax Base of the Excisable Goods. The Excise Tax base of the goods shall be the higher of:

   - The standard price determined by the SGT; or
   - The retail sales price declared by the producer, importer, licensee or liable person of any Excise Goods after deducting any Excise Tax amount included in that price.

D) One-time Transitional Excise Tax Return: Businesses that hold stocks of goods (producers, importers, wholesales, retail shops, supermarkets, hotels, restaurants, etc.) which are liable for excise tax (as mentioned above) for the commercial purpose on the date of implementation of the excise tax law need to file a 'one-time' Transitional Excise Tax return for the goods held for business purposes at midnight 14 June 2019. The Transitional Excise Tax return is required to be filed by 30 June 2019, and the business must pay any Excise Tax due upon filing this return.

E) Other matters:

   (i) Periodical filing of Excise Tax Return;

   (ii) Tax Assessments;

   (iii) Penalties.

PKF Comment

The new Excise Tax law in Oman is part of a GCC wide agreement, which will help to promote a healthier lifestyle within the society and will support the State's budget with revenue that can be redirected to enhance healthcare and

social services in the country. The Oman Tax Authority (locally SGT) is all set with the electronic system for registration for excise tax, filing of excise returns, payment of taxes etc. If you believe the above measures may impact your business or require any advice with respect to Oman taxation, please contact Firdaus Songhadwala or Abhishek R. Vaishya at muscat@pkfoman.com *or call* ***+968 2456 3196****.*

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Russian Federation

MLI ratification

Russia has ratified the MLI on 1 May 2019. The MLI will apply to double tax treaties with 69 jurisdictions.

The MLI has now been ratified by Austria, Australia, France, Curacao, Georgia, Luxembourg, the Netherlands, the UK, Ireland, Japan, Singapore, Malta, Poland, Israel, the Isle of Man, Jersey, Guernsey, Lithuania, Monaco, New Zealand, Serbia, Slovakia, Slovenia, Finland and Sweden.

A tax benefit under a treaty may not be used if one of the principal purposes of the considered structure is to obtain such a benefit.

The MLI will apply when Russia notifies ratification.

PKF Comment

MLI provisions should be taken into account when applying DTTs. We therefore recommend analysing their impact on your business structures and transactions.

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Russia-Austria double tax treaty

A new protocol to the double tax treaty with Austria was ratified on 1 April 2019 (the protocol was signed on 5 June 2018). It is expected to apply as from 2020 provided that Russia and Austria notify each other as stipulated by the Protocol.

The salient features are as follows:

- BEPS measures implementation (Principal Purpose Test rule):
  - a resident of a Contracting State shall not receive the benefit of any reduction in or exemption from tax if the main purpose or one of the main purposes of such resident or a person connected with such resident was to obtain the benefits of the treaty.
- Dividends:
  - 5% if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the dividend-paying company;
  - 15% in all other cases;
  - dividends will also mean any payments on units of mutual investment funds or similar collective investment vehicles (other than collective investment vehicles organised primarily for investing in immovable property, if at least 10% of the units or other rights of such a vehicle belong to the beneficial owner of that income).
- Capital gains:
  - gains realised by a resident of a Contracting State from the alienation of shares or similar rights deriving more than 50% of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

PKF Comment

These changes are both positive (no more amount threshold, only a percentage threshold for 5% rate for dividends) and negative (capital gains and payments on units). We therefore recommend analysing their impact on your business structures and transactions. If you believe the above measures may impact your business or require any advice with respect to Russian taxation, please contact Yulia Ponomarenko at y.ponomarenko@mef-consult.ru *or call* ***+7 495 988 15 15****.*

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South Africa

Expecting expat tax

All South African tax residents working abroad should be considering whether they may be impacted by tax law changes which will enter into force on 1 March 2020.

As a point of departure, it needs to be understood that a person is regarded as a South African tax resident if he/

she is “ordinarily resident” in SA. There is a great deal of case law and commentary as to the meaning of “ordinarily resident”. Very broadly speaking, the place to which a person “naturally returns to”, is regarded as the place where such person is ordinarily resident.

Alternatively, if a person is not “ordinarily resident” in South Africa, he may still be regarded as a South African tax resident in terms of the so-called “physical presence” test. This test is often confused with the “days test” provided for in the expatriate exemption as set out below. Broadly speaking, a person would be resident for tax purposes in South Africa if he/she is physically present in SA:

- for more than 91 days in aggregate during a year of assessment as well as more than 91 days in aggregate during each of the 5 years preceding such year of assessment; and
- for a period or periods exceeding 915 days in aggregate during those 5 preceding years of assessment.

In very limited circumstances, despite being tax resident in South Africa in terms of either the “ordinarily resident” or the “physical presence test”, an individual may constitute a non-resident for tax purposes on the basis of the application of a double tax treaty concluded between South Africa and the relevant foreign jurisdiction read with the definition of “resident” as contained in section 1 of the Income Tax Act No. 58 of 1962.

Position in terms of the law currently in force

A South African tax resident person is subject to income tax on his worldwide income. In contrast, a non-resident is only subject to South African income tax on South African sourced income.

In certain instances, however, a South African tax resident working abroad is fully exempt from South African income tax on his or her foreign employment income in terms of the so-called “expatriate exemption”. This would inter alia apply where the South African tax resident:

- receives foreign employment income (i.e. this exemption does not apply in respect of foreign interest or foreign dividends accrued or received);
- spends more than 183 days in a 12-month period abroad; and
- spends a continuous period exceeding 60 full days abroad during that 12-month period.

The above-mentioned exemption has been the basis upon which most South African expatriates work abroad without significant South African tax implications in respect of their foreign employment income.

Position as from 1 March 2020

As from 1 March 2020, the above-mentioned exemption will no longer apply to the extent that the South African expatriate receives or accrues remuneration in excess of ZAR 1 million. For SA expatriates earning foreign employment income of less than ZAR 1 million per year the position will accordingly remain largely unchanged.

However, to the extent that a South African tax resident working abroad earns more than ZAR 1 million foreign employment income per year, he/she will be subject to South African income tax. To the extent that such a South African tax resident may be subject to source-based taxation in the jurisdiction within which they work, a tax credit may be available to avoid double taxation.

Impact of law change

Many expatriates are finding that they will have significantly less disposable income due to the above legislative amendment. Unfortunately, as a result of this amendment, South African tax residents who have been based offshore (often spending their foreign earned salaries in South Africa when visiting their friends or family) are opting to terminate their South African tax status by relocating abroad permanently together with their families.

Although tax emigration is a fairly simple process to attend to administratively, the steps that a taxpayer should take to lose their “ordinary residence” in SA and the tax impact of such emigration should be very carefully considered. In particular, upon losing one’s SA tax residence, a capital gains exit charge at a maximum effective rate of 18% may be levied on the worldwide assets of the taxpayer (save for inter alia South African immovable property).

PKF Comment

South African tax resident expatriates with significant assets in their personal names may find themselves in a position where South African tax emigration may be very costly. It is also important to note that the loss of one’s South African tax residence does not necessarily mean that one automatically loses one’s exchange control residence. It also does not follow that one must lose South African exchange control residence in order to proceed

with tax emigration. Proper advice must be sought to make an informed decision in relation to both tax and exchange control emigration. For further information or advice concerning South African taxation please contact Kubashni Moodley at kubashni.moodley@pkf.co.za *or call* ***+27 31 573 5000****.*

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Switzerland

Approval of Corporate Tax Reform (TRAF)

On 19 May 2019, the Swiss citizen approved, with a broad majority of 66%, the Federal Tax Reform (TRAF). This is a core rearrangement in the Swiss tax system. The new legislation is effective as of January 2020. Certain tax regimes will no longer be available, and Switzerland is henceforth fully in line with the international OECD and EU taxation standards.

The Swiss tax reform provides for the below key principles:

i. Implementation of a patent box into cantonal tax laws

ii. Optional adoption of a 50% additional R&D cost deduction into cantonal tax laws

iii. Optional introduction of a deduction on excess equity (Notional Interest Deduction; NID) for cantons with a high tax rate (e.g. Zurich)

iv. Rules regarding hidden reserves upon migration to/ from Switzerland and transitional rules upon change of status of preferential regime companies

v. Maximum limitation of tax relief may not exceed 70% of profits subject to cantonal tax

vi. Optional capital tax relief for cantons as to participations, patents and intra-group loans

vii. Adoption of 50% proportionality rule for withholding tax-free repayments of capital contribution reserves for companies listed on the Swiss stock exchange

viii. Broadening of the lump-sum tax credit to enable ordinarily taxed Swiss branches of foreign companies to invoke a lump-sum tax credit for foreign withholding taxes subject to certain prerequisites

ix. Finally, at the level of individuals, the partial taxation of private dividend income will increase to 70% for business and private assets at federal tax level and to minimum 50% at cantonal level. Also, the 5% transposition threshold for shares assigned to self-owned companies is abandoned.

The approval of the Swiss tax reform (TRAF) will result in the new legislation going into force as of 1 January 2020. The new principles will guarantee that Switzerland keeps its attractiveness as a business and tax location on a global level. The procedure aiming at the transposition of the new federal tax law into cantonal tax legislation has already been completed in six cantons (e.g. Basel-Stadt, Geneva, Glarus, Neuchâtel, and St.-Gallen). The remaining cantons are supposed to implement or, if a people's vote is required, to vote on the introduction in the cantonal tax laws by no later than the end of 2019.

PKF Comment

Certain companies are recommended to take immediate action in light of the above tax reform:

i. Companies benefitting from a cantonal tax privilege (Holding, Domicile or Mixed Company) need to analyse their future income and capital taxation. Specifically, a tax neutral step up to fair market value should be evaluated to optimise income taxation for future years

ii. Companies with strong IP and R&D activities should analyse whether the new tax incentives under the patent box tax regime would entail substantial tax benefits

iii. Ordinary taxed companies with operations in high-tax cantons might consider a relocation to other cantons within Switzerland or should generally reassess their international tax structure and review their set up in Switzerland.

Overall, the Swiss tax system remains very attractive and tax competition between the cantons still persists to the benefit of the taxpayer.

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Swiss duty on the surplus value of real estate ("Mehrwertabgabe")

Measures in the context of land-use and zone planning of governmental bodies can significantly impact the value of real estate. The duty on the surplus value of real estate ("Mehrwertabgabe") aims to siphon off a possible surplus value of real estate by up to 50%. The transposition of this duty based on federal law in the cantonal legislations is mandatory. Geneva, Lucerne, Schwyz, Zug and Zurich, which do not fulfil the requirements of federal

law, are affected by a temporary prohibition to zone in land as from 1 May 2019.

The Federal Act obliges cantons to implement a duty of minimum 20% on value increases as a result of the rezoning of land from agricultural land into construction zones. Optionally, the cantons may increase the rate or levy on the rezoning of land within the construction zone (i.e. change from industrial use to residential use) or on zoning up within the same construction zone (i.e. higher exploitation).

PKF Comment

Given the cantons have considerable leeway in designing the calculation methods of the surplus value and the rate of the duty thereon, differences between the cantons are inevitable. The costs of a possible duty on the surplus value should therefore be examined at an early stage on the basis of the specific cantonal and/or communal legislation, as well as the corresponding practice and case law, i.e. as soon as a planning measure is registered or a new zoning or rezoning is imminent. It is strongly recommended to take into consideration and appraise potential amounts due in light of the added value taxation in order to avoid unpleasant surprises.

*For further information or advice concerning the Swiss Corporate Tax Reform (TRAF), Swiss Duty on the Surplus Value of Real Estate or any advice with respect to Swiss unilateral and international taxation, please contact Rilana Wolf-Bayard at rilana.wolf@pkf.ch or Margarita Baeriswyl at margarita.baeriswyl@pkf.ch or call **+41 44 285 75 00**.*

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Tanzania

Tax update 2019/20

On 13 June 2019, the Minister of Finance presented Tanzania's Economic updates, Government budget and tax updates for the fiscal year 2019/20. The Government budget is set at TZS 33.105 trillion.

Once the budget and proposed amendments are passed by Parliament and assented by the President, they will become effective from 1st July 2019.

Income Tax

Leniency towards small scale business
Sole proprietors having a turnover of less than TZS 100 million a year do not have to prepare accounts that are certified by certified public accountants. Previously the threshold was TZS 20 million. A welcomed amendment to reduce cost of compliance for small scale businesses.

Presumptive tax cut
Presumptive tax rates have been reduced to:

Turnover	Without records	With records
< 4,000,000	NIL	NIL
4,000,001 to 7,000,000	100,000	3% of turnover excess of 4,000,000
7,000,001 to 11,000,000	250,000	90,000 + 3% of turnover excess of 7,000,000
11,000,001 to 14,000,000	450,000	230,000 + 3% of turnover excess of 11,500,000
14,000,001 to 100,000,000	To keep records	450,000 + 3.5% of turnover excess of 14,000,000

Sanitary pads
New investors producing sanitary pads will pay corporate tax at a reduced rate of 25% as compared to 30% for the initial 2 years of income. The Government will sign a performance agreement with such investors to assign responsibilities to both parties.

The incentive is to attract investments, create more jobs and hand in hand increase the government revenue.

Cost efficiency
Withholding tax is abolished on various fees charged on loans disbursed by non-resident banks or international financial institutions to the Government. Such fees include commitment fees, insurance premium and insurance management. This will enable the government to secure loans at a lower cost and speed up the implementation of development projects.

Value Added Tax (VAT)

VAT Restriction abolished
Exporters of raw agricultural products will continue to be able to claim input VAT. Vide Miscellaneous Amendments passed in 2017; a restriction was introduced which limited exporters of raw agricultural products to claim input VAT. The VAT claim restriction

was to be effective from 20 July 2019, however due to the current proposed amendment this restriction may not apply. The amendment shall assist in facilitating exports of raw products and reduce costs to farmers to increase competitiveness of raw agriculture product in the international markets.

United Country
The supply of electricity from Mainland Tanzania to Zanzibar will now be treated as a zero-rated supply. Previously VAT at a rate of 18% was applied on the supply of electricity from Mainland Tanzania to Zanzibar, which created an accumulation of outstanding debt between Governments. We find this is a step forward to bridge economic cooperation.

Exemptions
The following items are now exempted:

- Refrigeration boxes;
- Grain drying equipment; and
- Import of Aircraft lubricants, airline tickets, flyers, calendars, diaries, labels and employees uniform with names of Airline Operators

Sanitary pads were exempted with effect from July 2018. However, the exemption is now to be abolished with the reason that the traders have not reduced the prices of the sanitary pads and therefore the intentions have not been met.

Tax Administration
The Government has proposed to extend by a further 6 months the period for tax amnesty applicants to settle their principle tax liabilities. The extension period to settle principle tax liabilities has been extended to December 2019 (Instead of 30th June 2019).

This is a positive move which will grant more time for applicants to settle their dues. A question arises as to whether this will apply to a taxpayer who has already entered into a payment plan with the TRA and the procedures for extension.

Other proposed amendments

Introduction of Tax Ombudsman Office
The appointment of a new independent office at the Ministry of Finance will be responsible for receiving correct and unbiased information and complaints from taxpayers or other people with good intention against administration of tax affairs by TRA (complaints against TRA officials).

Some key major functions of the office:

- Receiving and working on corruption complaints;
- Receiving and working on arbitrary assessments complaints;
- Receiving and working on unlawful closure of businesses complaints; and
- Receiving and working on any similar complaints regarding tax administration. This is a long awaited and commendable move. We look forward to the success of the office which would depend on the independence, speed, expertise and deployment of resources.

Clearing Agents to sweat
There is a proposal that the requirement to use a clearing agent should no longer be mandatory for individual importers (with the exception of transit goods).

Simplified guidelines and procedures are to be published to ease the process. This means reduced importation costs for individuals however, in the short term, this increases administrative costs to TRA.

Customs assessment and valuation complaints dedicated desk
To handle and resolve within 24 hours all disputes/ complaints relating to tax assessments and valuation of imports.

Increase use of Electronic Fiscal Device Management System (EFDMS)
Integrating domestic revenue collections with the EFDMS in order to curb revenue leakage in the processing of tax refunds, issuance of fake receipts etc.

An eye on gaming activities
Introducing a system to regulate and monitor collection from operators in order to increase tax revenue from the gaming industry.

6 Month grace for new TIN registration
Before income tax on their business becomes due, a six-month grace period to be granted. No tax will be assessed, demanded and paid when new investor or businessmen apply for TIN. This will enable smooth operation for the beginning period of establishment as taxpayers enjoy the relief and focus their attention on building their new business at least for 6 months.

Amendments to various fees

The Government is proposing to review (reduce or abolish) various fees and levies as the first phase of implementing the Blueprint for Regulatory Reforms in order to reduce the cost of doing business and investment in the country. Some key proposed amendments include:

Road Traffic Act
Fees have increased as follows:

Item	Current rates	Proposed rates
Driving License fees *(license validity extended from 3 years to 5 years)*	40,000	70,000
Registration Card fee for all forms of motor vehicles	10,000	50,000
Motorcycle fees	10,000	30,000
Tricycle fees	10,000	20,000

Tanzania Food and Drugs Authority (TFDA)
The government is proposing an abolishment of the following:

i) Retention fee for vaccines and biologicals (USD 150), herbal medicines (USD 150), medical devices (USD 100), diagnostics (USD 250), food (USD 10), and antiseptics and diagnostics (TZS 100,000);

ii) Fees for duplicate certificates on diagnostic (USD 100); and

iii) Annual business license fees on fish outlets (TZS 50,000 to TZS 300,000).

Tanzania Bureau of Standards (TBS)
The government is proposing an abolishment of the following:

i) Application fees for TBS mark (TZS 50,000);

ii) TBS mark guarantee fees (15% of overhead and transportation costs);

iii) TBS mark license fees (50% of cost of transport, as well as testing of sample from the market); and

iv) Application form fees for imported goods (TZS 50,000)

Government Chemist Laboratory Authority (GCLA)
The government is proposing an abolishment of the following:

i) Service charge for cancellation and issuance of new permits (USD 50);

ii) Service charge for replacement of permit (USD 50);

iii) Registration of clearing agent companies (USD 500 per registration period);

iv) Emergency inspection (USD 300 per inspection);

v) Annual maintenance fee for form, paint, textile, leather, plastic and large industries, and large distributors (USD 1,000);

vi) Annual maintenance fee for other small industries (USD 250); and

vii) Annual maintenance fees for medium distributors (USD 500).

The government further proposes a reduction in levies for the following:

i) Chemical registration and renewal fees from USD 20 to TZS 40,000 per chemical per registration;

ii) Identification and approval of disposal method fees from USD 500 to TZS 200,000 per chemical; and

iii) Premises inspection fees from USD 200 to TZS 300,000 per inspection.

Ministry of Livestock & Fisheries

i) The government is proposing an abolishment of the following levies charged by the livestock stock sector: i) License for registration pertaining to carriers and containers permit for transportation of milk (TZS 500,000);

ii) License fee for medium scale producers (TZS 50,000);

iii) Registration fee for large scale producers (TZS 75,000);

iv) Registration fee for secondary and border markets (TZS 50,000); and

v) Registration fee for meat exporters (TZS 100,000)

Ministry of Natural Resources and Tourism
The government is proposing a removal of the following:

i) Trophy handling fees; and

ii) TALA fees on professional hunting charged by the natural resources and tourism sector.

Ministry of Water
The government is proposing a removal of fees pertaining to boreholes, which starts from TZS 100,000. Owners will still be required to register their borehole with the Water board.

PKF Comment

If you believe any of the above measures may impact your business or require any advice with respect to Tanzania

taxation, please contact Mustansir Gulamhussein at mgulamhussein@tz.pkfea.com *or call +**255 22 2152501/03 /04**.*

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Turkey

Various tax updates

Changes to filing dates of certain tax returns
Effective 1 April 2019, the filing period for withholding tax, stamp duty, value added tax, corporate tax, annual income tax and advance tax returns has been extended to the end of the last day for the payment of tax completed in one shot, and until the end of the last day for payment of the first instalment regarding taxes paid in instalments. The new periods are as follows:

Type of tax return	Submission Date	Payment Date
Withholding tax	26th day of the following month	26th day of the following month
Stamp tax	26th day of the following month	26th day of the following month
VAT	26th day of the following month	26th day of the following month
Income tax of small businesses	The last day of February	The last day of February
Income tax	The last day of March	The last day of March
Corporate tax	The last day of April	The last day of April
Advance tax returns quarter 1	17th of May	17th of May
Advance tax returns quarter 2	17th of August	17th of August
Advance tax returns quarter 3	17th of November	17th of November
Advance tax returns quarter 4	17th of February	17th of February

BITT (banking and insurance transactions tax) - foreign exchange sales will be calculated as one per thousand on the sales amount.
BITT exchange rate (foreign exchange tax) changes related to foreign exchange selling transactions were announced with Presidential Decision No. 1016 published in the Official Gazette dated 15 May 2019.

Accordingly, for the following transactions, the BITT rate to be calculated on the sales amount is 0 per thousand:

- Foreign exchange sales of banks and authorised institutions to each other or between them
- Foreign exchange sales to the Ministry of Treasury and Finance
- Foreign currency sales made by the bank in relation to the payment of debts denominated in foreign currencies, extending the loan itself or intermediating the borrower
- Foreign exchange sales to businesses with an industrial registry certificate
- Foreign exchange sales to exporters with a membership to export associations.

BITT (banking and insurance transactions tax) and foreign exchange transactions will be calculated at one per thousand on the sales amount.

Withholding tax rate on interest derived from floating-rate deposits with maturity over 1 year set at 0%
With Presidential Decree No. 1015 published in the Official Gazette dated 1 May 2019, the withholding tax rate on 1-year floating rate (inflation-based) deposits was set at 0%. The mentioned rate is valid for interest payable on time deposits opened as of 1 May 2019.

The table indicating the withholding rates on deposits (TL) applicable as of the date of this circular and including the above change is provided below:

	withholding tax rate
demand deposits, notice deposits and time deposits with maturity term up to 6 months (including 6 months)	% 15
time deposits with maturity up to 1 year (including 1 year)	% 12
time deposits with maturity over 1 year	% 10
floating-rate (based on inflation rates) deposits with maturity over 1-year	% 0

PKF Comment

If you believe any of the above measures may impact your business or require any advice with respect to Turkish taxation, please contact Emrah Cebecioğlu at e.cebecioglu@pkfistanbul.com *or call **+90 212 426 00 93.***

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Ukraine

Ratification of the MLI

On 28 February 2019, the Verkhovna Rada of Ukraine (the sole body of legislative power in Ukraine - parliament) ratified the multilateral Convention to implement tax treaty related measures to prevent base erosion and profit shifting, which significantly modifies the existing double tax treaties signed by Ukraine. The Convention entered into force on 2 April 2019.

By signing and ratifying the MLI, Ukraine has now completed two out of four steps from its BEPS minimum standards commitment.

Ukraine agreed to the following rules:

- Principal purpose test (PPT): Ukraine opted for the PPT, like most other countries. According to this rule, Ukraine may deny treaty benefits, e.g. reduced treaty rates, if the tax authorities have reasons to conclude that the principal purpose or one of the principal purposes of the particular transaction/ arrangement was to obtain those benefits.
- Changes to the permanent establishment (PE) definition: Changes to the definition of "permanent establishment", the main purpose of which is to counteract artificial deviation from the recognition of the presence of a permanent establishment.
- Anti-abuse rule for PEs situated in third jurisdictions: A new rule introduced to the double tax treaties will allow Ukraine to tax passive income paid to non-residents at maximum domestic rates if (i) the income is exempt from taxation in the jurisdiction of the non-resident (the second jurisdiction), because the income is attributed to a PE situated in another (third) jurisdiction, and (ii) the tax rate in the third jurisdiction, where the PE is situated, is less than 60% of the standard rates of the second jurisdiction.
- 365-day rule for capital gains: The majority of the double tax treaties signed by Ukraine stipulate that capital gains realised on the alienation of shares in Ukrainian companies should be taxed in the jurisdiction of the non-resident, except for cases when such shares derive their value principally from immovable property situated in Ukraine. Henceforth, the exemption from Ukrainian withholding tax will apply if this rule is met not only upon alienation of shares, but also during the 365 days preceding the alienation.
- Improvements to the mutual agreement procedure: The mutual agreement procedure to resolve double tax treaty related disputes becomes more flexible. Henceforth, taxpayers will be able to present their cases not only to the tax authorities in their own jurisdiction but also to the tax authorities of the other contracting State. Moreover, the minimum period for lodging such cases is set at three years.

However, the new rules will only apply to a specific agreement between the countries provided that the other signatory State has also opted for these rules.

PKF Comment

The ratification of the MLI is a very important step in the further internationalisation of Ukraine's legislative framework. From now on taxpayers carrying out transactions with non-residents should not only take into account the provisions of the treaty concluded with the jurisdiction of the non-resident, but also the way in which the MLI modifies the treaty. If you believe the above measures may impact your business or require any advice with respect to Ukraine taxation, please contact Sviatoslav Biloblovskiy at s.biloblovskiy@pkf.kiev.ua *or Dmytro Khutornyy at* d.khutornyy@pkf.kiev.ua *or call* ***+380 44 501 25 31****.*

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Ukraine withdraws from three treaties with the CIS

On 22 May 2019, the Cabinet of Ministers of Ukraine decided to withdraw Ukraine from participating in certain tax treaties concluded with the Commonwealth of Independent States (CIS).

The purpose of this decision is to cancel the effects of (i) the protocol on the unification of the approach and the signing of agreements on the prevention of double taxation of income and property, concluded in Tashkent (Uzbekistan) in May 1992; (ii) an agreement between the CIS member states on cooperation and mutual assistance on compliance with tax legislation and the fight against infringements in this area, concluded in Minsk (Belarus) in June 1999; and (iii) an agreement on cooperation between

the CIS member states in the fight against tax crimes, concluded in Tbilisi (Georgia) in June 2005.

The above treaties will lose their legal force in Ukraine.

PKF Comment

*These international treaties had lost their practical value already a long time ago and have not been applied because of existing double tax treaties with Azerbaijan, Belarus, Armenia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan and Uzbekistan, which are in effect in the area of compliance with tax legislation. If you believe the above measures may impact your business or require any advice with respect to Ukraine taxation, please contact Sviatoslav Biloblovskiy at s.biloblovskiy@pkf.kiev.ua or Dmytro Khutornyy at d.khutornyy@pkf.kiev.ua or call **+380 44 501 25 31**.*

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United Arab Emirates

Various tax updates – MLI, OECD, AEOI, DTTs and VAT

UAE deposits its instrument of ratification for the MLI to prevent BEPS

After signing the Multilateral Convention ('MLI') on 27 June 2018 to implement tax treaty related measures to prevent BEPS, on 29 May 2019, the United Arab Emirates deposited its instrument of ratification for the MLI to prevent BEPS with the OECD's Secretary-General. This underlines its strong commitment to prevent the abuse of tax treaties and BEPS by multinational enterprises.

OECD and UAE renew partnership to strengthen tax co-operation

On 11 March 2019, the OECD and the United Arab Emirates signed a renewal of the Memorandum of Understanding agreeing to extend their collaboration in providing regional seminars on international taxation for a further three years, until 2021.

Automatic Exchange of Information – Activated exchange relationships for CRS information

UAE implemented Common Reporting Standards ('CRS') with financial institutions filing their report on or before 30 June 2018. Further, as per Multilateral Competent Authority Agreement ('MCAA'), first intended financial account information exchange by the UAE was scheduled in September 2018.

In addition to the selective examples of status of exchange relationships from UAE to other CRS MCAA signatory jurisdictions shared in our earlier tax update, the following are the additions made to the list of such exchange relationships:

Jurisdiction	Activation status
Korea	CRS MCAA activated
Lithuania	CRS MCAA activated
Monaco	CRS MCAA activated – Effective for taxable periods starting on or after 01 January 2019
Panama	CRS MCAA activated

Issue of new list of UAE tax treaties

As per the latest statistics provided by the UAE Ministry of Finance ('MoF'), UAE's Double Tax Avoidance Agreements ('DTA') network ranks first in the Middle East and North Africa. Further, UAE now ranks among the top major global financial and commercial centres in terms of DTA and Bilateral Investment Treaties (BITs) agreements.

UAE's vast network of DTA agreements extends worldwide and includes around 63% of the world's countries.

UAE VAT update

The UAE VAT Law [UAE Federal Decree-Law No. (8) of 2017 on Value Added Tax] turned one year old on 1st January 2019.

The second quarter of the year 2019 witnessed initiation of a few tax audits and scrutiny of the tax refund applications by the UAE Federal Tax Authority ('FTA'). Further, in accordance with the guidance provided for Business Visitors Scheme, it appears that FTA has also started accepting refund applications as per provisions of the said scheme (highlighted in our previous tax updates), on and from 2 April 2019 for the VAT refunds pertaining to calendar year 2018.

The FTA has issued several important VAT guides and public clarifications since our last tax update. Some of these updates released in the first and second quarter of 2019 from the FTA are given below:

Date	Type of Update	Particulars of Update
August 2018 (Updated)	User Guide	VAT Financial Guarantee or Cash Deposit Release for Non-Registered Importers
March 2019	User Guide	Refund of VAT Paid on Goods and Services Connected with Expo 2020 Dubai (for Official Participants)
March 2019	Public Clarification	Sponsorships and Grants, Donations
April 2019	User Guide	VAT Refund for Business Visitors

PKF Comment

The news of UAE depositing its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting with the OECD's Secretary-General underlines UAE's strong commitment to prevent the abuse of tax treaties and base erosion and profit shifting (BEPS) by multinational enterprises.

Issue of updated user guides in respect of VAT refund for Business Visitors provides updated details on the procedural aspects of the refund application process. Further, FAT has issued user guide on Refund of VAT paid in connection with Expo 2020. This user guide provides clarity for Official Participants seeking to recover VAT charged in relation to Expo 2020 and also provides clarity on the VAT compliance obligations as per UAE VAT Laws for these Official Participants

*For further information or advice concerning VAT in the UAE or any advice with respect to UAE taxation, please contact Sarika Dhameja at sdhameja@pkfuae.com or Chaitanya Kirtikar at cgk@pkfuae.com or call **+971 438 88 900**.* »BACK

United Kingdom

Guidance on taxation of crypto-assets

HMRC have released more detailed guidance on the taxation of crypto-assets such as bitcoin. The guidance is specifically aimed at exchange tokens (such as the commonly known Bitcoin and Ethereum) and does not comment specifically on utility tokens (those which provide access to particular services) or security tokens (which provide an interest in the business either by debt or something similar to equity). The guidance sets out that HMRC generally expects that individuals would be taxed to capital gains tax on the profits from buying and selling crypto-assets which is a useful starting point.

PKF Comment

*The guidance is a useful introductory piece to tax issues relating to crypto-assets. However, it is by no means comprehensive. The underlying nature of the crypto-asset needs to be understood in order to determine the nature of the token. There also needs to be a focus on the tax consequences for the companies issuing the tokens in which the nature of the token is equally important. It is likely that a utility token would result in corporation tax being payable and therefore it is important to consider to what degree the tokens have been 'utilised'. Conversely, it is possible that a security token which has equity characteristics wouldn't result in any corporation tax. For further information or advice concerning United Kingdom taxation on crypto-assets, please contact Ryan Bebbington at ryan.bebbington@pkf-francisclark.co.uk or on **+44 1392 667 000**.* »BACK

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