MOORE STEPHENS

Volume 5 Issue 2 – October 2015

European Tax Brief

Tax

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Editorial

Welcome to the latest issue of Moore Stephens *European Tax Brief*. This newsletter summarises important recent tax developments of international interest taking place in Europe and in other countries within the Moore Stephens European Region. If you would like more information on any of the items featured, or would like to discuss their implications for you or your business, please contact the person named under the item(s). The material discussed in this newsletter is meant to provide general information only and should not be acted upon without first obtaining professional advice tailored to your particular needs. *European Tax Brief* is published quarterly by Moore Stephens Europe Ltd in Brussels. If you have any comments or suggestions concerning European Tax Brief, please contact the Editor, Zigurds Kronbergs, at the MSEL Office by e-mail at zigurds.kronbergs@moorestephens-europe.com or by telephone on +32 (0)2 627 1832.

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Austria

Partnership loss deductions to be restricted

The extent to which taxpayers may deduct losses arising from their interest in a partnership is to be restricted, under measures contained in the Tax Amendment Act passed by the Austrian Parliament in July 2015.

Under the law as it stands, most forms of loss (including a trading loss) arising to an individual taxpayer from his or her interest in a partnership are deductible from the individual's other income, regardless of the taxpayer's economic or legal exposure to the partnership's liabilities.

Under the new Act, partnership losses will only be deductible to the extent that they do not create a negative capital account or increase an existing negative capital account (a negative capital account exists where the current or accumulated loss or losses exceed the partner's capital contribution – and hence the partner's potential liability for the partnership's debts). Income or expenses associated with assets the partner has provided on a temporary basis to the partnership will not be taken into account when evaluating the capital account for this purpose.

Losses disallowed under the new rule are available for carry-forward against future profit shares from the partnership or capital gains from a disposal of the partnership interest. They would also become deductible to the extent that the partner made further capital contributions to the partnership to restore a positive balance to the capital account.

This restriction largely affects limited partners in a limited partnership or atypical silent partnerships. It does not apply to a general partner who has unlimited liability for the partnership's debts.

The new rules take effect for accounting periods beginning after 31 December 2015.

Tax on investment income to increase

With effect from 1 January 2016, the final tax on most forms of investment income such as dividends and interest and capital gains from the sale of securities, is to increase from 25% to 27.5%, under further measures in the Tax Amendment Act discussed in the previous item.

The increased rate does not apply to bank deposit interest, which remains taxable at 25%.

Tax on gratuitous transfers of immovable property

Changes to the way that gratuitous transfers of immovable property are subject to immovable property transfer tax (*Grunderwerbsteuer*) are also included in the Tax Amendment Act.

Currently, gifts of land between spouses or between parents and children are taxed at a rate of 2% (as opposed to the general 3.5%) on a special deemed value equal to three times the 'unit value' (*Einheitswert*) of the land for tax purposes. In the great majority of cases, this special base is far below the market value of the land. This remains the case even after most transfers of land are now taxed on the acquisition value, following a 2012 judgment of the Constitutional Court that use of the *Einheitswert* was discriminatory and therefore unconstitutional.

Under the Act, changes have been made to the treatment of all gratuitous and partly gratuitous transfers of land, whatever the relationship of the parties. Moreover, a gratuitous transfer for this purpose is defined as one made for no consideration (as a gift) or for a consideration that is less than 30% of the land's market value. All transfers of land between family members are treated as gratuitous transfers. A partly gratuitous transfer is one for a consideration of between 30% and 70% of market value. Transfers for a consideration greater than 70% are not subject to the new rules on gratuitous transfers.

In the case of gratuitous transfers, the value of the land may be taken from an immovable property price index. Detailed valuation rules are to appear in a circular to be published by the Ministry of Finance.

Furthermore, all gratuitous transfers between the same parties over a five-year period will be cumulated.

Partly gratuitous transfers are to be split into a gratuitous element, and a non-gratuitous element, taxable under the general rules (based on acquisition value).

Special rules will apply to farm and forestry land.

The same rates of tax will apply to all transfers, whether gratuitous or otherwise. The existing single rates are replaced by a progressive scale, under which the first EUR 250 000 is taxed at 0.5%, the next EUR 150 000 at 2% and the balance over EUR 400 000 at 3.5%.

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Belgium

'Cayman tax' or CFC for individuals

The Belgian Parliament has enacted legislation introducing the so-called 'Cayman tax' or 'look-through tax', which will tax Belgian-resident individuals and certain legal entities on their appropriate share of the income of certain controlled foreign entities.

The legislation introduces a type of CFC (Controlled Foreign Company) rule in Belgium, to prevent the receipt of income tax-free by a Belgian individual or legal entity subject to the Legal-Entities Income Tax (e.g.: Not-for-Profit Associations) from a foreign 'legal structure'.

The principle of the 'Cayman tax' is to charge Belgian income tax on income from certain foreign structures in the hands of their founders or beneficiaries who are Belgian residents (individuals or certain legal entities). Technically this will be achieved by providing a fiction of transparency: the income received by the targeted legal structure will be deemed to be received directly by the Belgian founder(s). Belgian taxpayers have already been obliged to report the existence of these structures in their personal income tax returns as from 2013 (tax year 2014): in 2013 only 1262 individuals did so.

Which foreign structures are targeted?

The targeted legal structures are twofold. Category 1 consists of all trust-like structures without legal personality, such as foreign trusts and non-incorporated foundations. Category 2 consists of entities with legal personality where they are deemed to escape tax altogether or are resident in a substantially more favourable tax jurisdiction.

Surprisingly, 'substantially more favourably taxed' is defined to equate to being subject to an effective tax rate of less than 15%, whereas the expectation was that the threshold percentage would be 10%. The effective tax rate has to be calculated as if the taxable base were subject to Belgian tax law, which makes the exercise very difficult and which means that it has to be repeated each year.

For legal entities in the European Economic Area (EEA), an exhaustive but irrefutable 'blacklist' will be published. This means that all entities not mentioned on the list will be outside the scope of the tax.

A second list for entities outside the EEA will be published: this list will be a non-exhaustive list, but also refutable. Moreover, in the last instance, for Category 2 entities, there is an exception entered in the legislation, for 'active companies' in a country within the EEA or with which Belgium has a double tax treaty or an agreement providing for exchange of information . In that case, the look-through fiction will not be applied if it can be demonstrated that the entity has a real and genuine economic activity ('substance exclusion').

Which taxpayers?

The look-through tax will apply in the first instance to the founder (settlor) of the structure. The idea is that the settlor is deemed to have the power to dispose of the structure's income.

The definition of a 'settlor' for this purpose is quite broad: not only is it the founder that is targeted, but also any individual who has contributed assets or rights, the heirs of the founder and the holders of the judicial and/or economical rights in the legal structure (Category 2). If there is more than one founder the tax liability will be apportioned in relation to the degree of participation. The (Belgian) founder could only avoid the tax by demonstrating that the income of the structure was distributed or paid to a third-party beneficiary. This third-party beneficiary would have to be resident in an EEA country or one with which Belgium has concluded a double tax treaty containing a transparency clause. That beneficiary will then be subject to the tax as if he were resident in Belgium for tax purposes.

The nature of the tax

The income of the legal structure will be taxed as if it were directly received by the founders/holder of the rights. As a consequence, the income will be taxable whether or not it is distributed or paid. Where there is no distribution of the income, the income will be subject to personal income tax in the hands of the individual taxpayer and will be taxed according to its nature under Belgian legislation (e.g. progressive taxation for income from real property, a flat 25% for interest and dividends, exemption for capital gains realized on shares etc).

When previously taxed income is attributed to the taxpayer in a later tax year or on the occasion of the liquidation of the company concerned (in the case of Category 2 only) it will not be taxed again if the taxpayer can prove that it has been taxed previously (which assumes accurate bookkeeping and transparency).

Anti-abuse measures

The legislation is supported by the introduction of a specific anti-abuse measure with retroactive effect. In the case of a Category 2 entity, any attempt to avoid the new tax by disincorporation and conversion to an unincorporated entity with no separate legal personality will be ineffective if carried out after 9 October 2014. Moreover any changes in the articles of the structure since that date intended to change the nature of the structure are also to be ineffective. Finally it is expected that reference will also be had to the general anti-abuse measure of article 344§1 of the Belgian Income Tax Code.

Effective date

The new tax will apply as from 1 January 2015.

Conclusion

It is very difficult to estimate the impact of this new legislation for Belgian taxpayers.

First, the law is very complex and a lot of questions remain unanswered. For example, as Belgian law does not recognise the legal form of a trust, it makes it very difficult to interpret certain concepts. Second, it remains to be seen how compatible the tax will be with European and international law.

Third, whereas an exception for Category 2 entities with real and genuine economic activity has been added (inspired by the Cadbury Schweppes case), is there not also a danger of discrimination between Belgian and foreign structures?

Also, the risk of double taxation is a real threat. For example, there is no provision for a tax credit where taxes have to be paid within the Category 2 structure in its home state at an effective rate lower than 15%.

Finally, there is a question of proportionality. Given the fact that only 1262 Belgians have declared themselves to be the beneficial owner of the legal entities in question? It seems to be a very complex and difficult law aimed at a mere handful of taxpayers, unless, of course, many Belgians made a collective error in their tax returns last year.

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Belgium plans tax shift away from employment

The centre-right Belgian government has published its budget programme for 2015-16, signalling a shift away from taxes on employment to taxes on consumption and passive income.

Among the key measures are:

- An increase in the final withholding tax on dividends from 25% to 27%
- An increase in the rate of VAT on domestic electricity supplies from 6% to 21%
- An increase of excise duties on diesel fuel, tobacco and alcohol and the introduction of a fat or sugar tax on unhealthy food products
- A new capital gains tax (at 25%) on speculative gains from the sale of listed shares within six months of acquisition

These and other revenue-raising measures are intended to finance a significant reduction in employers' social security contributions from 33% to 25%, to be completed by 2018.

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European Union

EU orders Poland & Estonia to inform on rulings

On 8 June, the European Commission issued injunctions against the Estonian and Polish governments, ordering them to disclose information on their tax-rulings practices. The Commission has asked all Member States to provide this information, but Estonia and Poland are the only states not to have responded to the initial request.

Following that initial request, the Commission will be asking 15 Member States, including France, Germany and Italy, to furnish a 'substantial number' of individual tax rulings, as part of the State Aid investigation launched by the Competition Commissioner, Margrethe Vestager. The Commission is concerned that some Member States may be using tax rulings to provide selective tax advantages that breach the EU rules against State Aid.

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EU publishes corporate tax action plan

The European Commission has published a five-point action plan for achieving a 'fair and efficient corporate-tax system in the European Union'. On the basis that the current rules for corporate taxation, devised in essence nearly a hundred years ago, no longer fit the modern context, the Commission concentrates on five key areas for action:

- Relaunching the CCCTB (common consolidated corporate tax base)
- Ensuring effective taxation where profits are generated
- Announcing additional measures for a better tax environment for business
- Making further progress on tax transparency
- Improving EU tools for coordination

In its relaunch of the CCCTB, first finalised in 2011, the Commission is proposing two major changes:

- Making it mandatory, not optional, at least for MNEs and
- Making implementation gradual

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EU plans to reform cross-border VAT

As part of its new Digital Strategy, the European Commission has announced that it is planning changes to the VAT régime to make cross-border e-commerce easier.

The Commission is considering extending the one-stop shop recently introduced for cross-border electronic, broadcasting and telecommunications services to private consumers to supplies of goods to private consumers, and removing the VAT exemption for small consignments.

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Finland

Non-resident taxes to increase

In general, non-residents receiving dividends from Finland are liable to withholding tax at 30%. However, individuals resident in an EEA country may opt to be taxed by assessment, in which case the same rules apply as for residents, resulting in exemption for a high proportion of dividends from unlisted companies.

For the year 2015, however, there is an anomaly in respect of rates. Whereas resident taxpayers have faced an increase in rates of tax on income from capital (which includes dividends), the increase has not applied to non-residents exercising the assessment option.

With effect from 1 January 2016, the anomaly is abolished and residents and non-residents alike will be taxed at the same rates. This will mean that the first EUR 30 000 will be taxed at 30% and the excess at 33%. For 2015, the old rates apply to non-residents, under which the first EUR 40 000 is taxed at 30% and the excess at 32%.

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Germany

Tax on corporate portfolio shareholdings to change

Under proposals in a discussion document recently released by the Federal Ministry of Finance, the tax treatment of dividends and capital gains from corporate shareholdings of under 10% in the investee company are set to change with effect from 1 January 2018.

Currently, dividends received by resident or non-resident companies from shareholdings of less than 10% are fully taxable, whereas dividends from larger shareholdings generally benefit from the 95% participation exemption. Capital gains, however, benefit from the 95% exemption whatever the size of the holding.

The Ministry of Finance is now proposing to align the treatment of dividends and capital gains in the following manner.

With regard to dividends and capital gains, the participation exemption will apply only where the recipient company has a direct holding of at least 10% in the investee company, by reference generally to the position at the beginning of the relevant calendar year. The acquisition or disposal of shares during the year will have different effects.

For dividends received during a year in which the shareholding begins below the 10% threshold but is subsequently boosted above the threshold (by an acquisition of at least 10%), dividends will be partly exempt (to the extent of 95%) and partly taxable, in the proportion that the initial holding bears to the final holding. However, where a disposal is made during such a year, even if the final holding is still above the threshold, the dividend will be fully taxable.

As regards capital gains, if the shareholding at the beginning of the year is below the 10% threshold, any capital gains during the year will be fully taxable, even if acquisitions are made during the year that result in a shareholding above the 10% threshold. Conversely, if the holding at the beginning of the year is above the 10% threshold, capital gains made during the year will qualify for the 95% exemption even if the holding falls below the 10% threshold, even as far as zero.

There will be a measure of relief for venture capital funds. It must be emphasised that at this stage, the rules described are only proposals open for discussion, and may be subject to change.

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Greece

VAT rate changes in Greece

As part of the agreement reached with lenders, Greece has enacted changes in VAT rates.

The main change includes the transition from the reduced rate of 13% to the standard rate of 23% for such supplies of staples as certain types of meat, seafood, flowers, coffee and tea, sugar and firewood.

Some staples such as milk, olive oil, fish, bread, cheese, pasta and medicines, remain taxable at 13%.

The super-reduced rate goes down from 6.5% to 6%, and applies to human medicines, vaccines and certain newspapers and magazines.

Private education, which was previously exempt, will now be taxable at the standard rate of 23%.

The 30% reduction in all rates applicable in the Aegean Islands will be gradually withdrawn. In the first group of islands, the reduction will be abolished entirely as from 1 October this year; in the second group, the reduction will be abolished on 1 June 2016; abolition will be effected in the remaining islands on 1 January 2017.

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Ireland

Ireland to introduce 'knowledge development box'

Ireland has become the latest country to signal the introduction of a patent box, called in this case a knowledge-development box, under which income from qualifying intellectual property will enjoy an effective tax rate below the standard rate of corporate tax (in Ireland, 12.5% in the case of trading income).

The introduction of such a box was first mooted in the October 2014 Budget speech, and, following consultation, was confirmed by the Minister of Finance on 28 April. Legislation will be introduced in the 2016 Finance Bill, to be published in October this year.

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Italy

Italy amends blacklists

The Italian Government has published revised blacklists affecting, respectively, the deductibility of costs and the application of the CFC régime.

Under a Presidential Decree of 1986, costs and other expenses associated with transactions between resident persons (including the Italian permanent establishments of foreign companies) and persons (whether or not related) resident in a blacklisted jurisdiction are non-deductible by the Italian-resident person unless certain proofs of the genuine commercial nature of the transaction are provided.

Essentially, the Italian resident must prove to the satisfaction of the authorities both that the foreign person carries on a genuine and commercial business and that the transaction in question had a genuine business purpose for the resident. Satisfying the authorities on both counts has been extremely difficult and frequently results in litigation.

Under tax reforms recently approved by the Italian government, significant changes relaxing these restrictions have been proposed:

- The criteria for including a jurisdiction in the blacklist would change. Currently, jurisdictions are blacklisted either because they have a low level of effective taxation or lack an OECD-standard exchange of information agreement with Italy. The proposal is that the only criterion for blacklisting in the future would be the lack of an adequate information agreement
- Where a jurisdiction remained on the blacklist, the cost of any transaction with the entity in question would nevertheless be deductible to the extent that it did not exceed the arm's length value. The genuine-business conditions would be dropped.

The reforms have yet to be approved by Parliament and signed into law by the President.

In the meantime, the existing blacklist for deductibility of costs has been revised.

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Netherlands

Netherlands plans to reduce income tax and increase VAT

The Netherlands government has released details of its planned tax reform. The most significant measures are reductions in personal income tax by broadening rate bands and substantially raising the threshold at which the top 52% rate of income tax applies. At the same time, there will be a major reduction in the range of supplies qualifying for the reduced (6%) rate of VAT.

On the corporate side, the government wishes to make the treatment of debt and equity more equal, but in a way that would increase, not decrease, revenue. The extra revenue would be applied to reduce the standard rate of corporate income tax.

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New tax arrangement between the Netherlands and Curaçao

The Tax Arrangement for the Kingdom (TAK) functions in a manner analogous to a tax treaty for the avoidance of double taxation between the countries constituting the Kingdom of the Netherlands. Nowadays, the Kingdom consists of the Netherlands itself and the Caribbean islands of Aruba, Curaçao and St. Maarten.

The current TAK covers the Netherlands and the Caribbean islands of Bonaire, St. Eustatius and Saba, also known as the 'BES islands'. These islands, together with Curaçao and St. Maarten, made up the Netherlands Antilles, which was dissolved in 2010, but are now part of the Netherlands proper.

As a result of these changes, the decision was taken to replace the TAK by a series of bilateral tax treaties.

This article discusses the most important features of the new agreement between Curaçao and the Netherlands, which is expected to come into force on 1 January 2016.

Main features

- In addition to a withholding tax rate for dividends of 15% there will be a nil percent rate for active companies. There will be a limitation of benefits clause
- Interest and royalties may be taxed in both the jurisdiction of residence and the source jurisdiction, if payments exceed the amount that would be payable between independent third parties
- A withholding tax on payments for non-residents providing services for more than 183 days ('service PE')
- Rules for hybrid entities and
- New anti-abuse rules

Dividend withholding tax

Under the old TAK, the source jurisdiction could levy 8.3% withholding tax on dividends where the parent company held at least 25% of the shares in the subsidiary. In other cases, the source jurisdiction could levy 15% withholding tax. Curaçao, it has to be said, does not currently levy withholding tax on dividends, so as regards that jurisdiction, these rates apply to dividend payments originating from the Netherlands only.

There are three rates in the new agreement:

- 0% where the beneficial owner of the dividends is (i) an entity that holds at least 10% of the capital of the distributing entity and is (a) considered as a qualifying entity or (b) one in which at least 50% of the shares are directly or indirectly held by individuals resident in one or other of the jurisdiction; (ii) a state, or any political subdivision or local authority thereof or (iii) a pension fund
- 5% where the beneficial owner of the dividend is an entity that is a resident of a BES island
- 15% in all other situations

Interest and royalties

Under the old TAK interest and royalties were only taxable in the jurisdiction of residence. The source jurisdiction was not permitted to levy tax.

The new agreement takes the arm's length principle into consideration. If the payment is greater than it would be between wholly independent persons, the excess may be taxed by either jurisdiction in accordance to its own laws.

Permanent establishment

The permanent-establishment article follows article 5 of the OECD Model Treaty. However, Curaçao requested the addition of a 'service permanent establishment'. Consequently, if a resident of one of the contracting jurisdictions provides services for a period exceeding 183 days in the other jurisdiction, the source jurisdiction will be allowed to levy taxes on payments.

Hybrid entities

Hybrid entities will now be qualified as such not by the contracting jurisdictions' own legislation, but the source jurisdiction will follow the jurisdiction of residence with regard to the transparency of an entity.

Anti-abuse provision

At the request of the Netherlands, the new agreement contains a general anti-abuse provision to prevent improper use of the treaty. As a consequence of the implementation of the general rule, national anti-abuse rules may once again be applicable. Consequently, the Netherlands anti-abuse provision in section 17(3)(b) of the Corporate Income Tax Act 1969 (the substantial interest levy) could be invoked by the tax authorities if needed.

Based on the announcement of the Ministry of Finance, section 17 is not applicable until 1 January 2016.

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Netherlands-UK bank taxes treaty

The double bank tax treaty between the Netherlands and the United Kingdom entered into force on 30 April. The treaty is designed to prevent double taxation in respect of specific bank taxes and avoid avoidance and evasion of these taxes.

The treaty generally has retroactive application as from 1 January 2011.

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Organisation for Economic Cooperation and Development

OECD releases Comments on BEPS Action Plan 8 drafts

The OECD published the comments it has received on the discussion drafts released for comment under BEPS Action Plan 8 on 29 April, suggesting possible revisions to the transfer-pricing guidelines on cost-contribution arrangements.

The findings were discussed at a conference held in Paris on 6-7 July.

OECD releases revised discussion draft on BEPS Action 6

The OECD has released a revised discussion draft on preventing the granting of treaty benefits in inappropriate circumstances (its Action 6 under the Base Erosion and Profit Shifting (BEPS) Action Plan).

The original discussion draft was released in November 2014, and a final version is expected later in the year.

Country-by-country reporting

The OECD has released the implementation plan for country-by-country reporting under Action 13 of its BEPS (base erosion and profit shifting) Action Plan.

OECD releases discussion draft on avoiding PE status

The OECD has released a revised discussion draft on preventing the artificial avoidance of PE (permanent-establishment status) as part of its Action 7 under the BEPS Action Plan. Any measures finally agreed on would also include amending the definition of a PE in the OECD Model Treaty.

NB: the United Kingdom has taken unilateral action in this area by making artificial avoidance of a PE in the United Kingdom as one of the triggers for its new Diverted Profits Tax under Finance Act 2015.

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Slovakia

Slovakia to cut VAT on food

The Slovakian Government has announced its intention to reduce the VAT rate on certain foodstuffs from 20% to 10%.

Currently, almost all foodstuffs are taxed at the standard 20% rate of VAT. If the reform goes ahead, many foodstuffs will become subject to the reduced rate of 10%. Most countries in the European Union charge foodstuffs to a reduced rate or rates of VAT.

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Spain

Spain cuts taxes

Spain has reduced the general withholding tax rate on payments to non-residents from 20% to 19.5%, with effect from 12 July. The rate will be further reduced to 19.0% on 1 January 2016.

The rate applies to dividends, interest and royalties.

There are also reductions in personal income tax.

In detail, the changes are as follows.

Personal income tax

The increased tax rates implemented during the Economic Crisis to mitigate Spain's budgetary problems have now been reversed and new reduced tax rates have been implemented for the fiscal years 2015 and 2016.

Table 1 New rates of income tax for the years 2015 and 2016

2015		2016	
Net taxable income	Tax rate	Net taxable income (EUR)	Tax rate
First 12 450	20%	First 12 450	19%
Next 7750	25%	Next 7750	24%
Next 13 800	31%	Next 15 000	30%
Next 26 000	39%	Next 24 800	37%
Balance over 60 000	47%	Balance over 60 000	45%

Table 2 New rates of tax on income from savings

Taxable income from savings (EUR)	Tax Rate until 2012	Tax Rate between 2012-2014	Tax Rate 2015	Tax Rate 2016
First 6000	19%	21%	19.5%	19%
Next 18 000	21%	25%	21.5%	21%
Next 26 000	21%	27%	21.5%	21%
Balance over 50 000	21%	27%	23.5%	23%

Corporate income tax

The economic crisis has resulted in a deep decrease of the State's income from corporate income tax. Therefore, the Government has decided to implement a number of changes to broaden the tax base and at the same time reduce tax rates. The objective is to assimilate the effective tax rate to the nominal tax rates and build up a counter-cyclical corporate income tax system.

Table 3 New corporate tax rates:

	2014	2015	2016
Standard	30%	28%	25%
SME rate	25-30%	25-28%	25%
Micro-enterprise rate	20-25%	25%	25%
New enterprise rate	15-20%	15%	15%
Credit Institutions	30%	30%	30%

The participation exemption for dividends and capital gains from significant shareholdings has been extended to shareholdings in other Spanish companies, whereas it was previously available only in respect of significant shareholdings in foreign companies. The holding must be at least 5% or have a value of more than EUR 20 million and be held for an uninterrupted period of at least one year.

Companies subject to the standard rate or the 30% rate may deduct up to 10% of their retained earnings from taxable profits to a capitalisation reserve provided that the amounts in the reserve are not distributed for at least five years.

Companies whose turnover in the preceding accounting period was under EUR 10 million may allocate 10% of their pre-tax taxable earnings to a tax-loss levelling reserve. Over the next five accounting periods, the reserve must be set against any tax losses incurred by the company. Any balance remaining in the reserve after the end of the five-year period must be added back to taxable earnings.

From 2016, tax losses brought forward may be set off against a maximum of 60% of taxable income, but the first EUR 1 million of losses may be set off without restriction.

Impairment provisions for tangible assets, investment property, intangible assets, including goodwill, and securities representing equity or debt are no longer to be deductible for tax purposes. If for accounting purposes impairment should be booked for the decrease of value of such assets; an adjustment for tax purposes must be made.

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Sweden

Sweden may extend deemed credit on reorganisations to EEA

Under Swedish law, when a cross-border reorganisation takes place which involves the transfer of a Swedish permanent establishment (PE) to a company in another EU Member State, the Swedish tax payable on the transfer of the PE's assets may be reduced by a deemed credit for the foreign tax that would have been payable in the other Member State had the Mergers Directive not exempted the transaction.

The Swedish Ministry of Finance is now proposing to extend the deemed credit to cases where the other State is an EEA state outside the European Union (i.e. Iceland, Liechtenstein or Norway), in order to comply with European law.

The changes are intended to take effect for accounting periods beginning after 31 December 2015.

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Switzerland

Switzerland and the EU sign information agreement

Switzerland and the European Union have concluded a protocol amending their current agreement on the automatic exchange of tax information more closely to reflect the OECD global standard.

No federal inheritance tax for Switzerland

The Swiss Government (the Federal Council), together with the cantons, has rejected a public initiative that would have introduced a federal inheritance and gift tax.

The power to levy such taxes therefore remains with the cantons. Most, but not all, of the 26 cantons levy inheritance and/or gift taxes, although transfers between spouses and between parents and children are mostly exempt.

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United Kingdom

UK restricts non-domiciled tax privileges

The favourable tax status enjoyed by individuals resident but not domiciled in the United Kingdom (the so-called 'non-dom status') is considerably to be restricted by measures to be introduced as from 2017. Under the non-dom rules, only income and capital gains derived from, remitted to or enjoyed in the United Kingdom are subject to UK tax. There are also inheritance tax advantages.

Under the new measures, among other changes:

- Long-term non-domiciled residents will be taxed on worldwide income and gains and be subject to inheritance tax on their worldwide estate once they have been resident for at least 15 out of the last 20 tax years. Individuals must be non-resident for at least five years before they return to the United Kingdom for the clock to be reset and a new 15-year period to start
- UK residential property held indirectly through offshore companies or other opaque entities by a non-domiciled individual or a trust settled by such an individual will become subject to inheritance tax

Full details will only become available following consultation. The rules on long-term residents will be included in the 2016 Finance Bill 2016 and those on residential property in the 2017 Finance Bill.

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Corporate tax cut again in Summer Budget

Following the victory of the Conservative Party in the general election on 7 May, the first majority Conservative government to take office since 1992 presented its Budget to Parliament on 8 July. This is the second Budget of the calendar year, and follows the last Budget of the outgoing Coalition Government in March.

Among the measures announced by the Chancellor of the Exchequer are the following.

Corporation tax main rate

The current main rate of 20% will reduce to 19% from 1 April 2017 and by a further 1% to 18% from 1 April 2020.

Annual Investment Allowance

The current annual investment allowance (100% write-off) of GBP 500 000 for capital expenditure on plant and machinery will be reduced to GBP 200 000 from 1 January 2016 and will continue at that level for the foreseeable future. The allowance was previously scheduled to be cut to a mere GBP 25 000 from that date.

Restriction of corporation tax relief for amortisation of goodwill

Currently goodwill purchased by a company on the acquisition of a business (i.e. the difference between the purchase price and the net value of the tangible assets acquired) is relieved for tax purposes as it is written off in the accounts (or at 4% a year if the company so elects). There is no parallel relief if the company acquires shares in another company rather than acquiring the business and assets.

Tax relief of this nature for acquisitions of goodwill and customer-related intangible assets is now withdrawn, for accounting periods beginning after 7 July 2015, except for acquisitions made before that date (or under an unconditional obligation entered into before that date).

Controlled Foreign Companies (CFCs): loss restriction

A restriction on the use of losses by CFCs was announced for profits arising after 7 July 2015. This measure removes the ability of UK companies to reduce or eliminate a CFC charge by offsetting UK losses and surplus expenses against that CFC charge. Specifically, this will apply to the use of the following three types of expenses:

- Losses and surplus expenses brought forward from previous years
- Losses and surplus expenses of the current year
- Losses and surplus expenses arising in other group companies (group relief)

This measure will also amend the rules that restrict the use of carried-forward losses in certain anti-avoidance situations, putting it beyond doubt that these rules apply to arrangements involving CFCs.

Link company requirements for consortium claims

A link company, being a company that allows corporation-tax group relief to flow between a consortium and a group owning a share in that consortium, must currently be located in the UK or the European Economic Area (EEA) if consortium relief is to be available. If it is located in the EEA it must also comply with other requirements. For accounting periods beginning after 9 December 2014, relief may now flow through the link company irrespective of where it is located. This measure will increase the flexibility of the use of group relief.

Bank levy down; special profits tax in

The special levy on banks introduced in 2010 has drawn increasing criticism from within the industry, with some well-known participants publicly announcing reviews of whether to retain their UK headquarters.

The bank levy is based not on the profitability of the institution but on the total value of its equity and liabilities. It is thus not directly geared to its trading performance.

In response, the Chancellor has committed to reducing the levy progressively each year until 2021. The immediate change is a reduction in the rate charged on short-term liabilities from 0.21% to 0.18% with effect from 1 January 2016 (with a proportionate reduction in the rate attributable to equity and long-term liabilities).

At the same time, a surcharge of 8% is to be applied to banking profits with effect from the same date. In principle, the tax base for this surcharge will be profits as computed for corporation tax but subject to an annual allowance of GBP 25 million but without deduction for group relief, or losses (or other reliefs) arising before 1 January 2016.

The revenue effects of these measures have not been separately identified but they are broadly expected to offset each other, though with a significantly positive income yield in the first two years of implementation.

Changes to the taxation of dividends

The Chancellor announced a major overhaul of the taxation of individuals receiving dividends. Currently, a non-refundable tax credit of 10% of the gross dividend is available, with dividend tax rates of 10% for basic rate taxpayers, 32.5% for higher rate and 42.5% for additional rate taxpayers.

Under new rules applying from 6 April 2016, the government will abolish the dividend tax credit and replace it with a new dividend tax-free allowance of GBP 5000 per year. Dividend income above that amount will then be charged at 7.5% for basic-rate taxpayers, 32.5% for higher-rate taxpayers and 38.1% for additional-rate taxpayers.

Main tax rates frozen

In keeping with a promise made during the recent election campaign, the Conservative government has introduced a 'self-denying ordinance' by legislating to freeze the rates of income tax, value added tax and national insurance (social security) contributions for the life of the new Parliament (i.e. until 2020 or an unlikely earlier dissolution). The provisions concerning income tax and VAT are included in the Finance Bill published in July; the equivalent measure for national insurance contributions is in a separate Bill.

The Bills are expected to become law in the autumn, after Parliament has reconvened.

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New measures to combat avoidance and evasion

The Summer Budget included a number of measures to tackle tax evasion and avoidance, and HMRC will be given GBP 800 million of extra funding to deliver this programme. For the most serious and complex tax crime, HMRC will have a target to triple criminal investigations with particular focus on prosecuting up to 100 wealthy individuals and corporates a year. For business taxpayers, new legislation will look to improve tax transparency and tackle businesses that persistently engage in 'aggressive' tax planning.

HMRC will also be given more tools to identify businesses that are trading but not declaring or paying tax, including powers to acquire data from online intermediaries and electronic payment providers.

For high net-worth individuals, the Government intends to consult on enhancing the information reported to HMRC by those individuals and trustees. The use of HMRC customer-relationship managers will also be extended to those with a net worth of GBP 10-20 million (previously GBP 20 m+).

For so called 'serial users' of tax-avoidance schemes, the Government will consult further on introducing measures to 'name and shame' users and potentially apply surcharges for schemes that fail in future. A consultation will also look at a new penalty, to apply where avoidance is countered under the existing general anti-abuse rule.

Tackling offshore evasion

Financial intermediaries and tax advisers will be required to notify clients of specified matters regarding offshore accounts. This will include details of a new time-limited offshore disclosure facility available from early 2016 to disclose undeclared taxes on offshore assets and details of tougher civil penalties and a new criminal offence of failing to declare offshore income and gains. HMRC believes that such direct communication will be more effective in persuading people to come forward than general advertising, which has had a limited impact in the past.

Direct recovery of debts

The Government has confirmed plans for the tax authorities (HMRC) to be given the power to recover unpaid tax debts of at least GBP 1000 directly from the bank accounts of individuals and businesses, in a move that is expected to yield GBP 420 million over the next five years.

Banks will be required to provide information on accounts to HMRC and hold or transfer sums from taxpayers' accounts to HMRC. A minimum aggregate balance of GBP 5000 will always be left in the accounts of the taxpayer. Further safeguards will ensure that debtors are contacted face-to-face by HMRC before direct recovery is considered and a county court appeal process will also be introduced.

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Currency table

For ease of comparison, we reproduce below exchange rates against the euro and the US dollar of the various currencies mentioned in this newsletter. The rates are quoted as at 6 October 2015, and are for illustrative purposes only.

Currency	Equivalent in euros (EUR)	Equivalent in US dollars (USD)
Euro (EUR)	1.0000	1.1208
Pound sterling (GBP)	1.3530	1.5168

Up-to-the-minute exchange rates can be obtained from a variety of free internet sources (e.g. http://www.oanda.com/currency/converter).

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