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UNITED KINGDOM

EMERGENCY BUDGET SIGNALS AGE OF AUSTERITY

The new Coalition government's emergency budget, delivered by Chancellor of the Exchequer George Osborne on 22 June, announced an accelerated and deep programme of spending cuts. The Chancellor set the scene by stating "the country has overspent, it has not been undertaxed". The Budget nevertheless proposed a number of both tax increases and tax reductions.

Important tax changes include the following:

- The standard rate of VAT is to increase to 20% from 4 January 2011
- A one percentage point cut in the main rate of corporation tax for each of the next four financial years
- The immediate introduction of a top rate of capital gains tax of 28%
- The introduction of a bank levy from 1 January 2011
- An increase of GBP 1000 in the personal allowance for income tax from 6 April 2011, but the basic-rate limit will be reduced so that higher-rate taxpayers do not benefit
- Employers to be partly shielded from the rise in national insurance contributions in 2011

VAT increase

As widely predicted, there will be an increase in the standard rate of value added tax, although no mention of this appeared in either of the governing parties' election manifestos. The rate will rise from 17.5% to 20% from 4 January 2011. The reduced rate of VAT remains unchanged at 5%, and there is to be no change to the scope of the zero rate, which applies to basic foodstuffs and other essential goods and services. Neither is there to be a change in the VAT registration threshold (GBP 70 000). As with the transition back from the temporarily reduced standard rate of 15% to the 17.5% rate (on 1 January this year), there will be anti-forestalling legislation to prevent artificial acceleration of supplies to avoid the 20% rate. This legislation will not apply where the customer is able to recover in full the VAT incurred on the supply. For the public and voluntary sectors, which cannot on the whole recover VAT on purchases, the rate increase will have the effect of a cut in spending budgets.

Corporation tax cut

The Chancellor set out his intention to create the most competitive corporation tax system in the G20. As a first step, he announced that the main rate of corporation tax would be reduced from 28% to 27%, with effect from 1 April 2011. There will be a further decrease of one percentage point in the following three years, until a 24% rate is reached on 1 April 2014. The main rate is payable by companies with profits of GBP 1.5 million or more. Companies with profits below GBP 300 000 pay tax at the 'small profits rate', which will be reduced from 21% to 20% on 1 April 2011. Where the company has 'associated' companies, the GBP 300 000 limit is divided by the number of associated companies plus one. Where profits are between GBP 300 000 and GBP 1.5 million, the effective rate increases gradually from the small profits rate to the main rate.

To fund the cut in corporation tax rates, the rate of capital allowances (tax depreciation) on plant and machinery will be reduced from 20% to 18%, and the special rate for certain categories of assets will be reduced from 10% to 8%, both with effect from 1/6 April 2012 (i.e. for accounting periods ending after 31 March 2012 for companies and periods of account after 5 April 2012 for unincorporated businesses). The annual investment allowance, which entitles businesses to a 100% deduction on eligible capital expenditure on plant and machinery, increased by the previous government to GBP 100 000, will be reduced at the same time as capital allowances to GBP 25 000.

Capital gains tax changes

Before 2008, capital gains tax (CGT) payable by individuals had been charged at the marginal rate of income tax (at rates of between 10% and 40%, therefore), although there were reliefs for business assets and non-business assets held for a minimum period of time. In April 2008, this régime was replaced by a single rate of 18%, while the introduction of so-called 'entrepreneur's relief' applied an effective rate of 10% on the disposal of a trading business, up to a lifetime limit of GBP 1 million. In its last Budget (in March 2010), the previous

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EDITOR'S LETTER

Welcome to Issue 22 of *BDO World Wide Tax News*. This newsletter summarises important recent tax developments of international interest across the world. 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. *BDO World Wide Tax News* is published quarterly by Brussels Worldwide Services BVBA in Brussels. If you have any comments or suggestions concerning *BDO World Wide Tax News*, please contact the Editor via the BDO International Executive Office by e-mail at mderouane@bwsbrussels.com or by telephone on +32 (0)2 778 0130.

government increased the lifetime limit for entrepreneur's relief from GBP 1 million to GBP 2 million.

It was a leading pledge in the programme of the Conservatives' coalition partners, the Liberal Democrats, that this gap between the CGT rate of 18% and the top rate of income tax (now 50%) should be significantly reduced, if not eliminated. However, the Chancellor announced that as from 23 June 2010 (the day after Budget day), a new top rate of 28% would be introduced. The rate is payable on gains to the extent that the taxpayer's combined taxable income and capital gains exceed the limit (GBP 37 400) above which the 40% rate of income tax applies ('the basic-rate limit'). To the extent that capital gains (as the top slice of income and gains) do not exceed the basic-rate limit they remain taxable at 18%, subject to reliefs, as do gains made between 6 April 2010 and 22 June 2010. Gains made in this period will also be left of account when determining whether the GBP 37 400 limit has been reached. Trusts, estates and non-domiciled individuals benefiting from the remittance basis will pay CGT at 28% whatever their level of income and gains.

The effective rate of CGT under entrepreneur's relief remains 10%, however, and the lifetime limit has been increased by 150%, to GBP 5 million.

New bank levy

A new levy based on banks' balance sheets will be introduced on 1 January 2011. The intention of the levy is to encourage banks to adopt less risky funding profiles. The initial rate will be 0.04%, rising subsequently to 0.07%. The new tax is being introduced in conjunction with the French and German governments, which also intend to introduce a similar tax (see under 'United Kingdom' below).

In the United Kingdom, it is expected that the levy will be payable only where total aggregate liabilities exceed GBP 20 000 million. Consultation on the details of the levy has just been launched; the draft legislation will be published in due course for inclusion in the Finance Bill 2011 in the spring.

Income tax personal allowance

The personal allowance, effectively a tax-free slice of income, is to be increased by GBP 1000 to GBP 7475, from 6 April 2011. However, by itself this measure would deliver a tax reduction of GBP 500 to taxpayers paying at the 50% rate and GBP 400 to taxpayers paying at the 40% rate, whereas individuals paying at the basic rate (20%) would be only GBP 200 better off. In order to restrict the benefit of this increase to basic-rate payers, the threshold at which the 40% rate becomes payable will be reduced accordingly.

No announcement was made concerning the higher tax allowances available to taxpayers aged 65 and over.

National insurance contributions

The increase by one percentage point in national insurance (social security) contributions for both employees and employers announced by the previous government and due to take place from 6 April 2011 is to go ahead, but employers will be partly shielded from the rate increase by an increase of GBP 21 per week above the indexed value of the threshold (currently GBP 110 per week) at which they begin to pay contributions.

There will be a three-year scheme to exempt new businesses in certain regions outside the South-East of England (the United Kingdom's most prosperous region) from up to GBP 5000 of national insurance contributions for each of the first ten employees they hire in their first year of business.

Other tax measures

The government is committed to tackling tax avoidance. It will seriously consider the introduction of a statutory general anti-avoidance rule, such as exists, for example, in Canada and New Zealand. It is also considering bringing tax avoidance schemes involving inheritance tax on trusts within the disclosure régime. Several measures that had been announced by the previous government, but could not be included in the first Finance Act of 2010, will be implemented.

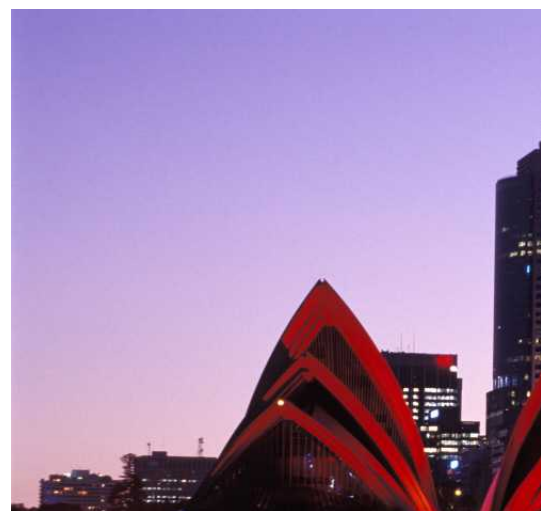
Reform of the controlled foreign company (CFC) régime will proceed, after further consultation, but the legislation will not be introduced until 2012, with interim adjustments to be introduced in 2011. Adjustments will be made to the restrictions on deductible interest under the worldwide debt-cap rules to remove anomalies.

The government is inclined to move towards a more territorial basis of corporate tax, by exempting foreign-branch profits from tax. If this goes ahead, legislation will be introduced in 2011.

Small and medium-sized enterprises will no longer have to own the resulting intellectual property in order to benefit from the tax relief for research and development.

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AUSTRALIA

TAXPAYER WINS IN IMPORTANT TRANSFER PRICING CASE

The Australian Federal Court has handed down an important decision on the substantive issues associated with transfer pricing in *SNF (Australia) Pty Ltd v FCT*.

The taxpayer company was a wholly owned subsidiary of a French company, SPMC SA. It carried on the business of manufacturing and selling polyacrylamide products to end-users in the mining, paper and sewage treatment industries. In the years 1998-2004, it purchased the products from various manufacturing subsidiaries of SPMC in France, China and the United States. Throughout this period, it incurred trading losses. The taxpayer attributed these losses to a range of commercial reasons. The tax authorities formed the view, however, that the losses were wholly attributable to its paying its suppliers consideration at above arm's length. They therefore issued transfer pricing adjustments for most of the years under review.

In support of its contention that it was not paying inflated prices to its suppliers, the taxpayer company presented a CUP (comparable uncontrolled price) analysis, submitting records that compared the pricing of transactions between the suppliers and their arm's length customers (generally in countries other than Australia) with the pricing of transactions between the taxpayer and the same suppliers. Based on this analysis, the taxpayer argued that it could not be concluded that an independent party dealing at arm's length with the suppliers would have paid less for the products than the taxpayer.

For their part, the tax authorities argued that the prices paid by the arm's length customers were not truly comparable to the prices paid by the taxpayer, and the latter's evidence did not show that conditions in the foreign markets were comparable to those in Australia. They also maintained that the taxpayer had not addressed the question of what a party in the position of the taxpayer would have paid for the products in an arm's length transaction. It was inconceivable, according to the tax authorities, that had the taxpayer been dealing at arm's length, it would not have negotiated a price that would have allowed it to operate profitably.

Rejecting the taxpayer's CUP analysis, the tax authorities argued that the appropriate methodology to determine the arm's length price in this case was the transactional net-margin method (TNMM). Under that method, a benchmark operating profit should be determined with reference to the operating profits of functionally comparable distributors. This analysis indicated a median operating profit margin of 1.7%. On this basis, the taxpayer should have paid AUD 12.3 million less for the products over the period in question than it in fact did.

The court, however, rejected the tax authorities' approach. The task was not to determine what consideration an arm's length party would have paid in the taxpayer's position. Instead, the process was not dissimilar to a valuation, where the relevant task was to price the acquisition, not to focus on special factors of the parties involved in the transaction. The TNMM method was inappropriate here, as it focused on a purported need to achieve a net profit margin of 1.7%, rather than focusing on the pricing of the products. Citing with approval an earlier transfer pricing decision (*Roche*), the court held that one of the problems with profit-based methodologies when applied to transfer pricing was that they inevitably attributed losses to pricing, whereas it was certainly true that companies made losses for reasons other than the prices for which they acquired their stock.

The transfer pricing adjustments were set aside.

The judgment in this case is significant as it is the first decision of an Australian court on the substantive aspects of Australia's transfer pricing rules (the *Roche* decision in 2008 was reached by the Administrative Appeals Tribunal). It is noteworthy for two reasons. First, it shows an apparent reluctance on the part of the courts to accept a TNMM analysis where internal comparables are available to form the basis for a CUP analysis. In this regard, the court emphasised that the legislation looked towards the consideration for a supply rather than to the profitability of the taxpayer. Second, the court rejected the tax authorities' apparent inference that trading losses incurred over a sustained period were necessarily attributable to transfer pricing practices. Not to be overlooked is the court's finding that the determination of the arm's length consideration must not be unduly coloured by the individual economic circumstances of the parties to the transactions.

MINING TAX COMPROMISE REACHED

Following the replacement of former Prime Minister, Kevin Rudd, by his deputy Julia Gillard, Australia's Labour government has agreed a compromise on the controversial mining profits tax proposed by the outgoing premier.

In May, the government had proposed to introduce a 40% 'resource rent super profits tax' on resource entities earning 'super profits' from the exploitation of non-renewable resources. This proved to be highly controversial, and the mining companies launched a concerted campaign against the proposals. The campaign drew widespread support, and was one of the major factors in a dramatic fall in the Prime Minister's, and hence the government's, popularity.

On 2 July, Ms Gillard's government announced that the former proposals would be withdrawn, and replaced by a minerals resource rent tax, together with an expansion of the petroleum resource rent tax.

The minerals resource rent tax will apply mostly to companies in the coal and iron-ore sectors, and be set at a rate of 30% on the value of the mineral at the mine gate. A deduction would be allowed for extraction costs, and a 25% extraction allowance would also be made available. The government estimates that the effective rate of the tax would be 22.5%, and that 85% of mining companies that would have been affected by the earlier proposals will be excluded from the new tax.

Plans for the petroleum resource rent tax are for it to cover both the onshore and offshore oil and gas sectors, whereas it currently applies to certain offshore oil projects only.

The government anticipates additional revenues of AUD 10 500 million from the new proposals, as opposed to AUD 12 000 million formerly.

CORPORATE TAX CUT REDUCED

A concomitant of the mining tax compromise and the scheduled shortfall of revenue is that the planned two-step reduction of the corporate tax rate to 28% by 2014-15 has been shelved. The first step, a reduction from 30% to 29% in 2013-14, will go ahead as originally proposed, but the further reduction to 28% the following year will not now be made. Furthermore, the reduction for small-business companies, from 30% to 28% in 2012-13 will not be made.

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INDIA

DIRECT TAX CODE PROPOSALS REVISED

As reported in *BDO World Wide Tax News* 2009 Issue No 3, India is to introduce a new Direct Tax Code to replace the current Income Tax Act with effect from 1 April 2011. A new discussion document contains several important changes from the original proposals.

The new proposals are compared with the original proposals in Table 1 below.

STORAGE OF CONSIGNMENT STOCK NOT PE

In the context of the India–United Kingdom tax treaty, the Indian Tax Appellate Tribunal (ITAT) has ruled that the mere storage of a UK company's consignment stock by employees of an Indian company did not constitute a permanent establishment of the UK company in India.

The UK company (Airlines Rotables Ltd) provided aircraft spares and component support to air operators. It entered into an agreement with a customer in India under which it undertook to repair and overhaul aircraft components and provide a replacement component during the repair period. In order to ensure that the replacement was always readily available, the UK company provided a stock of components to the Indian customer, to be kept at its warehouse. The stock was consignment stock in the possession of the Indian customer but only as bailee.

The Indian tax authorities maintained that this arrangement constituted a permanent establishment (PE) of the UK company in India, on the grounds that the store staff were acting as its agents.

The ITAT found for the UK company. While there was undoubtedly a physical location for the PE (the warehouse), it was under the control of the customer and there was no location placed at the UK company's disposal from which it could carry on its business. As for the dependent agent argument, there was no evidence to suggest that the Indian customer or its staff acted as agents for the UK company.

The Tribunal did observe, however, that although the UK company's business profits were not taxable under Article 7 of the treaty in the absence of a PE, it was possible that payments to the company could be taxable on a gross basis under Article 13 as royalties and fees for technical assistance. The Indian tax authorities were directed to consider that issue.

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Table 1

Original proposal	Revised proposal
<i>Minimum alternate tax</i>	
<ul style="list-style-type: none"> – Based on value of gross assets – Not available for carry-forward – To be final 	<ul style="list-style-type: none"> – Based on book profits – This is a welcome relief for the insurance and banking sector especially
<i>Taxation of capital gains</i>	
<ul style="list-style-type: none"> – Distinction between short-term and long-term gains to be eliminated – Normal income-tax rate for residents; 30% for non-residents – Indexation for assets held for more than 1 year, base date 01.04.2000 – Securities transaction tax to be abolished – Capital gains savings scheme to be introduced 	<ul style="list-style-type: none"> – Long-term (after 1 year) gains on listed shares or equity-oriented funds to be computed after deducting a certain percentage; no indexation – All gains will be treated as income and taxed accordingly for residents and non-residents – Indexation available on other assets held for one year or longer – No indexation or deduction for short-term gains – No capital gains savings scheme – For foreign institutional investors, income from buying and selling securities will be classified as capital gains not as business income
<i>Special economic zone (SEZ) incentives</i>	
<ul style="list-style-type: none"> – Area-based incentives to be grandfathered – SEZ developers to continue to receive profit-linked deductions for the unexpired period 	<ul style="list-style-type: none"> – Neither the scope nor the period of profit-linked deductions to be extended – Developers and existing units to continue to receive profit-linked deductions for the unexpired period
<i>Residence test for foreign companies</i>	
<ul style="list-style-type: none"> – Resident if at any time in the financial year the control and management of the company's affairs is wholly or partly situated in India 	<ul style="list-style-type: none"> – Resident if its place of effective management is situated in India. – Effective management defined as: <ul style="list-style-type: none"> • place where directors or executive directors make their decisions or • if board routinely approves the commercial and strategic decisions made by the executive directors or officers, the place where those executive directors or officers discharge their functions
<i>CFC regulations to be introduced</i>	
	<ul style="list-style-type: none"> – A controlled foreign company (CFC) régime is to be introduced
<i>Relative priority of DTAs and domestic law</i>	
<ul style="list-style-type: none"> – Neither domestic law nor double tax treaties (DTAs) to have precedence – In the event of conflict, the provision that is latest in time to prevail 	<ul style="list-style-type: none"> – Current régime under which the provision more beneficial to the taxpayer prevails to continue – Limited treaty override where general anti-avoidance rule invoked, the CFC provisions apply or branch profits tax is levied
<i>General anti-avoidance rule</i>	
	<ul style="list-style-type: none"> – The parameters still remain subjective

NEW ZEALAND

'THOROUGH OVERHAUL' OF TAX SYSTEM IN 2010-11 BUDGET

The current global economic crisis has been seized by the Minister of Finance as the perfect opportunity to introduce what he described as "the most thorough and beneficial overhaul of the tax system in 25 years" in his Budget speech delivered to Parliament on 20 May 2010.

The highlights include:

- A cut in the corporate tax rate from 30% to 28%, with effect from the 2011-12 income year (the year beginning 1 July 2011)
- Personal tax cuts across the board, involving the decrease of the top rate of income tax from 38% to 33%, with effect from 1 October 2010
- An increase in the rate of GST (value added tax) from 12.5% to 15%, also with effect from 1 October 2010
- A decrease in the 'safe-harbour' debt-equity ratio for thin capitalisation from 3:4 to 3:5
- Measures to reduce the tax advantages of property investment

Corporate tax

The 2% cut, effective from the next income year, was unexpected, and can be contrasted with the Australian measures, which will not only take place later but also stop at a higher rate. There will be a two-year transitional period beginning in 2011-12 in which companies can attach imputation credits to dividends based on the previous 30% rate (credits of 30/70ths). From 2013-14, the imputation credit will reduce to 28/72.

Thin capitalisation

Less welcome to foreign investors will be the tightening of the inbound safe debt-equity ratio for debt funding of NZ companies by foreign related parties. With effect from the 2011-12 tax year, where a NZ company's interest-bearing debt provided by a foreign related party exceeds 60% of total assets, the interest expense attributable to the excess will not be deductible for tax purposes. The current rule sets the threshold at 75% of total assets. In many cases, the balance sheets of foreign-owned companies will need to be recapitalised to bring the level of interest-bearing debt below the new threshold.

Personal tax reductions

From 1 October 2010, the income tax rate for each of the four income brackets is reduced, the sharpest reduction being in the top rate, which falls from 38% to 33%. The new and old rates are reproduced in Table 2 below.

The trust rate remains at 33%, now aligned with the top personal rate. This will reduce the incentive for schemes to divert personal income to a trust, which would have achieved a saving of five percentage points.

In this connection, the tax authorities have recently won a majority decision in the Court of Appeal (*CIR v Penny and Hooper*). The taxpayers were orthopaedic surgeons who initially practised on their own account but then restructured so as to operate through a company and family trusts. Their personal income from their practices was reduced to below what they agreed was commercially realistic. The majority of the income was paid in the form of dividends to the family trusts.

By a majority of 2:1, the Court of Appeal decided that these were 'incontrovertibly' tax-avoidance arrangements, which could be struck down by the statutory general anti-avoidance rule.

Increase in the GST rate

The personal and corporate tax reductions have been matched with an increase of 2.5 percentage points in the standard rate of GST (goods and services tax – New Zealand's equivalent of value added tax).

Those on the lowest incomes will be partially compensated by a 2.02% increase in many social security benefits, including the Working for Families credit, student allowances, and the New Zealand Superannuation and Veterans pensions.

Property investment

With effect from 2011-12, depreciation will cease to be allowable on buildings with an estimated useful life of 50 years or more, whenever purchased.

The distinction between LAQCs (loss-attributing qualifying companies) and QCs (qualifying companies) will be eliminated, and from 2011-12, both types of company will be taxed as if they were a limited partnership. This means in particular that the loss that a shareholder may claim against his or her other income will be limited to the shareholder's risk capital in the company. Currently, losses of an LAQC are attributed to the shareholders, who can use them to offset income taxable at personal rates (top rate currently 38%), whereas profits remain in the company and are taxable at the lower corporate rate (currently 30%). These companies have been used as investment vehicles, particularly for investment in property.

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Table 2

Income bracket (NZD)	Old rate (pre-01.10.2010)	New rate (from 01.10.2010)
First 14 000	12.5%	10.5%
Next 34 000	21.0%	17.5%
Next 22 000	33.0%	30.0%
Balance over 70 000	38.0%	33.0%



EUROPEAN UNION

COMMISSION ACTS ON TAXATION OF FOREIGN INVESTMENT COMPANIES

See under 'Belgium' below.

COMMISSION ACTS ON TAXATION OF INBOUND DIVIDENDS

See under 'Belgium' below.

ECJ HOLDS MERGERS DIRECTIVE ANTI-AVOIDANCE RULE LIMITED

See under 'The Netherlands' below.

FINLAND

VAT RATE INCREASE

The standard rate of VAT increased from 22% to 23% with effect from 1 July 2010.

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BELGIUM

COMMISSION ACTS ON TAXATION OF FOREIGN INVESTMENT COMPANIES

The European Commission has given notice to Belgium requesting it to amend what it regards as discriminatory taxation of foreign investment companies.

The alleged discrimination lies in the fact that whereas foreign investment companies suffer final Belgian withholding tax of 15% on Belgian-source interest and 25% on Belgian-source dividends, Belgian investment

companies receiving Belgian-source interest or dividends may reclaim the withholding tax in full.

If Belgium fails to take adequate action, a case may be brought before the European Court of Justice.

COMMISSION ACTS ON TAXATION OF INBOUND DIVIDENDS

The European Commission has also given notice to Belgium requesting it to amend what it regards as discriminatory taxation of inbound foreign dividends received by individuals.

The alleged discrimination lies in the fact that whereas individuals resident in Belgium who receive dividends from Belgian companies

are subject to a flat tax of 15% provided that certain conditions are satisfied, they are taxed at 25% on foreign dividends from other EEA companies satisfying the same conditions.

If Belgium fails to take adequate action, a case may be brought before the European Court of Justice.

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FRANCE

JOINT STATEMENT ON BANK LEVY

The French, German and UK governments issued a joint statement on 22 June concerning their intention to introduce bank levies based on banks' balance sheets.

The statement says that the levies are to be introduced in the light of agreement in the G20 that the financial sector should make a fair and substantial contribution towards paying for any burdens associated with governmental interventions to repair the banking sector or fund resolution in a financial crisis.

The French government will present details of its bank levy in the forthcoming 2011 Budget in the autumn. The German government announced a framework for a bank levy in March and will discuss draft legislation in Cabinet later this summer. For details of the United Kingdom's bank levy, see under 'United Kingdom' on page 1 of this issue.

COMPREHENSIVE NATURE OF FRAUS LEGIS PRINCIPLE UPHELD

The general principle of *fraus legis* (*fraude à la loi*) applies to frustrate an abusive act of avoidance even where a specific anti-avoidance provision is inapplicable, the French Administrative Supreme Court (*Conseil d'Etat*) has held in a case involving indirect investment in French Polynesia.

French Polynesia is an autonomous overseas territory of France (see also under 'Brazil' below), with its own tax code. A French company, *Charcuterie du Pacifique* made an indirect investment into Polynesia by way of a capital contribution to a qualifying Polynesian company. The contribution qualified for a regional tax credit of 60% of the investment. By agreement with the parent of the investee company, the French company actually paid no more than 30% of the total investment.

Under Article L64 of the French Tax Procedures Code, transactions that have the sole motive of avoiding or reducing the taxpayer's liability to tax can be disregarded by the tax authorities. The Tax Procedures Code does not apply in French Polynesia, however, and there is no local equivalent.

Nevertheless, the French tax authorities sought to recapture that part of the credit represented by the unpaid proportion (70%) of the investment, by reference to the general *fraus legis* principle, characterising the transaction as abusive. The taxpayer contended that where a specific anti-avoidance provision was inapplicable, the tax authorities could not call in aid a general legal construction.

The *Conseil d'Etat* held, however, that, without specific reference to Article L64, the tax authorities are entitled to disregard any transaction to the extent that it can be



demonstrated that the taxpayer sought to benefit from a literal application of legal provisions against the spirit of what the provisions sought to achieve and in so doing to reduce or eliminate his liability to tax. The principle of *fraude à la loi* is an overarching principle that can be invoked whether or not a specific provision is applicable.

COURT RULES AGAINST WITHHOLDING TAX ON IRISH UCIT

The *Tribunal Administratif* (Administrative Tribunal) of Paris has held that the 25% withholding tax levied on dividends payable from France to an Irish UCIT (undertaking for collective investment in transferable securities or investment fund) is in breach of the principle of free movement of capital guaranteed by the Treaty on the Functioning of the European Union.

Under French law, French-source dividends paid to French UCITs are exempt from withholding tax, whereas dividends paid to

foreign UCITs (even within the EEA) are liable to 25% withholding tax. In the view of the tax authorities, reduced withholding rates under tax treaties do not apply to UCITs unless the treaty specifically so provides, which the treaty with Ireland does not.

The European Commission has already sent a reasoned opinion to France requesting that the rules on taxation of foreign investment funds and pension funds be amended to eliminate discrimination.

The French authorities have the right to appeal against the court's decision; any such appeal may eventually come before the *Conseil d'Etat*.

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GERMANY

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AMENDED GUIDANCE ON ANTI-TREATY SHOPPING RULES

On 21 June 2010, the Federal Ministry of Finance published amended guidance on the application of Germany's anti-treaty shopping rule, which is found in section 50d(3) of the Income Tax Act (*Einkommensteuergesetz*).

The rule provides that where a foreign intermediate company is interposed as an indirect investment vehicle, the intermediate company will not enjoy the benefits of a tax treaty or of the EC Parent Subsidiary Directive (90/435/EEC) where the ultimate investor (the interposed company's shareholder) would not have been entitled to those benefits if it had invested directly and any of the following conditions is satisfied:

- The interposition of the intermediate company has no economic or other business reasons
- The intermediate company generates no more than 10% of its gross receipts from its own business activities or
- It does not have the adequate equipment to carry out its business activities

The rule does not apply where the intermediate company is listed and its shares are regularly traded or it is an investment fund or similar vehicle coming within the German Investment Tax Act.

Several intermediate companies

The original guidance did not clarify how the rule would be interpreted where there were two or more intermediate companies between the German source and the ultimate investor. The new guidance confirms that the authorities will look at each company in the chain. If such a company formally qualifies for treaty benefits or benefits under the Directive, the status of its shareholders will be considered under the rule, and so on up the chain. If any one of the interposed companies does not formally qualify for treaty benefits, benefits will be denied.



Limitation to third parties

The new guidance makes it clear that a shareholder in an interposed company will not be entitled to the relevant benefits only where that shareholder

- Is the resident of a non-treaty or non-EU Member State or
- Is itself a company that falls within the rule (see above) and its shareholders are not residents of an EU Member State or treaty state or
- Is resident in a treaty state or EU Member State but does not himself qualify for benefits under the treaty or the Directive

Listed-company exception

The original guidance stipulated that the exception for listed companies would apply only if the direct shareholder in the German entity met the requirements. The new guidance states that the authorities will now look through to indirect shareholders also to determine whether the company qualifies for the exemption.

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GREECE

VAT RATE INCREASE

The standard rate of VAT increased from 21% to 23% with effect from 1 July 2010.

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IRELAND

TAX RELIEF EXTENDED TO DONATIONS TO FOREIGN CHARITIES

Finance Act 2010 extends the tax relief for individual donations to charities to charities established elsewhere in the European Union. Previously, EU charities had to have a physical presence in Ireland to qualify.

The tax relief works differently according to the tax status of the donor. If the donor is an employee paying tax under PAYE (salary tax deducted at source), he or she is treated as having made a donation grossed up at the individual's marginal rate of tax. The charity must reclaim the tax deemed to have been deducted by the donor. For example, a net donation of EUR 1000 by a 20%-tax payer is treated as a gross donation of EUR 1250 (20% of EUR 1250 = EUR 250). The same net donation by a 41%-tax payer is treated as a gross donation of EUR 1695 (41% of EUR 1695 = EUR 695). In both cases, the value to the charity is the gross donation.

There is no reclaim of tax where the donation comes from a self-employed individual. A donation of EUR 1000 will benefit the charity by that amount only, but cost the donor the net amount after tax relief at 20% (EUR 200) or 41% (EUR 410).

Company donors claim a deduction for qualifying donations, in much the same way as self-employed individuals.

In order to qualify, the foreign charity will have to demonstrate to the Irish tax authorities that its income is applied for charitable purposes only. There is no statutory definition of charitable purposes; instead case law going back over several centuries is applied. However, even when the approval of the tax authorities has been received, a two-year period has to elapse before the charity becomes eligible for donations relief. This rule applies equally to Irish charities.

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ITALY

TAX ON FINANCIAL SECTOR BONUSES

A Decree Law that became effective on 31 May imposes a new tax of 10% on that amount of variable remuneration paid (in the form of bonuses and share options) to certain executives in the financial-services sector which exceeds three times the fixed component of the executive's remuneration.

Under the current rules on share options, any difference between the fair market value of the shares obtained on exercise of the option and the strike price (the price paid by the employee for the option) is subject to income tax (at rates of up to 43%, plus local surcharges of no more than 2.2%), but is exempt from social security contributions.

The new additional tax will be payable by the recipient on top of income tax and local surcharges, and will be collected by withholding; it will not affect liability to social security contributions.

Only senior employees classified as *dirigenti* (broadly speaking, managers) and certain consultants and directors in the financial-services sector will be liable to the tax.

Although the new provision is not entirely clear, as it broadly refers to 'remuneration paid by means of bonuses and share options', it could be argued that the additional tax should be levied on all variable remuneration paid to sector executives based in Italy, including on all equity-based awards (restricted stock, share appreciation rights etc).

A Decree Law is valid for 60 days, after which it lapses if not approved by Parliament. The Law as published does not charge the tax on plans already launched or awards made before it entered into force, but this may be subject to amendment by Parliament.

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LATVIA

TAXPAYER WINS THREE-YEAR REPAYMENT LIMIT CASE

In *BDO World Wide Tax News* Issue 21, we reported how the European Court of Justice had upheld the three-year time limit for the submission of repayment claims for VAT wrongly paid introduced in Latvia in 2003 (the *Alstom case* – (Case C-472/08)).

In a further case involving the three-year time limit, however, the Latvian Constitutional Court, while upholding the legality of the limit, has struck down its retroactive effect.

The plaintiff was a Latvian company, *SIA Industriālais Termināls*, that had part of its claim for repayment of overpaid VAT denied because it was made more than three years after the due date for the tax in question. After a series of appeals, the case eventually came before the Constitutional Court.

The Constitutional Court held that the imposition of the three-year time limit was not unconstitutional, and was fully effective in respect of overpayments that arose after it came into force on 1 July 2003. However, with respect to overpayments that had arisen before that date, the legislation had not allowed a sufficient transitional period for taxpayers to adjust to the new situation and take the appropriate action.

In the case in question, the taxpayer company had been unable to appreciate in good time that the new limit applied equally to overpayments that had arisen before it came into force. Furthermore, due to the tax authorities' incorrect interpretation of the law at the time, it believed that claims to overpayments of input tax could not be made until the company had made a taxable supply.

Accordingly, the Court held that with respect to overpayments that had arisen before it came into force on 1 July 2003, the three-year time limit was in breach of the principle of legal certainty and was disproportionate. Therefore in that respect, it was null and void from the date of its enactment.

Judgments of the Constitutional Court are final.

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THE NETHERLANDS

MERGER DIRECTIVE AVOIDANCE NOT APPLICABLE TO OTHER TAXES

The European Court of Justice has held that the anti-avoidance provision in the EC Mergers Directive cannot be invoked to deny the benefits of the Directive to a merger undertaken to avoid a tax not specifically referred to in the Directive.

The Netherlands applies the Mergers Directive (90/434/EEC) to wholly domestic mergers as well as cross-border mergers. The Mergers Directive provides that a cross-border merger between companies resident in a Member State and of the type listed in the Annex is not to give rise to a liability to corporate tax or income tax on the capital gains arising from the merger. Article 11 of the Directive does, however, allow the Member States to deny the benefits of the Directive to a merger the principal or one of the principal objectives of which is tax evasion or avoidance.

In *Modehuis A Zwijnenburg BV v Staatssecretaris van Financiën* (Case C-352/08), a merger between two Netherlands family companies was carried out largely in order to avoid real property transfer tax on the transfer of business premises from one company to the other. The Netherlands tax authorities invoked Article 11 to deny exemption from corporate tax on the resulting gains, since it was admitted that the predominant purpose of the merger had been to avoid transfer tax. The case proceeded to the Netherlands Supreme Court, which referred the issue to the European Court, the question being could the benefits of the Directive be denied to a transaction designed to avoid a tax outside the scope of the Directive.

The European Court held that the purpose of the Directive was to eliminate fiscal barriers to cross-border mergers by ensuring that the capital gains from an increase in value of shares arising from the merger not be taxed until an eventual disposal of those shares. Hence, it conferred exemption from corporate tax and income tax only, and not from any other taxes arising. By the same token, the anti-avoidance rule could not be invoked to deny the benefits of the Directive unless the transaction was designed to avoid either or both of those taxes.

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PORTUGAL

TAX INCREASES IN AUSTERITY PROGRAMME

The government's Stability and Growth Programme (*Programa de Estabilidade e Crescimento*) includes tax increases, which generally took effect on 1 June 2010. They include:

- A national surtax (*derrama estadual*) of 2.5% on income from commercial, industrial and agricultural activities or from a Portuguese permanent establishment subject to corporate income tax (*imposto sobre o rendimento das pessoas colectivas*) and exceeding EUR 2 million
- An increase of 1.5 percentage points on the withholding tax rates for the purposes of income tax (*imposto sobre os rendimentos das pessoas singulares*). The new rates are shown in Table 3 below
- An increase in all income tax rates, effective from 1 June 2010. The 2009 rates and the effective 2010 rate are shown in Table 4

VAT INCREASES

All rates of VAT, including the lower rates applicable in Madeira and the Azores were increased with effect from 1 July 2010. The new rates are shown in Table 5, with the old rates in brackets.

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Table 3 New withholding tax rates

Type of income	New rate
Employment, self-employment and investment income of non-residents	21.5%
Certain independent personal services	21.5%
Investment income of residents	21.5%
Royalties	16.5%
Certain business income of self-employed individuals	11.5%

Table 4 New income tax rates in 2010

Income bracket (EUR)	Old rate	New effective rate
First 4793	10.5%	11.08%
Next 2457	13.0%	13.58%
Next 10 729	23.5%	24.08%
Next 23 370	34.0%	34.88%
Next 18 577	36.5%	37.38%
Next 4697	40.0%	40.88%
Next 85 377	42.0%	42.88%
Balance over 150 000	45.0%	45.88%

Table 5

Rate	Mainland Portugal	Madeira and Azores
Standard rate	21.0% (20.0%)	15.0% (14.0%)
First reduced rate	13.0% (12.0%)	9.0% (8.0%)
Second reduced rate	6.0% (5.0%)	n/a

ROMANIA

INDIVIDUAL AND CORPORATE TAX CHANGES

As part of the Romanian government's agreement on a joint aid package with the IMF, the European Commission and the World Bank, wide-ranging changes have been made to both corporate and individual taxation with effect from 1 July 2010. The standard rate of VAT has also been increased from that date. The changes were effected by Emergency Ordinance No 58/2010.

Corporate taxation

Previously, losses made by the foreign branches of Romanian companies could be set off solely against future profits of those branches, and not against the domestic income of that company. In future, only losses made by branches in third countries (i.e. those outside the European Economic Area) with which Romania does not have a tax treaty will be subject to this restriction.

A tax credit for foreign tax paid will be given if the appropriate documentation exists and the tax treaty allows for it. Unilateral foreign tax credits will be withdrawn.

Individual taxation

Certain activities by contractors currently taxed as business (self-employment) income will be recharacterised as employment income, where certain factors are present. These factors include use of the other party's business assets, compliance with the other party's conditions of work, the reimbursement of travel expenses or the availability of holiday pay or sick pay. Where recharacterisation takes place, the contractor/employee and the customer/employer will be jointly and severally liable for the tax and social security contributions due as a result.

Exemption from tax for several benefits-in-kind (e.g. meal vouchers, gift vouchers, holiday vouchers, childcare vouchers etc) will be withdrawn. From July 2010 they are subject to income tax, but not to social security contributions.

Lump-sum deductions for royalty income from intellectual property are halved, falling from 40% to 20%.

Various types of savings interest and interest from Romanian company securities becomes subject to tax at 16% (by means of a final withholding tax), having previously been exempt. This applies to residents and non-residents alike.

The rate of income tax on dividends is increased from 10% to 16%.

Value added tax

With effect from 1 July 2010, the standard rate of VAT was increased from 19% to 24%. The reduced 5% and 9% rates are unchanged.

MEASURES AGAINST TAX EVASION

Several measures across a broad range of taxes and company law have been made by Emergency Ordinance No 54/2010, aimed at combating tax evasion.

Measures include:

– For value added tax, all taxable persons and non-taxable legal persons involved in intra-Community operations must register with the Intra-Community Operations Register (*Registrul Operatorilor Intracomunitare*) from 1 August 2010. Persons who carry out intra-Community operations without first registering will risk a penalty of between

RON 1000 and RON 5000

- Subject to EU approval, the reverse charge will apply to domestic supplies between taxable persons of many basic foodstuffs (e.g. cereals, vegetables, bread), so it will be the customer (e.g. a retailer) who will have to account for the VAT and not the supplier
- Credit institutions will be obliged to provide information on account holders and accounts on the request of the tax authorities
- Where the shareholders' meeting of a company decides to sell some or all of the company's shares, it must notify the Trade Registry (*Registrul Comerțului*) by electronic means within 15 days. The decision is then published in the Official Gazette. The company's creditors or any person who feels aggrieved by the decision may appeal to the courts. The share transfer may go ahead only after any such appeal has been dismissed or after expiry of the 30-day cooling-off period in the absence of an appeal
- Taxpayers who refuse without good cause to show documents or goods upon the lawful request of the tax authorities within 15 days may face a prison sentence of between six months and three years.

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SPAIN

VAT RATE INCREASES

From 1 July 2010 (as reported in *BDO World Wide Tax News* 2009 Issue No 3), the standard rate of VAT was increased from 16% to 18% and the reduced rate from 7% to 8%.

FORMER USSR TREATY NOT APPLICABLE

On 23 June 2010, the Spanish Ministry of Foreign Affairs announced that, by agreement with the governments of Armenia, Azerbaijan, Georgia, Kazakhstan and Moldova, the 1985 double tax treaty between Spain and the former USSR ceased to be applicable in respect of the abovementioned countries, with effect from dates as follows:

Table 6	
Country	Date of cessation
Armenia	10 October 2007
Azerbaijan	28 January 2008
Georgia	10 October 2007
Kazakhstan	8 July 2008
Moldova	1 October 2007

Spain has initialled a new treaty with Azerbaijan and signed new treaties with Georgia and Kazakhstan. A new treaty with Moldova entered into force on 1 January 2010. There is currently no new treaty with Armenia.

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UNITED KINGDOM

JOINT STATEMENT ON BANK LEVY

The French, German and UK governments issued a joint statement on 22 June concerning their intention to introduce bank levies based on banks' balance sheets.

The statement says that the levies are to be introduced in the light of agreement in the G20 that the financial sector should make a fair and substantial contribution towards paying for any burdens associated with governmental interventions to repair the banking sector or fund resolution in a financial crisis.

The French government will present details of its bank levy in the forthcoming 2011 Budget in the autumn. The German government announced a framework for a bank levy in March and will discuss draft legislation in Cabinet later this summer. For details of the United Kingdom's bank levy, see under 'United Kingdom' on page 1 of this issue.

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BRAZIL

THIN CAPITALISATION RULES FINALISED

As we reported in *BDO World Wide Tax News* No 21, thin capitalisation rules were introduced in Brazil by Provisional Measure 472/009, published on 16 December 2009. The Measure has now been converted into law, as Law 12,249, published on 14 June 2010. The Law incorporates several amendments to the provisions originally set out in the Provisional Measure.

The rules apply to debt capital provided by a foreign lender, but are not limited to loans from related parties. Essentially, the deductibility of interest paid on the loans by a Brazilian company will depend on the location of the lender as well as on the relationship between the lender and the Brazilian company.

- Where the lender is a related party not resident in a low-tax jurisdiction, the debt-equity ratio must not exceed 2:1, calculated on a stand-alone basis. Where the lender is also a shareholder, the equity by reference to which the ratio is calculated is that shareholder's net equity investment. If the lender is not a shareholder, it is the company's total net equity that is used in the calculation. A second test requires the overall debt-equity ratio (comparing total debt originating from shareholders with total shareholder net equity ownership) also not to exceed 2:1
- Where the lender is a legal entity resident in a low-tax jurisdiction, whether related or not, the debt-equity ratio may not exceed 3:10. The ratio compares the total amount of debt with foreign entities in low-tax jurisdictions with the Brazilian company's total net equity

Even where the debt-equity ratio is not exceeded, interest is deductible only if the expense is necessary for the company's operations. Where the ratio is exceeded, the interest attributable to the excess is non-deductible.

There is some lack of clarity as to the commencement date for the thin capitalisation rules, which are intended to apply for the purposes of both corporate tax (*imposto de renda da pessoa jurídica* – IRPJ) and profit-related social security contributions (*contribuição social sobre o lucro líquido* – CSLL). Law 12,249 provides that it shall take effect from 1 January 2010. However, under the Brazilian constitution, measures relating to CSLL cannot have effect until 90 days after their publication as a Provisional Measure (in this case, therefore, not before 16 March 2010), and those relating to IRPJ until the year following that in which the Provisional Measure is converted into law – 1 January 2011, therefore.

Low-tax jurisdictions

Low-tax jurisdictions are classified as either 'tax havens' or 'jurisdictions with a privileged tax régime'. Tax-haven jurisdictions, 53 in total, were first designated in so-called Normative Instruction 188/2002 ('the black list'). The original list has been updated in Normative Instruction 1037/2010, issued on 7 June 2010. The new list contains 65 jurisdictions. Fourteen new jurisdictions were added, and two (Luxembourg 1929 Companies and Malta) were removed and placed on the new privileged-régime list ('the grey list'). The new jurisdictions classed as tax havens are shown in Table 7 below.

Switzerland has been temporarily removed from the black list after the Swiss government called for an official review.

The new grey list of privileged tax regimes was also published in Normative Instruction 1037/2010. It includes the following regimes (see Table 8):

Following representations from Denmark and the Netherlands, Danish and Netherlands holding companies will only be considered as benefiting from a privileged tax régime if they do not engage in substantial economic activities.

The main significance of a jurisdiction's being on the black or grey list is that remittances or transactions with entities located in a black-list jurisdiction or designated on the grey list are subject to withholding tax of 25% instead of 15%, and that transfer pricing rules apply whether or not the entities are related to the Brazilian counter-party. The thin capitalisation rules will now, as explained earlier, be applied to loans from unrelated parties located or designated in either list. A full explanation of the significance of the lists will be featured in the next issue of *BDO World Wide Tax News*.

TRANSFER-PRICING RULE AMENDMENTS RESCINDED

We also reported in *BDO World Wide Tax News* No 21 that Provisional Measure 478, which became effective on 29 December 2009, had made several amendments to Brazil's transfer-pricing rules.

It revoked the resale price less profit-margin (*preço de revenda menos lucro*) method and replaced it by the sale price less profit-margin (*preço de venda menos lucro*) method, which used a single fixed profit margin of 35%, allowed the Ministry of Finance to determine different profit margins for different sectors of business, and required taxpayers to state the transfer-pricing method they adopted on their annual tax returns. Neither method follows the OECD arm's length principle.

However, Provisional Measures lapse unless they are converted into law within 120 days. Congress failed to do so and PM 478 was officially revoked on 15 June 2010.

Table 7 Jurisdictions newly designated as tax havens

Ascension Island	Pitcairn Islands	St Helena
Brunei	Qeshm Island (Iran)	Swaziland
French Polynesia	St Pierre et Miquelon	Switzerland*
Kiribati	St Kitts	Tristan da Cunha
Norfolk Island	Solomon Islands	

Table 8 The grey list of privileged tax regimes

Holding companies incorporated in Luxembourg	US LLCs in which the equity interest is held by non-residents not subject to US federal tax
Holding companies incorporated in Denmark*	Spanish foreign securities investment companies (<i>entidades de tenencia de valores extranjeros</i>)
Holding companies incorporated in the Netherlands*	International trading companies and international holding companies incorporated in Malta
International trading companies incorporated in Iceland	Uruguayan financial investment companies (<i>sociedades anónimas financieras de inversión</i>)
Offshore companies incorporated in Hungary	

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UNITED STATES OF AMERICA

HIRE ACT EXTENDS ASSESSMENT LIMITATION PERIOD

Generally speaking, the Internal Revenue Service (IRS) must assess tax within three years of the filing date of the relevant return, regardless of when the return was actually filed. There are several exceptions to this rule, including instances where a return is false or fraudulent (in which case the limitation period is indefinite), where there is a substantial omission of gross income (in which case the period is six years), and where the taxpayer fails to file with the return a Reportable Transaction Disclosure Statement (Form 8886) in respect of a listed transaction (where the period does not expire before the date that is the first anniversary of the earlier of (a) the date on which the information is provided to the IRS and (b) the date on which a 'material advisor' provides the IRS with the taxpayer's name under the list-maintenance rules.

Before the enactment of the HIRE (Hiring Incentives to Restore Employment) Act, the three-year limitation period was also extended to end no earlier than three years after certain foreign information was reported to the IRS, for example on Forms 5471 or 926. It was understood that in such cases, the extended period applied only to tax in respect of the missing information, and not to any other information contained in the return.

Section 513(c) of the HIRE Act, however, provides that in such cases, the limitation period is extended to cover all items on the return, not just items related to the omitted information. It further provides a new six-year limitation period for the assessment of tax on understatements of income attributable to foreign financial assets. For this purpose, an understatement of income attributable to foreign financial assets is an omission from income in excess of USD 5000 where the income is attributable to an asset that is a 'specified foreign financial asset' during the taxable year in question. Taxpayers who have such assets are required to attach a disclosure statement to their return for any year in which the aggregate value of such assets exceeds USD 50 000.

The period of limitations may also affect accounting for income taxes under ASC 740 (formerly known as FAS 109), such as tax liabilities that a taxpayer may have recorded with respect to uncertain tax positions. For example, in the case of a failure to comply with the foreign-information reporting provisions mentioned above, a previously recorded uncertain tax position that may have been released due to the expiry of the limitation period may have to be recorded anew as a result of the extended limitation period.

US taxpayers must therefore be diligent in ascertaining the extent to which foreign operations and information is gathered and reported as required. The failure to identify and include such information in time may cause the limitation period to be extended, so that the IRS may assess additional tax for the reporting period until three years after the information is finally provided.

UNITED STATES SIGNS PROTOCOL TO MUTUAL ASSISTANCE CONVENTION

The US Treasury announced on 27 May that it had signed the Protocol to the Convention on Mutual Administrative Assistance on Tax Matters, jointly opened for signature by the OECD and the Council of Europe.

The Protocol brings the existing Convention into line with current international standards for the exchange of information between national tax authorities.

In particular, the US Treasury drew attention to the following points of the Protocol:

- The undertaking to full exchange of information upon the request of a fellow tax authority, without the need for there to be a domestic tax interest and without regard to bank secrecy laws
- Updated rules pertaining to permitted use, confidentiality and the level of detail required and
- The opportunity for jurisdictions that are neither members of the OECD or of the Council of Europe to accede to the Convention, subject to the assent of all the existing parties

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SEYCHELLES

INCOME TAX AND BENEFITS TAX INTRODUCED

The Seychelles has introduced income tax and a fringe benefits tax on employers, as a replacement for social security contributions.

Income tax will apply to all types of employment income paid in cash (e.g. salaries, allowances, overtime pay, bonuses, pay in lieu of leave etc), whereas fringe benefits tax will be payable by employers on non-monetary benefits provided to employees (such as cars and accommodation).

Certain persons and certain types of income are specifically exempt from one or both taxes, and certain other persons pay a lump-sum amount.

Income tax will be payable by both resident and non-resident individuals, but at different rates.

Employers are required to deduct income tax from employee remuneration and pay it over to the tax authorities, together with any fringe benefits tax due, no later than the 21st day of the month following that in which it was withheld. The rate of fringe benefits tax is 20%.

Both taxes came into force on 1 July 2010.

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CURRENCY COMPARISON TABLE

The table below shows comparative exchange rates against the euro and the US dollar for the currencies mentioned in this issue, as at 15 July 2010.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Australian dollar (AUD)	0.6809	0.8775
Euro (EUR)	1.0000	1.2892
Pound sterling (GBP)	1.1924	1.5369
Romanian leu (RON)	0.2340	0.3016
US dollar (USD)	0.7757	1.0000

Table 9 Rates of Seychelles income tax

	Applicable rate		
	01.07.2010 – 30.09.2010	01.10.2010 – 31.12.2010	01.01.2011 -
Residents	18.75%	15.00%	15.00%
Non-residents	10.00%	10.00%	15.00%



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