businessbrief

The newsletter with regional tax and economic information

This newsletter is devoted to providing information on tax related and general business issues.
Contributions for inclusion in this newsletter are provided by member firms and are published in a regional format.

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AGN INTERNATIONAL

5-6 Francis Grove, London SW19 4DT, United Kingdom
Phone: (+44 20) 8947 4888 | Fax: (+44 20) 8947 3477
E-mail: info@agn.org

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Asia / Pacific

China: Basic Internal Control Standards for Enterprises

Basic Internal Control Standards for Enterprises

By the joint efforts of the Chinese Ministry of Finance, the National Audit Office, the China Securities Regulatory Commission, the China Banking Regulatory Commission and China Insurance Regulatory Commission, the Basic Standards for Enterprises' Internal Control was promulgated on 28 June 2008. The Standards require Chinese enterprises to establish, evaluate and assess the effectiveness of their internal control and qualified accounting firms to examine and report on such effectiveness.

Five control elements are covered in these Standards. They are internal environment, risk measurement, control activities, information and communication and internal monitoring. These elements are broadly consistent with the core principles of the COSO publications.

Three supporting guidelines have been issued for public consultation. They are:-

(1) Internal Control Assessment Guidelines for enterprises, drafted by the Ministry of Finance

(2) Internal Control Practical Guidelines for enterprises, drafted by the Ministry of Finance.

(3) Guidelines for Performing Assurance Engagements relating to assessment of the effectiveness of internal control, drafted by the Chinese Institute of Certified Public Accountants.

These guidelines are intended to provide directions for implementation of the Standard.

The Standard will take effect on 1 July 2009, and initially be applicable to listed companies in China. Early adoption by large and medium size unlisted companies are encouraged. It is expected that the Standard will improve Corporate Governance in China in order to align it with international practice.

(Provided by: Wong Brothers & Co., Hong Kong and China Regal CPAs, PRC)

Hong Kong: Tax Implications for Expats

Hong Kong is an important financial centre in the Far East and a gateway to China. It is very common for international companies to assign expatriate employees to Hong Kong for overseeing their operations.

Tax year

The Hong Kong fiscal year starts from 1 April to 31 March next year.

Charge to tax

Hong Kong imposes salaries tax on a source basis. Salaries tax is charged on income arising in or derived from Hong Kong from an office or employment.

Income from an office or employment generally includes:-

(a) Salaries/wages, director's fees;
(b) Commission, bonus, leave pay, end-of-contract gratuities;
(c) Allowances, perquisites or fringe benefits;
(d) Salaries tax paid by employer;
(e) Value of a place of residence;
(f) Share option and share awards;
(g) Termination payments and retirement benefits; and
(h) Pensions

Fringe benefits are subject to salaries tax if they are:-

(a) capable of being converted to money's worth by the employee, or
(b) paid by the employer to discharge the personal liability of the employee.

Hong Kong source employment

An expatriate's employment income is assessable to salaries tax under S.8(1) of the Inland Revenue Ordinance ("IRO"), if his/her source of employment is Hong Kong (e.g. he/she is employed by a Hong Kong company to work in Hong Kong). In such case, the full employment income is chargeable to salaries tax even though part of the expatriate's duties are performed outside Hong Kong. The following are exceptions:-

(a) All services are rendered by the expatriate outside Hong Kong during a fiscal year.

(b) Foreign tax was already paid by the expatriate on his/her employment income, full or partial.

Non-Hong Kong source employment

If an expatriate's source of employment is outside Hong Kong (e.g. he/she is assigned to work in Hong Kong for a few years by the overseas employer and he/she has to perform part of the services in different countries in the Asia Pacific Region), he/she is only assessed on his/her employment income attributable to his/her services rendered in Hong Kong including leave pay based on the number of days he/she was in Hong Kong (commonly known as day-in day-out basis) during a fiscal year. Such exemption is available on a year-by-year basis.

Based on established tax cases, the IRD will generally accept that an expatriate's employment is non-Hong Kong sourced if:

- the contract of employment is negotiated, entered into and enforceable outside Hong Kong;
- the employer is resident outside Hong Kong; and
- the employee's remuneration is paid outside Hong Kong.

Directorship

Directorship is regarded as an office. In general, if an expatriate is a director of a Hong Kong company, his/her full income derived from such office in Hong Kong is chargeable to salaries tax irrespective of the number of days he/she stays in Hong Kong during a fiscal year.
Earnings from a non-Hong Kong directorship are exempt from salaries tax.

Application for exemption of income/relief

The above exemptions are granted upon application with supporting documents. Expatriates seeking tax exemption are required to complete appropriate sections of the Salaries Tax Return. In making the application, copies of the following documents are required:-

1. Employment contract;

2. Letter of assignment to Hong Kong;

3. Tax payment notices or receipts issued by tax authorities outside Hong Kong; and

4. Passport or other travel documents together with a schedule to show the number of days he/she is in and out of Hong Kong during a fiscal year.

Deductions

Outgoings and expenses, other than expenses of a domestic or private nature and capital expenditure, wholly, exclusively and necessarily incurred in the production of assessable employment income are

qualified as deductions for salaries tax purposes. In particular, the following deductions are available to employees:-

(a) Approved charitable donation made during the year;
(b) Expenses of self-education paid during the year;
(c) Home loan interest paid during the year; and
(d) Contributions to Mandatory Provident Fund Scheme or Recognised Occupational Retirement Scheme.

Personal allowances
The following are basic allowances for the current year (2008/09) available for deduction:-

	HK$
Personal allowance (single)	108,000
Personal allowance (married)	216,000
Single parent allowance	108,000
Child allowance (each)	50,000

Salaries tax rates for the current year (2008/09)

The tax charged will be the lower of:-

(a) the net assessable income less allowable deductions at standard rate of 15%; or

(b) the net assessable income less allowable deductions and personal allowances at progressive rates as follows:-

	HK$
First HK$40,000	@2%
Next HK$40,000	@7%
Next HK$40,000	@12%
Remainder @17%	@17%

Pre-arrival procedures
Expatriates who want to work in Hong Kong must apply for a work visa from the Immigration Department before the commencement of employment. The application for employment visa requires an offer of employment from a Hong Kong company or an overseas company having operations in Hong Kong. In case that the expatriate's spouse and dependent child would relocate together the expatriate to Hong Kong, they must apply for dependent visas. The expatriate's spouse entering Hong Kong on dependent visa are not allowed to take up employment in Hong Kong. Alternatively, the spouse should apply for a separate work visa in Hong Kong.

Tax planning opportunities
There are certain preferential tax treatments available on fringe benefits, e.g. free quarter accommodation or rental reimbursements, which can reduce an expatriate's salaries tax liabilities significantly in Hong Kong. Similarly, working out proper terms of employment before coming to Hong Kong is also very important for efficient tax planning.

(Provided by: Wong Brothers & Co. CPAs, Hong Kong)

Singapore : 2009 Budget Highlights

Corporate Tax
- Reduction in corporate tax rate by 1% from 18% to 17%.
- Extend start-up tax exemption scheme to companies limited by guarantee, subject to the same conditions imposed on companies limited by shares.
- Allow write-down of capital expenditure incurred on renovation or refurbishment works fully within a year instead of over 3 years, subject to a cap of $150,000 for every 3 years.
- Allow unutilised trade losses and capital allowances to be carried back to set off against the Assessable Income of 3 immediately preceding Years of Assessment instead of 1 Year of Assessment and increasing the limit on the aggregate amount from $100,000 to $200,000.
- Accelerate write-down of capital allowances on newly acquired plants and machinery within 2 years with 75% of the write-down in the first year of claim.
- Accelerate write-down of allowances for acquisition of Intellectual Property for Media & Digital Entertainment Content from 5 years to 2 years.
- Expand tax exemption to cover all foreign sourced income that was earned / accrued outside Singapore on or before 21 January 2009 by suspending the conditions required for foreign sourced income to be exempt from tax when remitted into Singapore for one year.
- Increase tax deduction for donations made in 2009 to IPC and other approved recipients from 200% to 250% of the amount donated.
- New tax framework for qualifying amalgamations that will alleviate the tax cost associated with corporate amalgamations.
- Extend withholding tax exemption on interest payable on qualifying loans taken by shipping enterprises to acquire Singapore-registered vessels for a further 5 years to 31 December 2013.
- Extend tax deduction for collective impairment provisions made by banks, merchant banks or finance companies under MAS Notices 612, 811 and 1005 for a further 3 years.
- Enhance existing Fund Management Incentive schemes under Section 13C, 13CA and 13R by an Enhanced Tier.
- Enhance current Financial Sector Incentive-Headquarter Services scheme for the period of 22 January 2009 to 31 December 2013.
- Enhance Commodity Derivatives Traders Scheme to be extended and subsumed under the Financial Sector Incentive-Derivatives Market scheme and expanded to include trades in emission derivatives. Counter-party restrictions will be removed for qualifying trades.

Personal Tax
- No changes in personal tax rates with highest rate at 20%.
- 20% tax rebate up to a $2,000 cap for Year of Assessment 2009.
- Removal of income tax on net annual value of all residential properties.
- Flexible Interbank GIRO arrangements to pay personal income taxes in interest-free monthly instalments of up to 24 months for those who lost their jobs.

Property Tax
- 40% tax rebate for owner-occupied residential properties and commercial and industrial properties.
- Property tax deferral for Land Approved for Development for Businesses of up to 2 years.
- Deferment of increase in assessment rate for hotel rooms.

Goods and Services Tax (GST)
- Extend zero-rating relief to cover the sale, maintenance and repair services of aircraft components or systems of a qualifying aircraft.
- Suspension of GST and duty on goods temporarily removed from Zero-GST or Licensed Warehouse for Auctions and Exhibitions.
- Recovery of GST for qualifying funds managed by a prescribed fund manager in Singapore.

Others
- 12% cash grants for eligible employers based on the Central Provident Fund contributions that they have made for their existing employees under the Jobs Credit scheme.
- Increase in course fees subsidies to 90% for PMET-level courses that are eligible for Skills Programme for Upgrading and Resilience.

(Provided by : N Vimala Devi and Wendy Wong, BSL Tax Services Pte Ltd, Singapore)

Singapore: Not Ordinarily Resident Scheme

The Minister for Finance of Singapore announced in his Budget Statement 2008 certain changes to the qualifying criteria of the tax concessions under the Not Ordinarily Resident ("NOR") tax incentive scheme. These changes will take effect from the Year of Assessment ("YA") 2009 for all NOR taxpayers, except for those identified under the

transitional rules stated below. Details of the changes are summarised below.

Benefits of the NOR Scheme

Under the NOR scheme, an individual who is accorded the NOR status (for a qualifying 5-year period) will enjoy the following tax concessions provided he is a resident by virtue of Section 2(1) of the Singapore Income Tax Act ("the Act") in that YA and the qualifying criteria of each of the tax concessions are met.

(i) Time apportionment of his Singapore employment income.

(ii) Tax exemption of employer's contribution to a non-mandatory overseas pension fund or social security scheme.

"Resident in Singapore" is defined in Section 2(1) of the Act as follows.

"in relation to an individual, means a person who, in the year preceding the year of assessment, resides in Singapore except for such temporary absences there from as may be reasonable and not inconsistent with a claim by such person to be resident in Singapore, and includes a person who is physically present or who exercises an employment (other than as a director of a company) in Singapore for 183 days or more during the year preceding the year of assessment;…"

(A) Qualifying Criteria for Time Apportionment of Singapore Employment Income

The following criteria (1) and (2) for time apportionment of Singapore employment income remains unchanged. The only change to the qualifying criteria for time apportionment is the minimum income threshold requirement as stated in criteria (3) below

Old NOR Scheme	New NOR Scheme
(1) Resident NOR Singapore employee must spend at least 90 days outside Singapore for business reasons pursuant to his Singapore employment.	
(2) Where the resident NOR Singapore employee's tax on the apportioned Singapore employment income is less than 10% of his total Singapore employment income, he would still be subject to a minimum floor tax rate of 10% on his total employment income.	
(3) His tax on his total Singapore employment income must be greater than 10% of his total Singapore employment income.	(3) His total Singapore employment income must be at least $160,000.

(B) Qualifying Criteria for Tax Exemption of Employer's Contribution to a Non-Mandatory Overseas Pension Fund or Social Security Scheme

Similarly, the only change to the qualifying criteria for tax exemption of employer's contribution to a non-mandatory overseas pension fund or social security scheme tax concession is the minimum income threshold requirement as stated in criteria (3) below.

Old NOR Scheme	New NOR Scheme
FOR EMPLOYEE	
(1) Resident NOR Singapore employee is neither a Singapore citizen nor a permanent resident of Singapore ("SPR").	
(2) The tax exemption given to the non-Singapore citizen / non-SPR resident NOR Singapore employee must not exceed a cap. The cap is computed based on the Central Provident Fund ("CPF") capping rules as if the employer had made the contribution to the CPF for a Singapore citizen as required under the CPF Act (hereinafter referred to as the NOR cap).	
(3) Not applicable.	(3) His total Singapore employment income must meet the minimum income threshold of $160,000 (this is also the minimum income threshold applicable to the time apportionment tax concession).

The change for the tax deduction rules for the employer is as follows.

FOR EMPLOYER	
(1) Employer is entitled to claim tax deduction on contributions made to a non-mandatory overseas contribution scheme in full, even though tax exemption granted to the non-Singapore citizen / non-SPR resident employee on such contribution is subject to the NOR cap.	(1) Employer should not claim a tax deduction on contributions made to non-mandatory overseas contribution scheme up to the NOR cap if he wishes his non- Singapore citizen / non-SPR resident employee to be eligible for the tax exemption concession up to the NOR cap. In other words, tax deduction is only allowed on the portion of the contributions that is above the NOR cap.

Transitional Rules

The changes to the NOR scheme will take effect from YA 2009 for all NOR taxpayers, except for the following 2 groups of NOR taxpayers:

(a) existing NOR taxpayers who have enjoyed only non-mandatory overseas contribution scheme concession prior to YA 2009, unless they opt into the new NOR scheme.

(b) existing NOR taxpayers who have enjoyed either time apportionment concession or both time apportionment and non-mandatory overseas contribution scheme concessions prior to YA 2009, provided they opt out of the new NOR scheme.

The election by existing taxpayers to opt into or opt out of the new NOR scheme, once made, is irrevocable.

This one-time election has to be made no later than 15 April 2009 regardless of whether the taxpayer is claiming for any NOR tax concession for the YA 2009, failing which no appeals from those who did not make the election or fail to do so by the deadline would be considered.

(Provided by: Devi Vimala and Wendy Wong, BSL Tax Services PTE Ltd., Singapore)

Singapore: Limited Partnerships Bill 2008

The Limited Partnerships Bill 2008 (the "Bill") was passed in Parliament on 18 November 2008.

A limited Partnership ("LP") is a new business structure which consists of one or more general partners and one or more limited partners.

A general partner is liable for all the debts and obligations of the LP incurred while he is a general partner of the LP. A limited partner will not be liable for the debts and obligations of the LP beyond the amount of his agreed contribution, solely by reason of his being a limited partner.

An individual or a corporation [defined as any body corporate formed or incorporated or existing in Singapore or outside Singapore and includes any limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A) and any foreign company] may be a general partner.

A limited partner shall not take part in the management of the LP and will not have the power to bind the LP. If the limited partner takes part in the management of an LP, he will be liable for the debts and obligations of the LP incurred while he so takes part in the management as though he were a general partner.

The First Schedule to the Bill lists the various activities which will not be regarded as taking part in the management of the LP. Examples of these activities are investigating, reviewing, approving or advising on the accounts or affairs of the LP or exercising any rights as a limited partner

of the LP, or calling, requesting, attending or participating in a meeting of the partners or limited partners of the LP.

The LP would be an attractive business structure for persons who propose to conduct business as investors but who do not wish to take an active role in the management of the business, and who prefer to entrust the management of the business to a person or persons who have the expertise and skills to manage the business and to assume unlimited liability

The Bill provides that the Accounting and Corporate Regulatory Authority will be responsible for the administration of the Bill and provides for the appointment duties of the Registrar of Limited Partnership. Where every general partner of a LP is ordinarily resident outside Singapore, the Registrar may require a local manager to be appointed.

As a LP does not constitute a separate legal entity, tax treatment of the LP for the purposes of income tax and goods and services tax will be similar to that for a general partnership.

(Provided by: Michelle Lo and Ching Tan from BSL Corporate Services and Wendy Wong from Devi Vimala from BSL Tax Services PTE Ltd., Singapore)

Singapore: Foreign Sourced Income

Current Law

Under the law, income tax is levied on income accrued in or derived from Singapore (generally referred to as income sourced in Singapore), or on foreign sourced income received or deemed received in Singapore from outside Singapore.

However, foreign sourced dividends, branch profits and service income received or deemed received into Singapore by a resident company on or after 1 June 2003 or received by any individual resident in Singapore through a partnership in Singapore on or after 1 June 2004 shall be exempt from Singapore income tax, subject to the following conditions being satisfied.

(i) In the year the specified foreign income is received in Singapore, the headline tax rate (i.e. highest corporate tax rate) of the foreign jurisdiction must be at least 15%;

(ii) The specified foreign income has been subject to tax in the foreign jurisdiction from which it has been received. For foreign-sourced dividend income, this includes the income tax paid by the dividend paying company on its income out of which the dividend is paid; and

(iii) The IRAS is satisfied that the tax exemption would be beneficial to the person resident in Singapore.

Where these conditions are not or cannot be satisfied, the above foreign income will be subject to income tax when remitted to Singapore. Other foreign sourced income (such as foreign interest) is similarly subject to income tax as and when they are remitted to Singapore.

Individuals (except where the above foreign sourced income are received by resident partners of a partnership in Singapore) currently enjoy tax exemption on all foreign-sourced income received in Singapore on or after 1 January 2004.

(Provided by: Devi Vimala and Wendy Wong, BSL Tax Services PTE Ltd., Singapore)

Europe

Malta - Advantages of Doing Business in Malta

Malta is fast becoming a significantly important financial centre within the European Union. A long history of fiscal and investment incentives for foreigners wishing to set up shop in Malta has led to a very attractive package for both investors as well as for non residents wishing to use Malta in their international tax planning structures. Recent tax reforms have enhanced these advantages.

Tax Reform

- A Maltese Company can act as both a holding company and a trading company with no negative tax consequences
- A branch of a non resident company carrying out activities in Malta will be treated in the same way as a resident company with resultant tax planning opportunities.
- We now have a new participating exemption regime whilst still continuing to give 100% tax refunds in the case of participating holdings.
- No Withholding taxes on outbound dividends, interest or royalties
- Three or more tier Malta companies are now possible.
- Flat rate foreign tax credit, treaty relief and unilateral relief still possible

From 1st January 2007 a new set of provisions to the income tax act and the income tax management act have come into force further strengthening Malta's bid to become an important financial centre within the EU by 2015, the date set by the Maltese Government.

Malta practices a full imputation system of taxation which allows income received net of tax to be grossed up in the hands of the recipient and taxed once more at the applicable rates of tax of that individual or body corporate.

The corporate tax rate is 35%. However, upon a distribution of a dividend, shareholders can claim a refund of up to 6/7 of the tax suffered on the dividend (payable within 6 weeks) bringing the net effective tax down to 5%.

If a Maltese registered company owned in full or in part by non resident shareholders receives dividend income from a participating holding i.e. dividend income from outside Malta, a full refund may apply to the shareholders upon distribution of a dividend. In certain cases the company may benefit from what is known as a participation exemption whereby a company need not pay the tax on this income from the outset.

Passive Income

Companies receiving passive interest or royalties from abroad can apply for a 5/7 refund of tax suffered in Malta upon a distribution of a dividend.

Relief from Tax suffered abroad.

Relief is also available for tax suffered abroad on foreign income. Thus recipients of income brought into Malta from, dividend, interest, or royalties which has suffered tax at source can claim this tax by way of relief from Malta tax due .

If it is not possible to prove that tax has been suffered abroad or in situations where no tax has been suffered abroad it is possible to apply what is known as the flat rate foreign tax credit, whereby relief is applied at a notional tax rate even if the income has suffered no tax at all .

Investment Incentives

Besides tax advantages the Maltese Government also gives a number of extremely beneficial investment incentives for Companies wishing to invest in Malta. All investment incentives have been incorporated under one authority in order to streamline operations and to remove any bureaucracy. The main incentives can be listed under the following categories:

1. Investment Aid - tax credits on capital investment and job creation.

2. SME Development - Grants targeting the creation and development of start-ups, and small and medium-sized enterprises.
3. R&D and Innovation - incentives offered to stimulate research & development.
4. Access to Finance - loan guarantees, soft loans, loan interest subsidies or royalty financing in the case of highly innovative projects.
5. Enterprise Support – aimed at international competitiveness, improving processes and networking with other businesses.
6. Employment and Training - incentives to support recruitment of new employees and staff training.

Other advantages of doing business in Malta :

- A member of the EU and within the Euro zone.
- Fully compliant with EU legislation and OECD
- A strict but not suffocating regulatory framework.
- A well educated English speaking professional workforce
- Excellent IT infrastructure.
- A sound banking system which has been unaffected by the current crisis.
- A stable democratic Government.
- Easy access to all major European Cities.
- Low costs of operation and for company incorporation

(Provided by: Simon Ciantar, Ciantar Associates, Malta)

Isle of Man: Tax co-operation agreements with the United Kingdom

On 29 September 2008, the Isle of Man concluded taxation agreements with the United Kingdom.

The Isle of Man ratified the agreements on 18 November 2008, and the Chief Minister, Tony Brown MHK, informed the government of the United Kingdom that ratification had taken place.

The United Kingdom government has now confirmed that it has completed its own ratification procedures and, as a consequence, the agreements entered into force on 2 April 2009.

The governments have agreed to amend the provisions of the 1955 double taxation agreement by adding provisions on the taxation of income from pensions and a mutual agreement procedure. Now that the new provisions are in force, many pensions paid from the United Kingdom to people living in the Isle of Man will be taxed in the Isle of Man only. In addition, taxpayers will be given new rights under the agreement to ask one government to intervene in order to resolve problems arising from the application of the agreement.

A tax information exchange agreement between the Isle of Man and the United Kingdom has also now entered into force.

The negotiation, signing and ratification of tax co-operation agreements demonstrates the Isle of Man's commitment to international standards and the global effort to establish a system based on co-operation between countries, transparency and effective exchange of information in tax matters; all of which strengthen financial stability. As a result of signing these agreements the Isle of Man has been included on the OECD "white list" of 40 jurisdictions that have substantially implemented internationally agreed tax standards, published following the G20 meeting in London on 2 April 2009.

(Provided by: George Noble, Noble & Co, Isle of Man)

Brochures: Introduction to European Tax Brochures

The European region of AGN has, for a number of years, produced annual tax surveys covering the main taxes within Europe covering:

- Corporate tax
- Gift and inheritance tax
- Parent companies
- Salary taxes, social security and expatriate taxation
- VAT.

The surveys provide interesting comparisons and insights into trends across the European Region and include summary articles and graphs of the key results.

The results are summarised into hardcopy brochures that can be used as both a marketing tool and a reference source.

Examples of the 2008 and 2009 brochures have been forwarded to every member firm, and additional copies can be obtained by completing the order form on our regional website.

Further information is available via the AGN European regional website at www.agn-europe.org including access to the full surveys, articles and graphs.

(Provided by : Nancy Cruickshanks of Shipleys LLP, London, United Kingdom)

North America

US: Checking the Box on an Existing Foreign Corporation

Your company or client, a U.S. corporation, owns 100% of the stock of a foreign corporation that is afforded corporate treatment for US tax purposes. By plan or otherwise you find it advisable to now "check the box" on that subsidiary, converting it into a disregarded entity. What are the U.S. tax ramifications, immediately upon checking the box, and continuing into the future?

Checking the box (the "transaction") causes several issues to surface that require attention.

- Is the transaction taxable in the U.S.?
- Might the transaction result in a deductible loss?
- If a taxable gain results, to what extent is gain recognized and what is the character of the gain?
- Will foreign tax credits come into play to the extent of recognized gain?
- What will the beginning balance sheet of the disregarded entity look like for federal tax purposes?
- How will the foreign exchange gain or loss rules play out both initially and going forward?

Note: For simplicity, this discussion assumes that the foreign corporation was established, or deemed established, by the existing US company, and has been wholly owned by the US company since that establishment.

To Check the Box or Not – Rationale

The reasons to and not to "check the box" are numerous and vary significantly from one fact pattern to another.

S-Corporations

Assume the U.S. corporation ("Parent") is an "S-corporation". The underlying foreign taxes paid by the subsidiary ("Checker") are not creditable on the returns of Parent's shareholders. While those same

taxes are deductible simply as a matter of the taxes paid reducing the amount of assets available for repatriation, in virtually all situations a foreign tax credit provides a more effective reduction in worldwide taxes. If the operations of Checker are expanding but generating significant "Subpart F" income, Parent's shareholders are denied the benefit of "Qualified Dividend" treatment and the preferred capital gains tax rate to the extent of that income.

C-Corporations

Unlike an S-corporation, Parent, as a regularly taxable U.S. corporation, benefits from the availability of foreign tax credits associated with the income taxes paid by Checker in foreign home jurisdictions. Conversely, this Parent has no concern with the capital gains rates on dividends, as the reduced rates are just not available. The C-corporation motive for checking the box on a foreign subsidiary, converting it to a tax transparent entity, would generally relate to either optimization of the Parent's U.S. foreign tax credit, or to capture the benefit of loss pass-through from Checker.

Results of Check the Box

Checking the box to convert Checker into a pass-through / disregarded / tax transparent entity is treated as a liquidation of Checker, followed by the establishment of a foreign branch consisting of all the operations, assets and liabilities received in the deemed liquidation. Generally this event is tax free under IRC §332, but pursuant to the special rules related to cross border transactions in IRC §367(b), Parent must recognize the "All E&P Amount" attributable to Checker. This All E&P Amount is characterized as a deemed dividend. No loss (deficit in E&P) is recognized. If Parent is a C-corporation, it is entitled to a foreign tax credit under IRC §902.

The All E&P Amount is equal to the retained earnings of Checker as of the day preceding the effective date of the check the box transaction, calculated in the functional currency of Checker, and translated into US dollars at the spot rate for the day of the deemed dividend transaction.

All historic attributes of Checker appearing on Parent's balance sheet on the effective day of the check the box election are preserved.

Historic attributes of Parent for U.S. tax purposes generally consist of Equity:

- the initial and any subsequent capital contributions
- previously taxed E&P (including the deemed dividend amount. recognized on the day preceding the check the box effective day), and
- foreign currency gain or loss (as other comprehensive income)

Assets:

- Marked assets converted to from Checker Functional Currency at the spot rate on the balance sheet date (Marked assets generally consist of financial assets, See the 2006 Proposed Regulations under IRC § 987)
- Non-financial assets converted to US dollars at historic exchange rates (Accumulated depreciation should be converted at the exchange rate applicable to the related asset) On the opening balance sheet as of the effective date of the check the box election, these assets would acquire a fixed exchange rate equal to the spot rate of the day preceding the effective date.

Liabilities:

- Generally converted at the spot rate for the balance sheet date.

Following the check the box transactions, tax accounting for the operations of Checker proceeds under the branch rules in IRC §987. Branch operations are generally recognized at the average exchange rate for the year, often converted on a monthly average basis. Depreciation expense and certain other period costs associated with non-financial assets are converted at the historic rate applicable to those assets. Foreign currency gain or loss is recognized only upon the repatriation of branch financial assets.

(Provided by: William Harwood, Meaden & Moore, Cleveland, Ohio)

West Asia & Africa

South Africa: 2009 Budget Proposals Overview

Main tax proposals

The main tax proposals include:

- Personal income tax relief for individuals amounting to R13.6 billion
- Delaying implementation of new mineral and petroleum royalties until 1 March 2010
- A final set of amendments to support dividends tax reform
- Incentives for investments in energy-efficient technologies
- Implementation of the electricity levy announced in Budget 2008
- Making certified emission reduction credits tax exempt or subject to capital gains tax, instead of normal income tax
- Taxation of energy-intensive light bulbs
- Reforms to the motor vehicle ad valorem excise duties
- Increases in the Road Accident Fund (RAF) and general fuel levies
- Tax-sharing arrangements with municipalities
- Increases in excise duties on alcoholic beverages and tobacco products
- An increase in the international air passenger departure tax
- Reviewing the tax treatment of travel (motor vehicle) allowances to improve the equity and transparency of the tax system
- Amendments to the treatment of contributions to medical schemes.

(Provided by: Ian McMurray, McMurray Aldum Inc, South Africa)

OECD Tax Standard

The following tables detail as at 2 April 2009 the progress jurisdictions surveyed by the OECD Global Forum have made in implementing the agreed Tax Standard

Jurisdictions that have substantially implemented the internationally agreed tax standard			
Argentina	Germany	Korea	Seychelles
Australia	Greece	Malta	Slovak Republic
Barbados	Guernsey	Mauritius	South Africa
Canada	Hungary	Mexico	Spain
China[2]	Iceland	Netherlands	Sweden
Cyprus	Ireland	New Zealand	Turkey
Czech Republic	Isle of Man	Norway	United Arab Emirates
Denmark	Italy	Poland	United Kingdom
Finland	Japan	Portugal	United States
France	Jersey	Russian Federation	US Virgin Islands

Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented					
Jurisdiction	**Year of Commitment**	**Number of Agreements[6]**	**Jurisdiction**	**Year of Commitment**	**Number of Agreements[6]**
Tax Havens[3]					
Andorra	2009	(0)	Marshall Islands	2007	(1)
Anguilla	2002	(0)	Monaco	2009	(1)
Antigua and Barbuda	2002	(7)	Montserrat	2002	(0)
Aruba	2002	(4)	Nauru	2003	(0)
Bahamas	2002	(1)	Neth. Antilles	2000	(7)
Bahrain	2001	(6)	Niue	2002	(0)
Belize	2002	(0)	Panama	2002	(0)
Bermuda	2000	(3)	St Kitts and Nevis	2002	(0)
British Virgin Islands	2002	(3)	St Lucia	2002	(0)
Cayman Islands[4]	2000	(8)	St Vincent & Grenadines	2002	(0)
Cook Islands	2002	(0)	Samoa	2002	(0)
Dominica	2002	(1)	San Marino	2000	(0)
Gibraltar	2002	(1)	Turks and Caicos Islands	2002	(0)
Grenada	2002	(1)	Vanuatu	2003	(0)
Liberia	2007	(0)			
Liechtenstein	2009	(1)			
Other Financial Centres					
Austria[5]	2009	(0)	Guatemala	2009	(0)
Belgium[5]	2009	(1)	Luxembourg[5]	2009	(0)
Brunei	2009	(5)	Singapore	2009	(0)
Chile	2009	(0)	Switzerland[5]	2009	(0)

Jurisdictions that have not committed to the internationally agreed tax standard			
Jurisdiction	**Number of Agreements[6]**	**Jurisdiction**	**Number of Agreements[6]**
Costa Rica	(0)	Philippines	(0)
Malaysia (Labuan)	(0)	Uruguay	(0)

[1] The internationally agreed tax standard, which was developed by the OECD in co-operation with non-OECD countries and which was endorsed by G20 Finance Ministers at their Berlin Meeting in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters at its October 2008 Meeting, requires exchange of information on request in all tax matters for the administration and enforcement of domestic tax law without regard to a domestic tax interest requirement or bank secrecy for tax purposes. It also provides for extensive safeguards to protect the confidentiality of the information exchanged.

[2] Excluding the Special Administrative Regions, which have committed to implement the internationally agreed tax standard.

[3] These jurisdictions were identified in 2000 as meeting the tax haven criteria as described in the 1998 OECD report.

[4] The Cayman Islands has enacted legislation that allows it to exchange information unilaterally and has identified 12 countries with which it is prepared to do so. This legislation is being reviewed by the OECD.

[5] Austria, Belgium, Luxembourg and Switzerland withdrew their reservations to Article 26 of the OECD Model Tax Convention. Belgium has already written to 48 countries to propose the conclusion of protocols to update Article 26 of their existing treaties. Austria, Luxembourg and Switzerland announced that they have started to write to their treaty partners to indicate that they are now willing to enter into renegotiations of their treaties to include the new Article 26.

[6] This is the number of double taxation agreements signed by the jurisdiction

(Provided by: George Noble, Noble & Co, Isle of Man)