INTRODUCTION

In front of you lies the newsletter of EuropeFides containing the most important changes in 2019 in local (tax) legislation in a number of countries where our members are located.

As far as I know it is the first time that we publish such a newsletter and as always at a first time it is accompanied by the necessary start-up issues and teething problems.

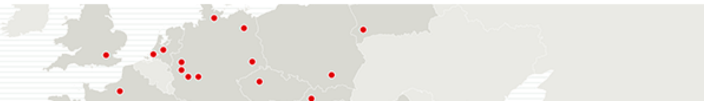
A few members have responded to our call for a contribution to the newsletter. Their contributions can be found on the following pages.

I hope that this set-up will also appeal to the other members, so that they will also contribute to a subsequent edition.

I would like to thank those who are involved in the realization of this newsletter, namely Peter Savage and his team at Morrisons, Thijs Jolles and our rock in the surf Nina Fischer and not least the writers of the various contributions.

All that remains to me is to wish you a lot of wisdom and reading pleasure, as well as a Merry Christmas and a Happy New Year.

Fokko Jolles

EuropeFides 

CONTRIBUTIONS

1) **Italy:** Flat Tax for residents by Atax – Stefano Meani
2) **China:** IIT and VAT by Le Yu China – Ching Mia Kuang
3) **The Netherlands:** Main changes in Tax legislation as of 2019 changes by Migrantic Tax & Immigration Lawyers – Leon van Baal and Jolles & Ko Accountants - Fokko Jolles
4) **Singapore:** Tax changes by Le Yu Singapore – Le YU SG Team
5) **Czech Republic:** Czech Republic 2019 tax legislation changes by Pavelka – Matej Auxt
6) **Austria:** The main changes in tax legislation and / or other relevant legal rules that enter into force on January 1st 2019 Bernardini & Co – Martin Bernardini
7) **United Kingdom:** UK Anti-avoidance Legislation Anti Avoidance Legislation by Morrisons Solicitors LLP - Sally Hutchings
8) **United Kingdom:** five articles by WSM – Paul Windsor, Clarissa Akakpo, Gavin Stebbing and Stephen Chan
9) **Germany:** Tax changes in Germany by BDP Bormann, Demant & Partner - Michael Bormann

Italy

ATAX (Italy) – Stefano Meani

Flat Tax for new residents

Paragraph 152 of the art. 1 of the Law 11.12.2016, n. 232 (so-called Budget Law 2017) introduced the art. 24-bis in the D.P.R. 917/1986 which provides for a flat-rate substitute tax on income produced abroad by natural persons who transfer their tax residence in Italy and who have not resided there for at least 9 of the 10 tax periods prior to the start of the period of validity option

The amount of the substitute tax, of flat rate, regardless of the amount of income received, is equal to 100,000 euros for each tax period in which the aforementioned option is valid; it must be paid in a single payment by the date scheduled for the payment of the income tax balance for the reference year.

The amount of the flat-rate substitute tax is reduced to € 25,000 for each tax period for each family member (as identified by Article 433 of the Civil Code - the spouse, the adoptive children, the parents, the genders and the daughters-in-law, the father-in-law and the mother-in-law, the siblings or the siblings or the unilateral siblings) in the event that the requesting taxpayer makes an option to extend the concessional system to the same.

The option for access to the tax system under analysis must be stated in the income tax return relating to the tax period in which the residence in Italy is transferred and is effective as from that tax period.

This option is valid for 15 years and is, if deemed appropriate, revocable.

Furthermore, the expiry of the option, with the cessation of its effects, in the event of omission or partial payment, in whole or in part, of the substitute tax, to the extent and within the terms envisaged by the current provisions of law, is envisaged, without prejudice to the effects produced in previous tax periods.

The revocation or the forfeiture of the regime preclude the exercise of a new option.

The Tax Authority, with provision n. 47060 of 8 March 2017, indicated the methods and instructions for exercising the option for the Flat Tax and for the payment of the substitute tax, as well as making optional the presentation of a so-called Probation request.

The tax (Flat Tax) cannot be combined with the incentives for the return to Italy of researchers residing abroad (as per article 44, DL 31.5.2010, No. 78, conv. 30.7.2010, No.

122), or with the facilities for the return of skilled workers (Article 16 of Legislative Decree 14.9.2015, No. 147).

China

Le Yu (China) – Ching Mia Kuang

For 2018, one key significant change in the Tax system of China is the reduction of VAT tax rate. Please read Part II below. Another key change to come is the change in the Individual Income Tax (IIT) system effective from 1st January 2019. This change in IIT system is deemed to increase the individual's disposable income and stimulate China's domestic consumption; as China has been structurally dependent on export-driven GDP growth. Significant within this IIT system change are the new definitions of Tax Residency and change into a yearly-taxation system concurrent with reduction in progressive rates. Certain details are yet-to-be released by the government; possibly because the government may need to see how the new system pans out initially.

Part I: New Individual Income Tax Update

The new Individual Income Tax Law will be effective from 1ST January 2019

The key changes:

1. Criteria for tax residency status

- **Resident taxpayer**

Individuals with domicile in China, or without domicile in China with physical presence of no less than 183 days in China within one tax year.

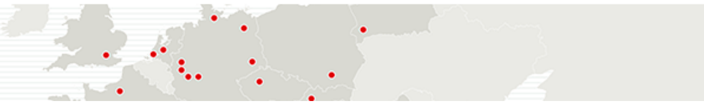
- **Non-Resident taxpayer**

Individuals without domicile in China and do not reside in China, or without domicile with physical presence in China of less than 183 days within one tax year.

2. Categories of Individual Income and Tax Rates

S/N	Categories	Tax rates
A	Comprehensive Income: Income from wages and salaries, remuneration for personal services, manuscripts, royalties	3%-45%, 7 brackets of progressive tax rates
B	Business Income	5%-35% 5 brackets of progressive tax rates
C	Income derived from interest dividends and bonuses, lease of property, transfer of property, Contingent Income	20%

See appendix for Individual Income Tax Rate of Item A



For Item A, the Comprehensive Income, the individual income tax (IIT) shall be calculated on a consolidated basis for the tax year for resident taxpayer. But for non-resident taxpayer, it shall be calculated on a monthly basis or timely basis.
For Item B and Item C, the income received by tax payer, the IIT shall be calculated respectively in accordance with the provisions of the law.

3. New Changes for Deductible Items

- Resident taxpayer, for Comprehensive Income
  Standard basic deduction RMB 60,000 per year, statutory social securities, commercial health insurance RMB 2,400 per year.
  There are other newly-introduced deductible items that are not yet released by government; such as dependent education, continued-education, major illnesses medical expenses, mortgage interest, rental expenses and expenses for supporting the elderly.
- Non-Resident taxpayer, for income from salary, wages: Standard basic deduction is RMB 5,000 per month.
- Income derived from lease of property, Income is no more than RMB 4,000. The deduction is RMB 800. If the income is over RMB 4,000, the deduction is 20% of the income.
- Income for remuneration from personal service manuscripts and royalties,
  The deduction is 20% of the amount received. For remuneration from manuscripts, the taxable income in essence shall be 70% of the said balance between the amount received minus the 20% of the amount received.

Part II: VAT

From 1st May 2018, the new VAT tax rates were applied.

VAT tax rates are different according to different industrial sectors. Generally, the VAT rates are 16%, 10%, 6%, 5%, 3%, 0%. If the entity is a General VAT Tax Payer, the VAT output (VAT on Sales) can be offset with VAT input (VAT on Expenditure). (Prior to 1st May 2018, the most commonly applied VAT rate was 17%, which had since been reduced to 16%).

Surtaxes rates is different in different districts of a city and in different cities. Generally it is 7%, 5%, 1%, 3%, 2% of the VAT paid.

Appendix

Individual Income Tax Rate

S/N	Annual (monthly) taxable income (RMB)	Tax Rate (%)
1	Not over 36,000 (Not over 3,000)	3
2	Over 36,000 to 144,000 (Over 3,000 to 12,000)	10
3	Over 144,000 to 300,000 (Over 12,000 to 25,000)	20
4	Over 300,000 to 420,000 (Over 25,000 to 35,000)	25
5	Over 420,000 to 660000 (Over 35,000 to 55,000)	30
6	Over 660,000 to 960,000 (Over 55,000 to 80,000)	35
7	Over 960,000 (Over 80,000)	45

Netherlands

Migrantic (the Netherlands) – Leon van Baal

Jolles & Ko Accountants B.V. (the Netherlands) - Fokko Jolles

Main changes in the tax legislation as of 2019

Prepare for a higher VAT rate (for basic necessities)

The reduced VAT rate applies to food, books, water and agricultural goods and certain services provided (e.g. hairdressers, passenger transport).

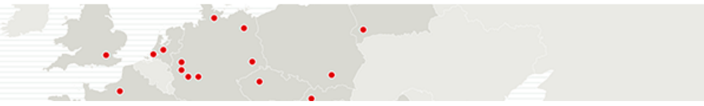
The reduced VAT rate will increase from 6% to 9% on 1 January 2019. This will have an impact for your financial administration. Firstly, you have to adjust your accounting systems and procedures (in time) so that you can proceed to the higher rate without any problems. In addition, the VAT increase is cost-increasing if you perform VAT-exempt services in full or in part, and therefore you can not deduct the VAT charged to you. Perhaps you can still bring out investments (WAT BVEDOEL JE HIERMEE FOKKO?).

The Dutch Ministry of Finance has promised that they do not want to charge entrepreneurs with additional administrative burdens as a result of this increase. The Tax and Customs Administration will therefore not be charging the higher rate on goods and services paid in 2018 that are delivered in 2019. This can be the case, for example, for concerts and sporting events, but also, for example, for goods and services such as plastering and painting.

Proposed action: Although it is not yet certain that the Government will agree to the proposed increase of the reduced VAT rate, it is still sensible to prepare for the proposed VAT increase if you supply goods or provide services under the reduced VAT rate. You can already adjust your accounting and prices. You can also adjust your invoices at the annual transition and already take into account the intended VAT increase when preparing quotations for 2019.

Decrease of the Energy Investment Allowance (EIA)

The Cabinet proposes to lower the deduction percentage for the Energy Investment Allowance (EIA) in 2019 from 54.5% to 45%. The EIA is an additional deduction of the investment costs from the taxable profit on top of the usual depreciation. You are eligible for this EIA if your company invests in an energy-efficient business asset that is on the so-called Energy List. You must apply for the EIA within three months of having granted the investment order.



The EIA is continued for a period of 5 years. This also applies to the environmental investment allowance (MIA) and the random depreciation of environmental investments (VAMIL).

Proposed action Invest this year in energy-efficient business assets and still benefit from the higher deductible percentage.

Decrease in duration of the 30% facility for incoming employees: limited transition rule

The term of the 30% facility for incoming employees will be reduced from eight to five years in 2019. The group of employees for whom the 30% facility would expire in 2019 or 2020 due to this measure can perhaps make use of a proposed transitional arrangement. This transitional rule is explained by our Europefides partner Leon van Baal in the following article https://www.migrantic.com/2018/11/01/newsflash-2019-budget-a-random-act-of-unfairness-30-ruling-to-be-decreased-to-5-years-with-a-horrendous-transition-measure/

Reduction of the corporate income tax rate

The corporate income tax rate will be reduced in various steps from 25% to 20.50% (top rate on taxable profit in excess of € 200,000: 2019: remains 25%, 2020: 22.55% and 2021: 20.50%). The lower rate (on taxable profit up to € 200,000) goes down from 20% to 15% (2019: 19%, 2020: 16.5% and 2021: 15%).

Restriction of loss carry forward term

Currently, tax losses can be carried forward for nine (9) financial years, while the carry back of losses is restricted to one (1) financial year.

It is now proposed to, effective as of January 1, 2019, restrict the carry forward term to six (6) financial years, while leaving the carry back term at one (1) financial year. As such, the term to offset tax losses against taxable profits is limited.

For tax losses incurred prior to 2019, the loss carry forward term remains nine (9) years. In principle, losses are compensated in the order in which they were incurred. Consequently, the carry forward term for tax losses incurred in 2019 and 2020 would lapse in 2025 and 2026, so prior to the carry forward term of tax losses realized in 2017 and 2018, which would lapse in 2026 and 2027. Therefore, transitional law is proposed to address this, determining that tax losses realized in 2019 are available to offset against future profits before any outstanding carry forward losses of 2017 and 2018, while tax losses realized in 2020 are available to offset before any tax losses realized in 2018.

Proposed action: Dutch tax losses should not be deferred until after 2019 but reported in 2018 if possible.

Abolishment of the restriction on holding and financing losses

As a result of the introduction of the earnings stripping rule (see below), the current restriction on so-called 'holding and financing losses' has become redundant and is thus abolished effectively as of January 1, 2019 (whereas it will remain applicable for holding and financing losses incurred prior to 2019).

Introduction new interest deduction limitation: the earnings stripping rule

Per January 1, 2019 a general earnings stripping rule will be introduced in line with the EU Anti Tax Avoidance Directive (ATAD). As of the same date, two specific interest deduction limitations will be abolished.

The general earnings stripping rule limits the deduction of net borrowing costs to the higher of (i) 30% of the EBITDA (i.e. Earnings Before Interest, Taxes, Depreciation and Amortization) and (ii) EUR 1 million. The net borrowing costs are the balance of a taxpayer's interest expenses (including economically equivalent costs and expenses incurred in connection with the financing) and interest income. Importantly, no distinction is made between related party debt and third party debt.

Any net borrowing costs that are non-deductible as a consequence of the application of this rule may be carried forward (not backward) to subsequent years. Unused interest capacity, however, cannot be carried forward or backward.

Two specific interest deduction limitations will be abolished. These specific interest deductions relate to costs in relation (i) to the financing of subsidiaries that qualify for the participation exemption and (ii) to the financing of a subsidiary within a fiscal unity.

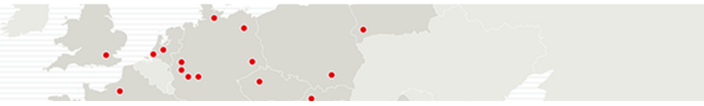
Proposed action: Check if you have this kind of financing in place and take appropriate action

Introduction Controlled Foreign Company-rule

Per January 1, 2019 the Netherlands will introduce a rule regarding Controlled Foreign Companies (CFC) in line with the EU Anti Tax Avoidance Directive (ATAD).

A CFC in this regard is a permanent establishment or entity (i) of which a Dutch resident corporate taxpayer directly or indirectly holds more than 50% of the share capital and/or profit rights and (ii) that is low-taxed. A permanent establishment or entity is regarded as low-taxed if it is resident in a jurisdiction with a statutory corporate income tax rate of less than 7% or in a jurisdiction that is included in the EU 'blacklist' of non-cooperative jurisdictions. This is the same definition of 'low-taxed' as is used with the newly proposed source tax on dividends. A company is not regarded as a CFC if its income usually does not mainly consist of tainted income as defined in the proposal (see below).

If the CFC does not perform a genuine economic activity, all tainted income should be included in the taxable base of the Dutch resident taxpayer. In to perform a genuine economic activity, the CFC must avail of relevant substance in its resident state (inter alia: office space and minimum wage costs of EUR 100,000). Tainted income is income from certain categories of passive income (e.g. interest, royalties, dividends, financial leasing income).



Proposed action: Check if your subsidiaries that will become CFCs and take appropriate action

Amendment of the rule on 'exit tax'

If a natural person or corporate entity (or its Dutch branch) migrates from the Netherlands, any untaxed gains and goodwill will be subject to Dutch (corporate or personal) income tax. Currently, taxpayers that migrate to an EU/EEA member state have the choice of (i) paying such so-called exit tax in ten (10) equal, annual terms or (ii) paying when the tax would have been charged if the taxpayer had not migrated from the Netherlands (e.g. upon a sale).

For Dutch corporate taxpayers, this choice will no longer apply per January 1, 2019. Per that date, for corporate taxpayers that migrate to EU/EEA member states the deferred payment of the exit tax is available upon request but limited to payment of the exit tax in five (5) equal terms instead of ten (10). The deferral will expire if the tax would have been charged if the taxpayer had not migrated from the Netherlands. Deferral can be subject to interest and the obligation to provide security.

Restriction of depreciation on real estate

Depreciation on buildings is for tax purposes limited to the so-called "base value", whereas currently the base value of a building is defined as follows:

In case of rented out real estate: the base value is set at 100% of the WOZ-value;

In case of real estate used in the own enterprise: the base value is set at 50% of the WOZ-value.

It is now proposed to, for Dutch corporate income tax purposes, the depreciation in relation to real estate in own use to 100% of the WOZ-value (i.e. in essence same base value as for let out real estate). This restriction is envisaged to be in effect as of January 1, 2019.

Singapore

Le Yu (Singapore) – Le YU SG Team

Tax changes

The following tax changes were announced by Singapore Finance Minister Heng Swee Keat in his Budget Statement for the Financial Year 2017, which was announced in Parliament on Monday, February 19, 2018.

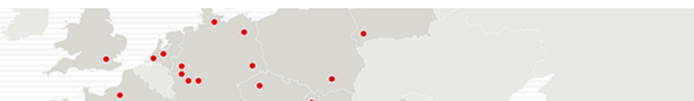
One very important future tax increase – announced by the Minister in his Budget speech – that will come into being sometime between 2021 and 2025 is the increment of the Goods and Services Tax by two percentage points, from 7% to 9%. The exact timing will depend on the state of the economy, how much Singapore's expenditures grow, and how buoyant the existing taxes are.

As always, the Government plans to implement the GST increase in a progressive manner. It will continue to absorb GST on publicly-subsidised education and healthcare. It will enhance the permanent GST Voucher (GSTV) scheme when the GST is increased by making a $2 billion top-up to the GSTV Fund. The Government will also implement an offset package for a period to help Singaporeans adjust to the GST increase.

Tax changes for Businesses

Description of Tax Change	**Current Treatment**	**New Treatment Announced in Budget 2018**
Corporate Income Tax (CIT)		
Enhance and extend Corporate Income Tax (CIT) rebate	Companies can qualify for a CIT rebate of 20% of tax payable, capped at $10,000, for Year of Assessment (YA) 2018.	The CIT rebate will be extended for another year to YA 2019, at a rate of 20% of tax payable, capped at $10,000; and For YA 2018, the CIT rebate will be enhanced to 40% of tax payable, with enhanced cap at $15,000.
Double Tax Deduction for Internationalisation (DTDi) scheme		
Enhance the Double Tax Deduction for Internationalisation (DTDi) scheme	Under the DTDi scheme, businesses are allowed tax deduction of 200%, on qualifying market expansion and investment	The $100,000 expenditure cap for claims without prior approval from IE Singapore or STB will be raised to $150,000 per YA. This

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
	development expenses, subject to approval from International Enterprise (IE) Singapore or the Singapore Tourism Board (STB). No prior approval is needed from IE Singapore or STB for tax deduction on the first $100,000 of qualifying expenses incurred on the following activities for each YA: Overseas business development trips/missions; Overseas investment study trips/missions; Participation in overseas trade fairs; and Participation in approved local trade fairs.	change will apply to qualifying expenses incurred on or after YA 2019. Businesses can continue to apply to IE Singapore or STB on qualifying expenses exceeding $150,000, or on expenses incurred on other qualifying activities. All other conditions of the scheme remain the same. IE and STB will release further details of the change by April 2018.
Start-Up Tax Exemption (SUTE) scheme		
Adjustment to the Start-Up Tax Exemption (SUTE) scheme	A new company can, subject to conditions, qualify for, in each of the first three YAs: 100% exemption on the first $100,000 of normal chargeable income*; and 50% exemption on the next $200,000 of normal chargeable income. * Normal chargeable income refers to chargeable income that is taxed at the prevailing corporate income tax rate.	The tax exemption under the SUTE scheme will be adjusted to: 75% exemption on the first $100,000 of normal chargeable income; and 50% exemption on the next $100,000 of normal chargeable income. All other conditions of the scheme remain unchanged. This change will take effect on or after YA 2020 for all qualifying companies under the scheme. For example, if a qualifying company's first YA is 2019, the current SUTE parameters will apply in YA 2019 while the new parameters will apply in YAs 2020 and 2021.



Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
Partial Tax Exemption (PTE) scheme		
Adjustment to the Partial Tax Exemption (PTE) scheme	All companies (excluding those that qualify for the SUTE scheme) and bodies of persons, can qualify for, in each YA 75% exemption on the first $10,000 of normal chargeable income; and 50% exemption on the next $290,000 of normal chargeable income.	The tax exemption under the PTE scheme will be adjusted to: 75% exemption on the first $10,000 of normal chargeable income; and 50% exemption on the next $190,000 of normal chargeable income. All other conditions of the scheme remain unchanged. This change will take effect on or after YA 2020 for all companies (excluding those that qualify for the SUTE scheme) and bodies of persons.
Goods and Services Tax (GST)		
Introduce GST on imported services	Currently, GST is not applicable on imported services provided by an overseas supplier which does not have an establishment in Singapore	Introduction of GST on imported services on or after January 1, 2020. B2B imported services will be taxed via a reverse charge mechanism. Only businesses that: make exempt supplies, or do not make any taxable supplies need to apply reverse charge The majority of businesses make taxable supplies and thus would not be affected by this reverse charge mechanism. The reverse charge mechanism requires the local business customer to account for GST to IRAS on the services it imports. The local business customer can in turn claim the GST accounted for as its input tax, subject to the GST input

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
		tax recovery rules. The taxation of B2C imported services will take effect through an Overseas Vendor Registration (OVR) mode. This requires overseas suppliers and electronic marketplace operators which make significant supplies of digital services to local consumers to register with IRAS for GST. IRAS will release further details by end February 2018.
Financial Sector Incentive (FSI) scheme – SG as a leading financial centre		
Extend and enhance the Financial Sector Incentive (FSI) scheme	The FSI scheme accords concessionary tax rates of 5%, 10%, 12% and 13.5% on income from qualifying banking and financial activities, headquarters and corporate services, fund management and investment advisory services. The FSI scheme is scheduled to lapse after December 31, 2018. The trading in loans and their related collaterals, excluding immovable property, is a qualifying activity that is accorded a concessionary tax rate of 13.5%.	The FSI scheme will be extended till December 31, 2023. The scope of trading in loans and their related collaterals is expanded to include collaterals that are prescribed infrastructure assets or projects. The change will apply to income derived on or after January 1, 2019, in respect of new and renewal awards approved on or after June 1, 2017. All other conditions of the scheme remain the same. MAS will release further details of the change by May 2018.
Withholding tax (WHT) exemptions for the financial sector		
Rationalise the withholding tax (WHT) exemptions for the financial sector	Interest payments made by a tax resident or permanent establishment in Singapore to non-tax-residents are subject to WHT at a rate of 15% in general.	Following changes are made: A) To ensure that the relevance of the tax concessions is periodically reviewed, a review date of December 31, 2022, will be

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
	There is a range of WHT exemptions for the financial sector which applies to different financial institutions for payments made under different types of financial transactions.	introduced for the WHT exemptions for the following payments: Payments made under cross-currency swap transactions made by Singapore swap counterparties to issuers of Singapore dollar debt securities; Payments made under interest rate or currency swap transactions by financial institutions; Payments made under interest rate or currency swap transactions by MAS; and Specified payments made under securities lending or repurchase agreements by specified institutions; and B) The following WHT exemptions will be legislated, along with a review date of December 31, 2022: Interest on margin deposits paid by members of approved exchanges for transactions in futures; and Interest on margin deposits paid by members of approved exchanges for spot foreign exchange transactions (other than those involving Singapore dollar).
Singapore Variable Capital Companies – positioning Singapore as a fund management hub		
Introduce a tax framework for Singapore Variable Capital Companies (S-VACCs)	Funds structured as companies, as well as trusts and limited partnerships, can qualify for tax exemption under Sections 13CA, 13R and 13X of the Income Tax Act (ITA) and these	A tax framework for S-VACC will be introduced to complement the S-VACC regulatory framework: An S-VACC will be treated as a company and a single entity for tax purposes;

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
	incentivised funds are given GST remission, which allows them to claim GST at a fixed recovery rate. Fund managers approved under the Financial Sector Incentive – Fund Management (FSI-FM) scheme can qualify for 10% concessionary tax rate on the income derived from managing an incentivised fund. MAS is studying the regulatory framework for S-VACCs to further develop and strengthen Singapore's position as a hub for both fund management and fund domiciliation. Notably, a S-VACC is a new structure designed for collective investment schemes, and will accommodate a variety of traditional and alternative asset classes and investment strategies.	Tax exemption under Sections 13R and 13X of the ITA will be extended to S-VACCs; 10% concessionary tax rate under the FSI-FM scheme will be extended to approved fund managers managing an incentivised S-VACC; and The existing GST remission for funds will be extended to incentivised S-VACCs. The conditions under the existing schemes in (2), (3) and (4) remain unchanged. The changes will take effect on or after the effective date of the S-VACC regulatory framework. MAS will release further details of the tax framework for S-VACCs by October 2018.
Enhanced-Tier Fund Scheme – catering for more diverse fund structures		
Enhance the Enhanced-Tier Fund Scheme under Section 13X of the ITA	Tax exemption under the Enhanced-Tier Fund Scheme is available for companies, trusts and limited partnerships, subject to qualifying conditions.	The Enhanced-Tier Fund Scheme will be extended to all fund vehicles constituted in all forms. Besides companies, trusts and limited partnerships, all fund vehicles will be able to qualify for the Enhanced-Tier Fund Scheme if they meet all qualifying conditions. All other conditions of the scheme remain the same. The change will take effect

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
		for new awards approved on or after February 20, 2018. MAS will release further details of the change by May 2018.
	Tax transparency for REITs EFTs	
Extend the tax transparency treatment for Singapore-listed Real Estate Investment Trusts (S-REITs) to Singapore-listed Real Estate Investment Trusts Exchange-Traded Funds (REITs ETFs)	Distributions made by S-REITs to REITs ETFs out of specified income derived by S-REITs are subject to tax at the prevailing corporate tax rate of 17% in the hands of REITs ETFs.All investors of REITs ETFs will not be taxed on the distributions made out of such income from REITs ETFs	To have parity in tax treatments between investing in individual S-REIT and via REITs ETF with investments in S-REITs, the following tax treatment will be accorded to REITs ETFs: Tax transparency treatment on the distributions received by REITs ETFs from S-REITs which are made out of the latter's specified income; Tax exemption on such REITs ETFs distributions received by individuals, excluding individuals who derive any distribution: through a partnership in Singapore; or from the carrying on of a trade, business or profession; and 10% concessionary tax rate on such REITs ETFs distributions received by qualifying non-resident non-individuals. Subject to conditions, the tax concessions for REITs ETFs will take effect on or after July 1, 2018, with a review date of March 31 2020, which is the same as that for other tax concessions for S-REITs.

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
		Application for the tax transparency treatment can be submitted to IRAS on or after April 1 2018. MAS and IRAS will release further details of the change by March 2018.
Non-credit-impaired financial instruments – ensuring stability of Singapore's financial system		
Extend the tax deduction for banks (including merchant banks) and qualifying finance companies for impairment and loss allowances made in respect of non-credit-impaired financial instruments	Under Section 14I of the ITA, banks and qualifying finance companies can claim a tax deduction for impairment losses on non-credit-impaired loans and debt securities made under Financial Reporting Standard 109, and any additional loss allowances as required under MAS Notices 612, 811 and 1005 (collectively referred to as "MAS Notices"), subject to a cap. The tax deduction under Section 14I is scheduled to lapse after YA 2019 (for banks and qualifying finance companies with December financial year end (FYE)) or YA 2020 (for banks and qualifying finance companies with non-December FYE).	The Government has extended the tax deduction under Section 14I of the ITA till YA 2024 (for banks and qualifying finance companies with December FYE) or YA 2025 (for banks and qualifying finance companies with non-December FYE). All other conditions of the scheme remain the same. MAS will release further details of the change by May 2018.
ASPV and QDS schemes – developing the structured debt market		
Extend the tax incentive scheme for Approved Special Purpose Vehicle (ASPV) engaged in asset securitisation transactions (ASPV Scheme)	The ASPV scheme grants the following tax concessions to an ASPV engaged in asset securitisation transactions: Tax exemption on income derived by an ASPV from approved asset securitisation transactions; GST recovery on its qualifying business	The ASPV scheme will be extended till December 31, 2023, with the exception of stamp duty remission in (d).The stamp duty remission in (d) will be allowed to lapse after December 31, 2018. All other conditions of the scheme remain the same. MAS will release further details of the extension by

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
	expenses at a fixed rate of 76%; WHT exemption on payments to qualifying non-residents on over-the-counter financial derivatives in connection with an asset securitisation transaction; and Remission of stamp duties on the instrument relating to transfer of assets to the ASPV for approved asset securitisation transactions. The scheme is scheduled to lapse after December 31, 2018.	May, 2018
Extend the Qualifying Debt Securities (QDS) incentive scheme and allow the Qualifying Debt Securities Plus (QDS+) incentive scheme to lapse	The QDS scheme offers the following tax concessions on qualifying income from QDS : 10% concessionary tax rate for qualifying companies and bodies of persons in Singapore; and Tax exemption for qualifying non-residents and qualifying individuals. To qualify as QDS, debt securities must be substantially arranged by financial institutions in Singapore. The QDS+ scheme grants tax exemption for all investors on qualifying income derived from QDS that are: Debt securities (excluding Singapore Government Securities) with an original maturity of at least 10 years; and Islamic debt securities or *sukuk*. The QDS and QDS+	The QDS scheme will be extended till December 31, 2023.As part of the Government regular review of tax incentives, the QDS+ scheme will be allowed to lapse after December 31, 2018. Debt securities with tenure beyond 10 years, and Islamic debt securities that are issued: After December 31, 2018, can enjoy tax concessions under the QDS scheme if the conditions of the QDS scheme are satisfied; On or before December 31, 2018, can continue to enjoy the tax concessions under the QDS+ scheme if the conditions of the QDS+ scheme are satisfied. MAS will release further details of the change by May 2018.

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
	schemes are scheduled to lapse after December 31, 2018.	
Tax exemption in SGS trading		
Extend the tax exemption on income derived by primary dealers from trading in Singapore Government Securities (SGS)	Tax exemption is granted on income derived by primary dealers from trading in SGS. The tax exemption is scheduled to lapse after December 31, 2018.	The tax exemption on income derived by primary dealers from trading in SGS will be extended till December 31, 2023.
Investment Allowance in Submarine cable systems landing – improving digital connectivity		
Extend the Investment Allowance (IA) scheme to include qualifying investment in submarine cable systems landing in Singapore	Capital expenditure incurred on submarine cable systems does not qualify for IA.	Extension of IA in respect of productive equipment to capital expenditure incurred on newly constructed strategic submarine cable systems landing in Singapore, subject to qualifying conditions. All other conditions of the IA scheme apply, except for the following which will be permitted: The submarine cable systems can be used outside Singapore; and The submarine cable systems, on which IA has been granted, can be leased out under the indefeasible rights of use arrangements. This change will take effect for capital expenditure incurred between February 20, 2018, and December 31, 2023, inclusive of both dates.
Encouraging corporate giving		
Extend the Business and IPC Partnership Scheme (BIPS), which was piloted in 2016	A qualifying person can, subject to conditions, enjoy a total of 250% tax deduction on qualifying	To continue supporting employee volunteerism through businesses, BIPS will be extended till

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
	expenditure such as wages incurred by him from July 1, 2016, to December 31, 2018, in respect of – The provision of services by his qualifying employee to an IPC during that period; or The secondment of his qualifying employee to an IPC during that period.	December 31, 2021. In addition, MOF and IRAS will review the administrative processes for BIPS based on feedback that has been received. Details of any change will be announced in the second half of 2018.
Research & Development (R&D) and Intellectual Property (IP)		
Enhance the tax deduction for qualifying expenditure on qualifying research and development (R&D) projects performed in Singapore	Businesses that have incurred qualifying expenditure on qualifying R&D projects performed in Singapore can claim the following: 150% tax deduction for staff costs and consumables incurred, and 100% tax deduction for other qualifying expenditure	The tax deduction for staff costs and consumables incurred on qualifying R&D projects performed in Singapore will increase from 150% to 250%. All other conditions of the scheme remain unchanged. This change will take effect from YA 2019 to YA 2025.
Enhance the tax deduction for costs on protecting IP	Businesses that have incurred qualifying IP registration costs can claim 100% tax deduction on such costs. The scheme is scheduled to lapse after YA 2020	A) Extension of the scheme till YA 2025; and B) Enhance the tax deduction to 200% for the first $100,000 of qualifying IP registration costs incurred for each YA. This change will take effect from YA 2019 to YA 2025.
Enhance the tax deduction for costs on IP in-licensing	Businesses that have incurred qualifying IP in-licensing costs can claim 100% tax deduction on such costs	The Government will enhance the tax deduction from 100% to 200% for the first $100,000 of qualifying IP in-licensing costs incurred for each YA. This change will take effect from YA 2019 to YA 2025. Qualifying IP in-licensing costs include payments made by a qualifying person to publicly funded research performers or other businesses, but exclude

Description of Tax Change	Current Treatment	New Treatment Announced in Budget 2018
		related party licensing payments, or payments for IP where any allowance was previously made to that person

Tax changes for Individuals

Description of Tax Change	Current Treatment	New Treatments Announced in Budget 2018
Donations		
Extend the 250% tax deduction for qualifying donations	Donors are eligible for a 250% tax deduction for qualifying donations made to Institutions of a Public Character (“IPCs”) and other qualifying recipients from January 1, 2016, to December 31, 2018.	The 250% tax deduction for qualifying donations will be extended for donations made on or before 31 December 2021. All other conditions of the scheme remain the same.
Business and IPC Partnership Scheme (BIPS)		
Extend the Business and IPC Partnership Scheme (“BIPS”), which was piloted in 2016	A qualifying person can, subject to conditions, enjoy a total of 250% tax deduction on qualifying expenditure such as wages incurred by him from July 1, 2016, to December 31, 2018, in respect of – The provision of services by his qualifying employee to an IPC during that period; or The secondment of his qualifying employee to an IPC during that period.	To continue supporting employee volunteerism through businesses, BIPS will be extended till December 31, 2021. In addition, MOF and IRAS will review the administrative processes for BIPS based on feedback that has been received. Details of any change will be announced in the second half of 2018.
Residential properties		
Raise buyer’s stamp duty on the value of residential property in excess of $1 million	Purchase of properties are currently subject to buyer’s stamp duty rates of between 1% to 3%. Details are as under: *first $180,000 – 1% *next $180,000 – 2% *amount exceeding $360,000 – 3%	The top marginal buyer’s stamp duty (BSD) rate will be raised from 3% to 4%, and applied on the value of residential property in excess of $1 million. Details as under: *no changes for the first $180,000 and the next $180,000

Description of Tax Change	Current Treatment	New Treatments Announced in Budget 2018
		*next $640,000 – 3% (revised) *amount exceeding $1 million – 4% (new) The revised rates will apply to all residential properties acquired on or after February 20, 2018. The BSD rates for non-residential properties remain unchanged at 1% to 3%.
Tobacco products		
Increase in tobacco excise duty across all tobacco products		Raise the excise duties by 10% across all tobacco products: Cigarettes and other manufactured tobacco: From $388/kg. or 38.8 cents/stick of cigarette to $427/kg. or 42.7 cents/stick of cigarette. Beedies, Ang Hoon and smokeless tobacco: From $299/kg. to $329/kg.. Unmanufactured and cut tobacco and other tobacco refuse: From $352/kg. to $388/kg. These tax changes will take effect from February 19, 2018.

Czech Republic

Pavelka (Czech Republic) – Matej Auxt

Czech Republic 2019 tax legislation changes

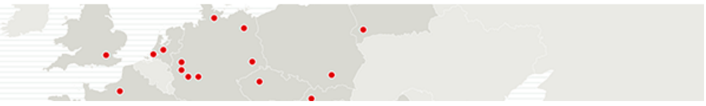
2019 tax package has become in Czech Republic a big theme for last few months. The set of tax amendments was adopted by the Government in June consisting of significant amendments to the Czech Income Tax Act, the Czech VAT Act, the Tax Code and some other tax legislation.

The big part of the 2019 tax package is connected with the transposition of the EU Anti-Tax Avoidance Directive (ATAD). The main purpose of the amendment is to prevent tax avoidance and it is mainly aimed at major corporations. The essential proposed changes include limitation on the deductibility of borrowing costs from the tax base, whereas the upper limit is set to CZK 80 million (about EUR 3 million) or 30% of EBITDA of a business corporation and it shall apply to borrowing from both related and unrelated parties. Non-deductible borrowing costs may be transferred to future tax years. The proposal also includes establishment of new tax on the relocation of property abroad without change of ownership, where the relocation leads to a change of tax residency, in these cases the relocation shall be taxed as if the property was sold, and tax on foreign companies which are controlled by a Czech entity. Not least the reporting obligation (the obligation to report to the tax administration about exempt payments to non-residents exceeding CZK 100.000, about EUR 3.800, per month) were extended on the corporations paying dividends, royalties, interests or other income which is subject to withholding tax under Czech law but is exempt from tax.

The second group of amendments affects the Czech VAT Act. The EU directive governing vouchers will be implemented, it implies the distinction between single-purpose and multi-purpose vouchers. The transfer of a single-purpose voucher shall be deemed to be a supply of goods or services, which is no longer subject to tax at the moment the voucher is used, the opposite procedure shall be applied on the multi-purpose vouchers. Newly the taxpayers shall be required to exercise reasonable effort to deliver the tax document to the customer within the tax documents issue due date, which might have positive impact on the issuers of credit notes. The credit notes may be included in VAT returns for the period in which the taxpayer dispatched it to the customer, provided that reasonable effort to deliver the credit notes has been exercised.

The amendment to the Tax Code includes an explicit prohibition of abuse of law. This principle has so far been applied on the basis of the courts' case law and it lies in dealing with situations when no proper economic reason for a transaction exists and the real reason of the transaction is to gain tax advantage in contravention with the purpose of the tax legislation.

This 2019 tax package was originally intended to go through the legislative process by the end of the year 2018, but it has only gone through second reading in the Chamber of



Deputies. In current situation it is not certain if the law will really be passed and come into force on January 1, 2019. Therefore, the date of effect will likely be shifted to later date in 2019.

Austria

Bernardini & Co (Austria) – Martin Bernardini

BERNARDINI & Co

Wirtschaftsprüfungs- und Steuerberatungsgesellschaft
Bernardini & Co Wirtschaftsprüfung GmbH
Member of EuropeFides

The main changes in tax legislation and / or other relevant legal rules that enter into force on January 1st 2019

New calculation of KU1

In principle, all members of the chambers of commerce are subject to the levy obligation. The chamber levy 1 (KU1) is only payable if the net turnover in the calendar year is more than 150,000 €.

The basis of assessment is the invoiced sales tax or sales tax transferred to the entrepreneur (reverse charge), import sales tax and acquisition tax.

As of 1.1.2019, VAT on fixed asset investments will no longer be included in the assessment base of KU 1. The regulation applies to all fixed assets and doesn't distinguish between new and used assets and also applies to low-value assets pursuant to article 13 EStG (Einkommensteuergesetz).

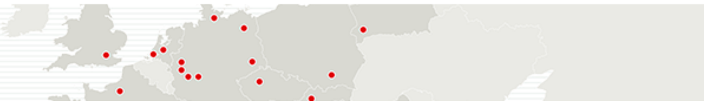
Sales tax amount for business vehicles (passenger cars, station wagons, motorcycles) that are not allocated to the company for sales tax purposes have not been included in the KU 1 assessment base and are not affected by the amendment. The sales tax on fixed assets may result from acquisition or manufacturing costs.

The second major innovation at KU1 is the reduction of the assessment rate from 0,3% up to an assessment base of € 3. Million and the introduction of a digressive graduated tariff so that the relative burden of the levy decreases with increasing assessment base.

Threshold regulation NEW for cross-border electronically supplied serviced B2C

A Threshold value will be introduced for determining the place of the performance for electronically provided other services, telecommunications, radio and television services to non-entrepreneurs.

The recipient location principle will only apply to sales above a threshold value of EUR 10,000.



Since 2015, these benefits have been taxable at the place where the beneficiary is domiciled (recipient location principle). The Mini One Stop Shop (MOSS) was introduces to facilitate the processing and avoid the registration obligation in several EU member states. It offers the possibility that Austrian companies only have to register in Austria via Fianzonline and transfer the respective taxes to the tax authorities in Austria.

These latter then forwards the tax returns and the tax amounts to the respective member state.

Family bonus plus (for whom family allowances are received)

From 1.1.2019 there will be no child allowance (440 euros if claimed by only one parent, otherwise 300 euros per parent) and deductionabiliry of childcare costs (up to 2,000 euros per year per child up to age of 10). Instead, from 1.1.2019 the “family bonus plus will apply, which does not reduce the tax base but directly the income tax or wage tax.

Family bonus plus in payroll accounting

All unlimited taxpayers with children for whom they receive family allowances will also be entitled to the Family Bonus plus (FABO-).

If an employee wishes to receive the FABO+ not only through the employee assessment, but already monthly, he must submit some documents to his employer.

The prerequisite for taking the FABO+ into account is the receipt of family allowance.

The FABO+ is a tax deduction, i.e. it directly reduce the income before deduction of all other deductions. A refund beyond the calculate income tax is not possible (“non-refundable”).

The employer has obligations in connection with the family bonus plus (consider the application, etc.).

Transport services for the carriage off goods to third countries only conditionally tax-free.

Transport services which relate directly to goods for export or to imported goods which are transported to the territory of a third country under the external transit procedure are in principle exempt from Austrian Tax.

This tax exemption applies in particular in 2 cases:

- Goods are transported from community territory to the territory of a third country by a transport undertaking and the recipient of the service is an Austrian entrepreneur established in Austria.
  According to general VAT rules, the recipient location principle is applied in this case for determining the place of performance. This means that there is a taxable but tax-free turnover in Austria.

- The other case also concerns the transactions described above, but the recipient of the service is a non-entrepreneur. The transport service is a taxable but tax-free turnover in Austria for the part of the journey covered in Austria.

In the opinion of the Austria tax authorities, the direct provision of services to the consignor or consignee of the goods was not a mandatory requirement for tax exemption.

According to a ruling of the European Court of Justice publishes in mid-2017, however, this this provision must be interpreted in such a way that directness between the service provider and the client of the service is a mandatory prerequisite for tax exemption. In the opinion of the ECJ, passing on the order to a subcontractor leads to a loss of the tax exemption between subcontractor and contractor.

If a freight forwarder has the transport service carried out by a subcontractor, e.g. by a sub-carrier, only the service provided directly to the sender or recipient of the goods can be exempted from VAT, but not the service provided by the sub-carrier to the freight forwarder. Therefore, the sub-carrier must charge the freight forwarder turnover tax, which he can claim as input tax according to the general rules. The freight forwarder can still invoice his principal without value-added tax on the basis of the tax-exempt cross-border carriage of goods.

According to the sales tax guidelines, the immediacy as of 1.1.2019 is a mandatory requirement for tax exemption.

United Kingdom (Anti avoidance)

Morrisons Solicitors LLP (United Kingdom) – Sally Hutchings

UK Anti-Avoidance Legislation

The UK government remains committed to preventing tax avoidance.

The 2019 Loan Charge - announced at Budget 2016 and introduced in the Finance Act (No 2) 2017 which takes effect from 5 April 2019 - is the latest weapon in its armoury.

The Loan Charge is aimed at users of disguised remuneration schemes. These schemes seek to avoid Income Tax and National Insurance contributions by paying scheme users their income in the form of "loans" instead of ordinary remuneration. The loans usually remain outstanding over the longer-term, or indefinitely.

As a result of the Loan Charge, **on 5 April 2019 all outstanding loans** made since 6 April 1999 **will automatically be 'deemed' to be earnings on that date** and taxpayers will be obliged to declare them to the UK tax authority, Her Majesty's Revenue and Customs (HMRC).

The potential tax charge could amount to over 60%, comprising of up to 45% income tax, 2% employees' and 13.8% employer's NIC.

HMRC believe that the Loan Charge will raise circa £3.2 billion for the Exchequer.

United Kingdom (Tax update)

WSM (United Kingdom) –

Paul Windsor, Clarissa Akakpo Gavin Stebbing and Stephen Chan

Capital Gains On Non-Resident Landlords (Paul Windsor)

New rules, known as Non-Resident Capital Gains Tax (NRCGT) will come into effect on 6th April 2019 and are, according to HMRC, 'expected to have a significant impact on businesses.

The new measure extends the scope of the UK's taxation of capital gains accruing to non-UK residents on disposals of interests in any type of UK land. So, in addition to the existing taxation of *residential* property, capital gains tax will now be levied on gains on disposals of interests in non-residential UK property.

The tax will also include non-UK residents' gains on interests in UK property rich entities, for example, shares in a company that derives 75% or more of its value from UK land. There will be options to calculate the gain or loss on a disposal using the original acquisition cost of the asset or using the value of the asset at commencement of the rules in April 2019. Both options will be available for both direct and indirect disposals.

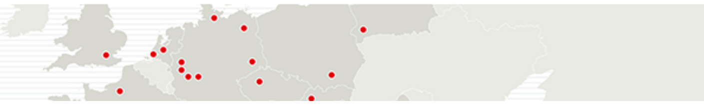
Certain reliefs have been afforded to offshore collective investment vehicles (CIVs) such as funds, JPUTs and GPUTs. The draft legislation confirms that certain income transparent, UK "property rich" offshore CIVs will be able to elect for transparency for the purpose of NRCGT and that certain widely-held overseas funds (whether currently transparent or opaque) will be able to elect for exempt treatment. Helpfully, the new legislation confirms that offshore CIVs that are partnerships will remain transparent for gains and will not, therefore, have to make such an election.

UK and offshore Real Estate Investment Trusts (REIT's) will continue to be exempt from CGT on both direct disposals of UK property and this exemption will be extended to apply to disposals of shares in UK property-rich companies held by a REIT (including an offshore REIT).

Cleansing Mixed Fund Accounts (Clarissa Akakpo)

On 6 April 2017 a major regime change came into force affecting the way that UK resident non-domiciles are taxed. The impact of the changes meant that some non-domiciled individuals became deemed domiciled on 6 April 2017.

To ease the impact of the deemed domiciled status and to encourage deemed domiciled and non-domiciled individuals to bring funds into the UK, "cleansing relief" was introduced to



enable mixed fund accounts to be segregated within a two-year window which will expire on 6 April 2019.

What is a mixed fund?

Where a single overseas bank account contains a mixture of capital, foreign income and foreign gains, this account is deemed to be tainted for tax purposes and any remittances from that bank account into the UK will fall within the ‘ordering rules’ with an unfavourable tax treatment which determines how the funds are classified for tax purposes. For example, under the mixed fund rules foreign capital gains arising from a share sale can be treated as ‘employment income’ when remitted to the UK and taxed at income tax rates of up to 45% rather than 10% or 20%.

As a result, many non-domiciled individuals who have not set up separate offshore accounts to hold different categories of overseas funds simply do not remit their overseas funds into the UK, even after they become deemed domiciled. By utilising cleansing relief non-domiciles with mixed funds will be able to separate their foreign income and foreign gains from their clean capital and then enjoy the flexibility bringing their cleansed clean capital into the UK.

The Mechanics

Broadly any non-domiciled individual, including those who became deemed-domiciled on 6 April 2017 will qualify for the relief provided that the nominated transfers are carried out correctly.

The cleansing process must be completed within the two-year window; if any transfers in relation to the overseas accounts take place outside of the cleansing window the transfer will not qualify.

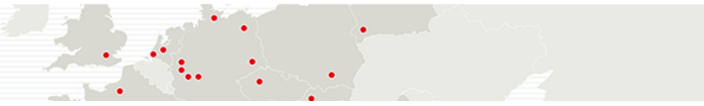
The cleansing process involves analysing the ‘mixed fund’ accounts and separating the capital, income, and gains. The analysis can be time consuming and complex as old bank account statements and financial records will be required to identify the source of the funds in each account. Fortunately, the analysis does not need to scrutinise every component of the original transaction. It is sufficient, for example, to show that the gains were derived from the sale of shares provided that the supporting information is available.

Once the funds have been identified the taxpayer is likely to need to set up additional offshore bank accounts to make the nominated transfers into the new nominated accounts. Usually this exercise will require three overseas bank accounts to segregate the capital, income and gains.

The funds need to be grouped by their class rather than the specific origin, therefore capital gains derived from property sales and security sales can be placed into the same account.

If more than one mixed fund account exists, in more than one or multiple countries, it is possible to select which accounts to cleanse; there is no requirement to cleanse all mixed fund accounts. However, any account that remains uncleansed or partially cleansed will be subject to the normal mixed fund rules.

The transfers must be ‘nominated’ this means that there must be an express intention to cleanse that account and it should be clear from the bank instructions that the transfer is a nomination. The records of how the mixed funds were segregated and how the balance was calculated should be kept for evidence in the event that the information is requested by



HMRC. HMRC does not require a formal report of the nominations made, nevertheless it is essential to keep a formal log of the nominated transfers.

Potential Pitfalls

The nominated accounts with clear capital should be then kept clean. A nominated account with clean capital can be interest bearing but it should be set up so that the interest is paid into a separate account.

If there is not enough evidence to support the class or origin of the funds the transfer will be invalid, it will be treated as income and there is a risk of invalidating all the previous or subsequent transfers into that account.

In some cases, a mixed fund account will contain funds that are classified as income in the UK and as gains in the country where they originated or vice versa. In these special cases advice would need to be sought.

Practical and Effective

The mixed fund cleansing relief is a rare opportunity to segregate mixed fund accounts and release funds that are currently kept offshore solely to avoid the unpleasant tax treatment of the ordering rules.

If you have non-domiciled status, the cleansing relief should be considered if you would like the flexibility to bring offshore funds into the UK in the future and you have the supporting records to segregate the accounts.

The cleansing analysis process is complicated so it is advisable to seek advice before taking any action.

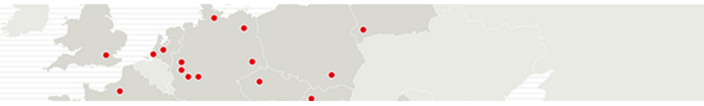
Cryptocurrency Gains are not tax free (Gavin Stebbing)

The Association of Taxation Technicians (ATT) has issued a warning to individuals who have been investing or trading in cryptoassets to make sure that any tax consequences are reported to HMRC.

While the world of cryptoassets might be virtual, with users keeping their holdings in digital wallets secured by digital keys, it is possible to make very real profits, gains or losses which should be declared to HMRC on a self-assessment tax return.

Jon Stride of the ATT's Technical Steering Group has confirmed that while the tokens themselves are not tangible, trading or investing in them can generate some very real tax liabilities which HMRC will want to know about. Individuals need to keep clear records of the different types of token that they hold. Many people believe that gains only arise when cryptoassets are exchanged for currency such as sterling which is legal tender. In fact, it is possible for a taxable gain or loss to arise when exchanging one cryptoasset for another.

An individual investing in cryptoassets who has made gains in excess of their annual exempt allowance (£11,300 for 2017/18) or disposed of more than £45,200 of assets in 2017-18, or who wants to claim an allowable capital loss is required to report their disposals on a self-assessment return. Relief is not available for a capital loss unless the loss is reported to



HMRC on a tax return (or in some cases by letter). Individuals can make a claim for capital losses up to four years after the end of the tax year of disposal.

One key issue for some individuals will be determining whether the nature of their activities means that they are trading in cryptoassets or investing in cryptoassets. Traders will be subject to income tax on any profits or losses while those investing will be subject to capital gains tax. In general, most individuals engaged in cryptoasset transactions are likely to be investors and not traders.

You may not be able to plan for Brexit but you must have a plan for MTD (Stephen Chan)

Making Tax Digital ("MTD") is more than just another set of initials for all small businesses and tax payers to get to know. MTD represents a highly significant change in how we will all be recording and returning VAT, income tax and corporation tax information to HMRC. And it starts three days after Brexit.

From 1 April 2019, all VAT registered businesses which turnover over £85,000 – sole traders, partnerships, limited companies, trusts and charities – will be required to maintain digital accounting records. For these businesses maintaining paper records will cease to meet the legal requirements in tax legislation from that date.

These businesses must use a "functional compatible software product" which links to HMRC's software platform to submit information to HMRC. The current HMRC online VAT return services will be withdrawn for those within the scope of the MTD rules.

The software requirements include:

- maintaining digital records of each individual transaction;
- ensuring those digital records are securely stored and maintained;
- producing a quarterly update to link to HMRC; and
- providing an end of period statement where applicable

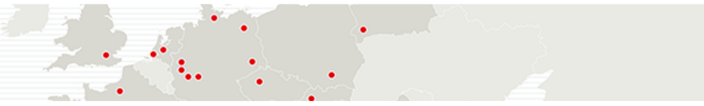
Businesses do not have to scan and store invoices and receipts digitally however the digital records must be kept which include for each transaction:

- the amount of the transaction;
- the date of the transaction; and
- the cost heading into which the transaction falls

Almost all businesses meeting the turnover criteria will come within MTD as there are very limited exceptions (available only to religious societies whose beliefs are incompatible with the requirements of MTD, to the digitally excluded or to those subject to an insolvency procedure).

And MTD for VAT is only the first stage in digital tax recording.

From April 2020, the Treasury currently propose introducing MTD for income tax and corporation tax. Details have yet to be provided however MTD is likely to be applied to all sources of income from self-employment and property income and HMRC have suggested only those with a turnover below £10,000 would be exempt from MTD.



So whilst the politicians work out how to implement Brexit, small businesses and all taxpayers will need to be working out how to implement MTD.

Profit Fragmentation Arrangements (Clarissa Akakpo)

The profit fragmentation rules were first announced in the 2017 Budget and included in the Finance Bill 2018-19 which was published on 7 November 2018. This new anti-avoidance measure targets UK resident traders who put arrangements in place to divert UK related business profits to an overseas entity in which they have the right to enjoy the income arising to the overseas entity.

Fragmentation of a UK Trade

In real life situations, profit fragmentation arrangements do not always look like a typical tax evasion scheme. For example, Alan is a UK resident software programmer who works as a contractor for UK and overseas clients providing software programming services from his UK base. Alan will attribute some of his business profits to his UK business which will be taxed in the UK. Alan arranges for his overseas clients to be invoiced so that the income will be paid directly to the bank account of an overseas company that is owned by an overseas trust, of which Alan is a beneficiary. The receipts that are paid overseas are not declared as part of his business profits and are either not taxed in the territory where the overseas company is based or is subject to a significantly lower marginal rate of tax compared to the UK tax rate.

The offshore company does not have the operational capacity or resources to provide the programming services that it is receiving payment for. In fact, the services are being provided solely by Alan who is UK resident and carries out all his programming services in UK. In addition, the overseas company invoices Alan for administration services which he treats as an expense of his UK trade.

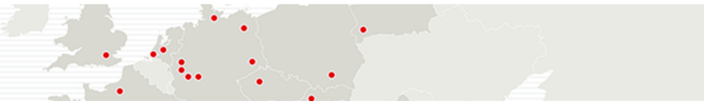
The above arrangement shows how a profit fragmentation arrangement can be used to artificially divert UK business profits out of the UK in a two-fold manner. Firstly, there is a diversion of profits that are attributable to a UK trade that are paid to an overseas entity and secondly, there is a deduction of an artificial trading expense that Alan uses to reduce his taxable business profits in the UK.

The above example would apply to a company or UK contractor who operates using a personal service company, is self-employed or is a member of a partnership.

Transfer Pricing for all!

There are various provisions currently in force applicable to business profits arising from a UK trade; in principle all profits arising to a UK resident wherever the activity is carried out is taxable in the UK. Additionally, the Transfer of Assets Abroad provisions allow HMRC to charge income tax on a UK resident person who has the power to enjoy income that has arisen from a transaction that has take place outside of the UK. However, HMRC has found that the current rules are not sufficient to capture the more sophisticated arrangements that are put in place to divert business profits out of the UK.

The profit fragmentation rules are not a new concept and they currently exist in the extensive legislation targeting avoidance structures used by large multination companies such as Diverted Profit Tax, Controlled Foreign Companies, Transfer Pricing rules and Hybrid



Mismatches regimes. The challenge with the existing avoidance legislation is that the various regimes all include either a SME or low profit exemption that will apply to small traders.

Significantly, unlike the existing profit fragmentation legislation the new rules not only apply to SME's they will also apply to sole traders and members of partnerships.

The Conditions

Business arrangements will be profit fragmentation arrangements if the following conditions are met:

1. An arrangement has been put in place between a UK resident trader and an overseas party;
2. As a result of the arrangement the overseas entity will receive business profits directly or indirectly derived from a UK business activity which would be subject to either income tax or corporation tax;
3. The value transferred is greater than the price that would have been put in place between two independent parties at arms-length; and
4. The UK resident trader has the power to enjoy the value transferred to the overseas entity.

Where a business arrangement meets the above conditions, HMRC will adjust the UK business profits by attributing the profits that have been diverted to the overseas entity to the UK business. Where tax has already been paid on the profits by the overseas entity, double tax credit relief will be available.

The Reasonableness Test

The general exemption to the profit fragmentation rules is a reasonableness test which is defined as:

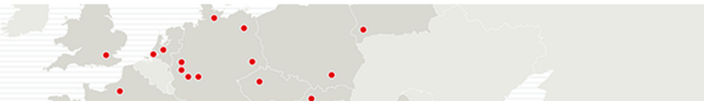
'it is not reasonable to conclude that the main purpose, or one of the main purposes, for which the arrangements were entered into was to obtain a tax advantage."

Reasonableness is not defined in the legislation which gives both the taxpayer and HMRC the scope to argue on what is considered 'reasonable' in each situation. As the exception is very broad the UK traders who will potentially be within the scope of the profit fragmentation rules are in an uncertain position on whether they will meet the test of reasonableness. It is, however, expected that when the Finance Bill 2018-19 comes into force HMRC will release their guidance on profit fragmentation and the parameters of the reasonableness test will be clearly defined.

Commencement

The new rules will apply to transactions that take place from 1 April 2019 for corporation tax and 6 April 2019 for income tax. Business owners and sole traders should review their arrangements between now and April and consider if their transfer pricing arrangements are compliant with UK transfer pricing legislation.

From April 2019 business owners, traders and their advisors will need to increase their awareness of profit diversion, arms-length pricing and transfer pricing rules to avoid falling foul of the new provisions.



Germany

BDP Bormann, Demant & Partner (Germany) – Michael Bormann

Tax Changes in Germany 2019:

Increasing allowances and lump sums

The **basic tax-free allowance** of will increase from € 9,000 per person or € 18,000 for married couples to € 9,168 and € 18,336 respectively.

The income threshold for the **maximum tax rate** of 42%, which was previously applicable to income exceeding € 54,950 per person or € 109,900 for married couples, has been raised and will now only be applicable to income upwards from € 55,961 or € 111,922 respectively.

As of 01.07.2019, **child benefits** will increase to 204 Euro monthly for the 1st and 2nd child (previously 194 Euro), 210 Euro for the 3rd child (previously 200 Euro) and 235 Euro from the 4th child onwards (previously 225 Euro).

The **long-term care insurance contribution** will increase from 2.55% to 3.05%; and from 3.05% to 3.30% for insured persons without children. The contribution to unemployment insurance, on the other hand, will be reduced from 3.00% to 2.50%.

Non-monetary remuneration values in 2019 for payroll tax and social insurance

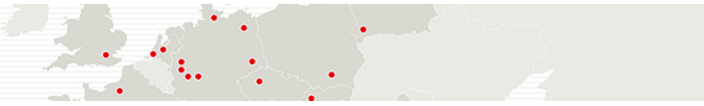
If employees receive benefits in kind from their employer (e.g .free accommodation or canteen meals), these benefits will be subject to income tax as monetary benefits and also to social security on a regular basis. The amount of the benefits in kind is set out in the Social Security Fee Ordinance (Sozialversicherungsentgeltverordnung).

The value for free meals consists of the meals breakfast, lunch and dinner. The individual or monthly amounts for 2019 respectively amount to:

Breakfast: 1.77 Euro or 53 Euro, Lunch: 3.30 Euro or 99 Euro, Dinner: 3.30 Euro or 99 Euro and full board 8.37 Euro or 251 Euro.

If free or reduced meals (lunch or dinner) are delivered to employees in a canteen, restaurant or similar facility run by the employer, 3.30 euros per meal are to be charged; this also applies regularly to meals which provided to the employee by the employer during temporary external activity of a maximum of 8 hours duration.

The reference value in kind is also decisive if the employer provides restaurant vouchers (so called “Restaurantschecks”) with a value that is up to 3.10 Euro higher than the rate for free



meals – i.e. up to an amount of 6.40 euros per meal daily for 2019 – which can be redeemed in restaurants.

Incentives for electric company cars and service bicycles

When purchasing or leasing an electric car or hybrid electric car within in the period 1.01.2019 - 31.12.2021, the gross list price for private use will be halved to 50%. With a gross list price of 60,000.00 Euro, the amount of 300.00 Euro (1%) will need to be taxed monthly as a non-cash consideration instead of Euro 600.00. If the private use of the car is determined by a driver’s logbook, the depreciation / leasing costs are halved for the determination. Unfortunately, until now, there is no identical legal regulation for value added tax. Whether the halving also applies to sales tax, is still open.

Additional tax-free employer benefits: company bicycle and job ticket

A change in the law envisages several improvements in benefits related to the employee's journeys from the home to the workplace (first place of employment) or for private journeys:

As of 1 January 2019, additional allowances by the employer will be exempt from income tax and social insurance contributions if they are paid in addition to the wages owed anyway for journeys by public transport in scheduled services and in public local transport. The same applies to the free or discounted use of public transport in scheduled services (so-called job tickets). These tax-free benefits reduce the deductible commuting allowance.

The employer still has the option for lump-sum consolidation of 15% for benefits in kind that are related to the transport of the employee between home and first place of work or for allowances to the corresponding expenses of the employee (§ 40 para 2 EStG). In the future, this regulation will continue to have significance for the use of non-public transport.

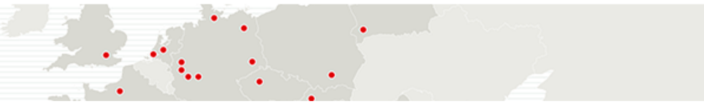
From 2019 up to and including 2021, the benefits granted to the already payable salary by the employer for the provision of a company bicycle will also be exempt from payroll tax and social insurance. This also includes so-called e-bikes, for which registration and insurance are not compulsory (with engine assistance up to 25 km / h); e-bikes for which registration is required are excluded from this tax exemption.

Health promotion by employers

The tax exemption of 500 Euro per year for health promotion is now linked to a certification of these measures. For uncertified measures that have already been initiated in 2018, the certification requirement will only apply from 2020 onwards.

Loss deduction limit for capital companies

The Federal Constitutional Court has ruled that the regulation for the partial loss of the loss carry-forward is unconstitutional in the case of a share transfers of more than 25% to 50% that are completed until the end of 2015. The German legislature was requested to adopt a new regulation by the end of 2018. The legislator is now retroactively abolishing this rule.



However, the regulation concerning the transfer of shares of more than 50% and from 2016 onwards is still disputed, while a decision by the Federal Constitutional Court in Karlsruhe is awaited. Furthermore, contrary to the decision of the EU Commission, the ECJ ruled that the restructuring clause to receive the losses does not constitute inadmissible aid. The legislator can now put this regulation back into force.

5% special depreciation for construction of rental housing and "Baukindergeld"

There is a shortage in rental housing all over Germany. In order to stimulate the building activity, the legislator has taken two new measures.

For rented residential buildings with a building application / construction notification that has been filed between 31.08.2018 to 01.01.2022, a special depreciation of 5% per year will apply for the first 4 years after completion in addition to the normal linear depreciation. Thus, you can reach a depreciation of 28% over the span of 4 years. The prerequisite is that the construction costs per square meter do not exceed 3,000 Euro and that the apartments are rented for residential purposes for 10 years. The calculation base are the acquisition or production costs up to a maximum of 2,000 Euro.

For the acquisition or production of an owner-occupied dwelling or a house with purchase or construction permit from 1.01.2018, a "Baukindergeld" (government grant scheme to support families building houses) of 1,200 Euro is paid for each child in the household, for which child benefit is paid, over the span of 10 year (total of € 12,000 per child). Prerequisite is that the household income does not exceed 90,000 Euro plus 15,000 Euro per child. The income of the second and third year preceding the year of application is used as a basis for calculation. Any children born after the application are not considered.

VAT treatment of gift certificates

An EU-wide uniform regulation for gift certificates will apply from 2019 onwards. A distinction will now be made single-purpose voucher and a multi-purpose voucher. If the issue of the voucher already determines which goods and services can be paid, it is referred to as a single-purpose voucher. "Single-purpose voucher" refers to those cases where it is clear which goods and services can be purchased with the voucher when it is issued. The issuing of the voucher therefore is already considered to be a service and thus generates the VAT. The term "multi-purpose voucher" refers to cases where the product or service is not yet determined at issue, e.g. if goods can be purchased for 7% or 19% VAT. In this case, the sales tax arises only once the voucher is redeemed.

This also has an effect on non-payment. If a single-purpose voucher not redeemed, the sales tax remains. There is no correction. A multi-purpose voucher does not generate sales tax. The voucher issuer has the additional proceeds in the amount of value added tax.

Liability for internet marketplace sales

When trading on Internet marketplaces such as e.g. eBay, Amazon and others, the tax authorities suspect that mainly traders from third countries do not fulfill their VAT obligations. Since it is not possible to get hold of these dealers from Germany, the operator of the market

place will be obligated to record various data of the dealer and the turnover starting from 01.01.2019. A duty to record consists of a new certificate, which the dealer receives from the German tax authorities. If the operator can not provide this certificate, he is liable for unclaimed sales tax.