國際租稅要聞

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Welcome

近幾年來國際租稅的環境劇烈變遷，跨國企業要掌握不斷變化的國際租稅議題與趨勢，是一項重大挑戰。資誠每月出版《國際租稅要聞》，提供專論，並整理 PwC Global Network 專家的觀點，提供全球稅務新知及分析發展趨勢。

我們希望本刊物對您有所幫助，並期待您的評論。

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專論
德國對利息扣除限制實施重大改變

摘要

2024年3月22日，德國聯邦參議院通過成長機會法案(Growth Opportunities Act)，針對特定投資給予補助，同時對國內外稅法進行調整。以下內容將著重在利息扣除限制規定以及德國最低稅負規定的變動。

法案包含以下重要變動，跨國集團應根據新的規定重新評估相關的融資和集團結構：

- 修改針對關係企業間融資常規價格的規定，修改後的規定將在2024納稅年度開始適用。
- 2024至2027納稅年度將適用擴大後的最低稅負虧損扣抵規定，總收入在1百萬歐元以下的部分，虧損扣抵的金額不受限制，總收入超過1百萬歐元的部分可以扣抵70%。

詳細內容

關係企業間融資的合理價格訂定更嚴格的規定

法案限制跨國集團內跨境融資利息費用的扣除金額，規定融資利率必須在集團利率範圍內(超過集團利率被認為不符合常規交易原則)。法案引入三個主要的規定：

- 集團評級方法(Group rating approach)：集團利率是指一個集團根據集團信用評級(而不是單獨評級)可以從第三方進行融資的利率。如果利率超過集團利率但可以證明符合常規交易原則，則納稅人仍有機會提出反駁。
- 債務能力分析(Debt capacity analyses)：法案規定納稅人必須證明在整個融資期間有足夠償還債務(包括利息和本金)的能力，同時也需要證明這項融資在經濟上是必要的且是用使用在公司業務需求。如果納稅人無法證明符合這兩項要求，將導致不能扣除利息費用。
- 成本加成利潤：法案假定跨國集團內部的借貸是一項低功能和低風險的服務，只能透過成本加成法來獲得報酬。如果公司協助集團內一家或多家公司承擔管理財務資源的活動，例如流動性管理、財務風險管理、匯率風險管理或充當融資公司，也適用透過成本加成法來獲得報酬的規定。

觀察：即使貸款人是一家具有相當融資實質的公司，納稅人也無法避免利息費用扣除限制，不過非跨國的集團則不受法案的影響。法案引入的規定沒有限制租稅協定的適用，所以相互協議程序仍然可以進行。

專論
德國對利息扣除限制實施重大改變

擴大最低稅負規定

從2024年到2027年的四年期間，針對總收入在1百萬歐元以下的部分，虧損扣抵的金額不受限制，總收入超過1百萬歐元的部分，則可以扣抵超過部分的70% (目前為60%)。這項規定僅適用在所得稅(包含個人與營利事業)，針對交易稅的最低稅負規定沒有進行修訂，所以所得稅與交易稅對虧損扣抵的利用將產生不一致的情況。

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專論
非歐盟企業可能有權申請部分義大利股利扣繳稅款退稅

摘要

義大利企業分配股利給非歐盟企業時須課徵26%扣繳稅。如果適用租稅協定，扣繳稅率可能會降低。根據義大利簽訂的大多數租稅協定，扣繳稅率會降低到5%到15%。義大利企業分配股利給義大利企業股東的有效稅率是1.2%，分配給非歐盟企業適用的扣繳稅率較高（扣繳稅率落在5%到26%）；較高的扣繳稅率可能會限制資本自由流動。

歐洲法院（European Court of Justice, ECJ）曾針對分配股利給歐盟企業適用的扣繳稅率進行審查。這讓義大利政府在2009年將需繳納企業所得稅(Euro ritenuta)的歐盟企業股利扣繳稅率降到1.2%。雖然目前沒有關於義大利的具體案例，但歐洲法院已對類似案件作出裁決，認為向非歐盟納稅義務人支付的股利徵收較高的扣繳稅率違反資本自由流動的原則。

為什麼這個議題重要

納稅義務人可能有機會針對股利扣繳稅超過1.2%的部分提出退稅申請。雖然退稅申請的處理時間可能會因為申請結果和法院的處理方式不同，但這可能是一個不需要承擔罰則或制裁風險的節稅機會。

需要考慮的作法

納稅義務人應考慮進行事實分析，以確定具體情況是否能適用1.2%的扣繳稅率，這包括評估非歐盟企業的經濟實質（也就是必須不是人為安排），以及租稅協定的減免如何適用。

詳述

非歐盟企業1.2%扣繳稅率的適用性

根據歐洲法院曾應用某些非歐盟退休基金原則的案例，目前義大利企業支付給非歐盟企業的股利扣繳稅率落在5%至26%可能違反歐盟法律，並且可能適用降低到1.2%扣繳稅率。

專論
非歐盟企業可能有權申請部分義大利股利扣繳稅款退稅

罰則

如果義大利分配股利的企業直接使用1.2%的扣繳稅率，那麼義大利分配股利的企業和非歐盟企業都可能面臨查核風險。在這種情況下，罰款是漏繳稅額的110%（在最壞的情況下是26%減1.2%）加上滯納利息。另外，也將面臨刑罰。

納稅義務人可以選擇先支付全部的扣繳稅額並提交退稅申請。雖然這個過程可能很漫長，但納稅義務人不會面臨罰則（或利息）的風險。

退稅申請

非歐盟企業（以及義大利分配股利的企業）如果被課徵高於1.2%的扣繳稅，可以提交退稅申請。如果義大利稅局拒絕退稅（直接拒絕或不回應），非歐盟企業可以向管轄法院提起上訴。

時程

非歐盟企業必須在支付扣繳稅額後的48個月內提交退稅申請。

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要聞

Legislation
立法

澳洲
澳洲通過跨國公司稅改

參議院/議會通過了2023年財政法修正案(讓跨國公司支付其公平份額 - 誠信和透明度)，其中包含了對澳洲資本弱化制度下限制利息扣除的改革。這使得以下措施可以被實施：

- **子公司資訊揭露新規則**：澳洲公開公司(public company，上市和非上市)應在年度財務報告中揭露子公司資訊，自2023年7月1日或之後開始的財政年度生效
- **新的資本弱化規則**：適用於2023年7月1日或之後開始的所得年度
- **債務扣除創建規則**(Debt Deduction Creation Rules)：適用於2024年7月1日或之後開始的所得年度。

資誠觀點

許多納稅義務人已經度過了資本弱化稅改的第一個年度中的九個月。隨著規則的最終確定，尚未評估該規則影響的納稅義務人應立即進行評估。這類評估應包括：

- 檢視資本架構，並模擬稅改對稅務狀況的影響
- 考慮是否符合集團比率測試或第三方債務測試的資格；如果符合條件，請了解這些測試下的不同結果
- 維護移轉訂價文檔，以確認利率和跨境借款金額均符合常規交易原則，以及
- 確保已知會主要利害關係人。

Australia
Australia passes multinational law reforms

The Treasury Laws Amendment (Making Multinationals Pay Their Fair Share - Integrity and Transparency) Bill 2023 - which contains reforms to limit interest deductions under Australia's thin capitalisation regime - passed the Senate/Parliament with amendments. This clears the way for the following measures to apply:

- new rules on the disclosure of information about subsidiaries by Australian public companies (listed and unlisted) in their annual financial reports, effective for financial years commencing on or after 1 July 2023
- new thin capitalisation rules, applicable to income years commencing on or after 1 July 2023
- debt deduction creation rules, applicable to income years commencing on or after 1 July 2024.

PwC observation:

Many taxpayers were already nine months into the first year of these thin capitalisation changes. With the form of the rules finally confirmed, taxpayers who have not yet assessed the rules' impact should do so without further delay. Such assessment should include:

- review the capital structure and model the impact of the changes on the tax position
- consider eligibility for the group ratio test or third-party debt test; if eligible, understand the different outcomes under these tests
- maintain transfer pricing documentation to confirm that both the interest rate and the quantum of cross-border borrowings are arm's length, and
- ensure key stakeholders have been briefed.

澳洲
澳洲對支柱二立法草案的回應

為了落實OECD/G20因應經濟數位化帶來租稅挑戰的雙支柱解決方案的回應，澳洲財政部發布了以下徵詢意見稿：

- 主要法規徵詢意見稿，其中包括徵收應付稅款的徵稅立法草案；確定稅務義務和架構的評估立法草案；以及相應的修正立法草案，其中包含全球和國內最低稅負制實施所需的相應和雜項條款。
- 次級法規徵詢意見稿，其中包括實施跨國補充稅國內架構的規則，包括具體計算。

根據所得涵蓋原則(IIR)和國內最低稅負制(DMT)徵收補充稅，擬適用於2024年1月1日或之後開始的財政年度；而根據徵稅不足之支出原則(UTPR)徵收補充稅，擬適用於2025年1月1日或之後開始的財政年度。

一份關於與外國所得稅抵免、外國混合實體規則、混合錯配規則和受控外國公司(CFC)規則的相互作用的文件也已發布，以便徵詢意見。

針對主要法規和徵詢意見稿提交意見的截止日期為2024年4月16日，針對次級法規的意見提交截止日期為2024年5月16日。

資誠觀點

澳洲引入全球和國內最低稅負制，是適用於跨國企業集團稅制的又一個重大發展。由於這些規則已經對一些納稅義務人生效，在最低稅負制的適用範圍內的跨國企業集團必須考慮該立法草案的影響，確定立法草案對集團的具體影響，並積極向財政部就最終法規的制定提供回饋意見。

Australia
Australia's Pillar Two draft legislation response

To give effect to Australia's response to the OECD/G20 two-pillar solution to address the tax challenges arising from digitalisation of the economy, Treasury released the following for comment:

- Exposure draft for primary legislation, which includes an Imposition Bill to impose the tax payable; an Assessment Bill to establish the liability and framework for the taxes; and a Consequential Amendments Bill, which contains consequential and miscellaneous provisions necessary for the administration of the global and domestic minimum taxes.
- Exposure draft for subordinate legislation, which includes the rules to implement the domestic framework for a multinational Top-up Tax including the specific computations.

The imposition of a Top-up Tax under the Income Inclusion Rule (IIR) and a Domestic Minimum Tax (DMT) is proposed to apply to fiscal years commencing on or after 1 January 2024, while the imposition of a Top-up Tax under the Undertaxed Profits Rule (UTPR) is proposed to apply from fiscal years commencing on or after 1 January 2025.

A discussion paper regarding the interactions with foreign income tax offsets, foreign hybrid entity, hybrid mismatch rules and controlled foreign company (CFC) rules was also released for comment.

Submissions on the exposure draft primary legislation and consultation paper closed 16 April 2024, while submissions on the exposure draft subordinate legislation close 16 May 2024.

PwC observation:

Australia's introduction of a global and domestic minimum tax regime represents yet another significant development in the taxation laws applying to MNE groups. With the rules already in effect for some taxpayers, it is imperative that MNE groups that are within the scope of the regime consider the impact of the exposure draft legislation, determine the impact on their group and actively engage in consultation with the Treasury on the design of the final legislation.

比利時
比利時修正投資扣除和創新所得扣除制度的立法草案

一項立法草案於2024年2月29日提交，除其他事項外，立法草案涉及投資扣除制度。該立法草案的初稿中對投資扣除的擬議修正，在比利時政府提交給議會的立法草案中基本上得到了保留。以下項目在初稿的基礎上進行了調整：

- 新制度，以及與 (部分)專業扣繳稅豁免制度相關的修正，用於確定投資扣除基礎，將適用於自2025年1月1日起進行的投資。
- 增加的「主題性(thematic)」投資扣除額不適用於陷入困境的公司，或在執委會(Commission)決定宣布比利時提供的援助非法且與內部市場不相容後，追回命令(recovery order)尚未完成的公司。
- 另外，增加的主題性扣除額只能適用於未請求區域援助(regional aid)的固定資產(例外情況由國王決定)。

2024年3月22日提出了多項修正案，其中包括各種租稅規定(包括對投資扣除制度的擬議修正)以及與多項與創新所得扣除(innovation income deduction, IID)制度相關的修正案。

根據立法草案，納稅義務人可以選擇不將部分或全部IID(包括當年的IID和之前年度遞延的金額)抵減稅基，而是將其轉換為創新所得的不可退還的稅額抵減。創新所得的稅額抵減可以無限期遞延至後期，並可以用於抵減之後應稅期間的企業所得稅。納稅義務人可在每個應稅期間選擇是否適用這個稅額抵減。這個選擇將於2025課稅年度生效。

資誠觀點

自從比利時導入GloBE/支柱二規則以來，這一點尤其重要。由於立法草案提出的修正，公司將可選擇自願增加當期的稅額，從而提高有效稅率(ETR)，並隨後將未用完的IID作為不可退還的稅額抵減遞延至後期。如果給定應稅期間的ETR超過15%，則可以利用創新所得的稅額抵減來相應地降低ETR。

Belgium

Belgian draft law amending the investment deduction and innovation income deduction regime

A draft law was submitted on 29 February 2024 covering (amongst other items) the investment deduction regime. The proposed changes to the investment deduction included in the preliminary draft law have largely been retained in the draft law submitted by the Belgian Government to parliament (see also our newsflash of 14 November 2023). The following items were adjusted from the preliminary draft:

- The new regime, as well as the correction related to the (partial) professional withholding tax exemption regime to determine the investment deduction basis would apply to investments made as of 1 January 2025.
- The increased 'thematic' investment deduction would not apply to companies in difficulty or by a company for which a recovery order is outstanding following a Commission decision declaring aid granted by Belgium unlawful and incompatible with the internal market.
- Moreover, the increased thematic deduction could only be applied to fixed assets for which no regional aid is requested (exceptions to be determined by the King).

A number of amendments were proposed on 22 March 2024, containing various tax provisions (including the proposed changes to the investment deduction regime), and several amendments related to the innovation income deduction (IID) regime.

According to the draft law, taxpayers would have the option not to offset part or the full amount of the IID (both the IID of the year itself and the amount carried forward) against the taxable basis, but to convert it into a non-refundable tax credit for innovation income. The tax credit for innovation income could be carried forward indefinitely and could be offset against corporate income tax of (one of) the following taxable periods. Taxpayers would have the choice for each tax period whether to apply this tax credit. This option would enter into force for the 2025 assessment year.

PwC observation:

This is particularly relevant since Belgium introduced the GloBE / Pillar Two rules. As a result of this modification proposed by the draft law, companies would have the option to voluntarily increase their current tax, thereby raising their ETR, and subsequently carry forward any remaining unused portion of the IID as a non-refundable credit. If the ETR for a given taxable period exceeds 15%, the tax credit for innovation income could be utilized to reduce the ETR accordingly.

加拿大
24 聯邦預算

2024年4月16日，加拿大聯邦政府公布 2024年預算。

資本利得納入率(inclusion rate)提高：2024年預算建議將2024年6月24日之後公司和信託處分的資本利得納入率從1/2提高到2/3。對個人而言， 2024年6月24日之後實現的資本利得年度超過25萬美元門檻的部分，資本利得納入率僅提高至2/3。

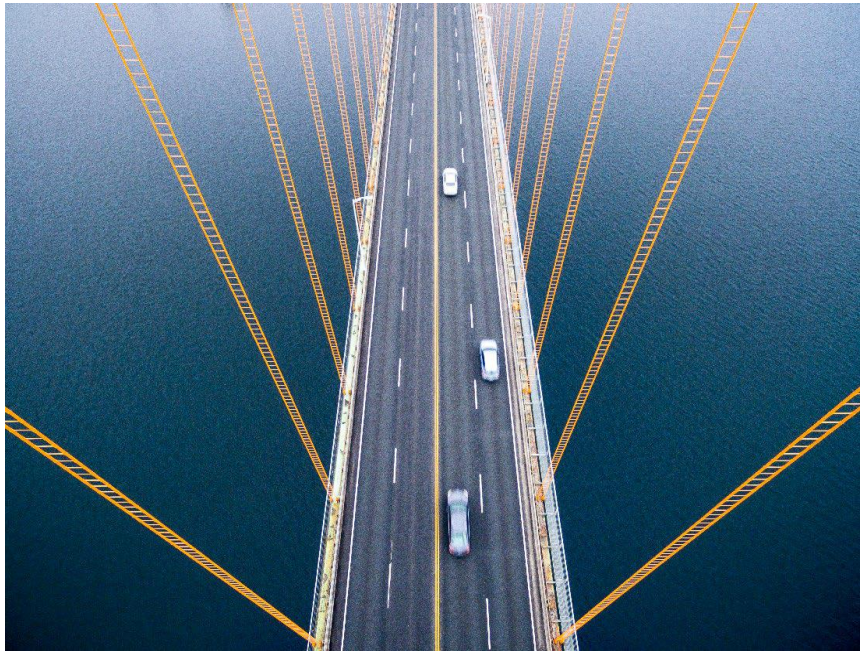
對非居民服務提供的扣繳稅減免：目前，向在加拿大提供服務的非居民支付費用的個人必須扣繳15%的稅款，並繳納給加拿大稅務局(CRA)。其目的是作為非居民最終可能在加拿大欠下的稅款的預繳。某些非居民提供服務無需繳納加拿大稅，例如，由於租稅協定的豁免或國際航運等特定活動的豁免。在這種情況下，CRA可能給予預先豁免特定交易的扣繳稅義務，或者非居民可以申請退還已扣繳的稅款。2024年預算提議賦予CRA立法權力，在滿足特定條件的情況下，授予特定涵蓋時間內發生的多項交易的單一豁免。該措施將在頒布立法獲得皇室同意後生效。

支柱一/數位服務稅(DST)：預算重申了加拿大的承諾，只要有足夠數量的國家願意參與，支柱一就會生效。同時，加拿大正在推動頒布數位服務稅的計畫。DST將於2024年開始生效，第一年涵蓋自2022年1月1日起賺取的應稅所得。

資誠觀點

由於擬議提高資本利得納入率，預計在不久的將來處分資本財產的加拿大納稅義務人應考慮在2024年6月24日之前實現資本利得。

2024年預算確認，政府將繼續實施先前宣布的幾項措施，包括現代化一般反避稅規則、全球最低稅負制(支柱二)以及解決混合錯配安排的立法修正案。跨國集團應繼續關注加拿大即將發布的與這些措施有關的立法。



Canada
24 Federal Budget

The Canadian Federal Government released the budget (the 2024 Budget) for the coming year on April 16, 2024. The significant proposals include:

Increased capital gains inclusion rate: The 2024 budget proposes to increase the capital gains inclusion rate from 1/2 to 2/3 for dispositions after 24 June 2024 for corporations and trusts. For individuals, the capital gains inclusion rate is only increased to 2/3 for the portion of capital gains realized after 24 June 2024 in excess of an annual $250,000 threshold.

Relief from withholding for non-resident services performed: A person who makes a payment to a non-resident for services rendered in Canada is currently required to withhold 15% of the payment and remit that amount to the Canada Revenue Agency (CRA). This is intended to serve as a prepayment of tax that the non-resident may ultimately owe in Canada. Certain non-residents do not owe Canadian tax for these services, e.g., due to exemptions in tax treaties, or exemptions for specific activities like international shipping. In these circumstances, the CRA may provide an advance waiver from the withholding obligation for specific transactions, or the non-residents may apply for refunds of amounts that have already been withheld. The 2024 budget proposes to give the CRA legislative authority to grant single waivers that cover multiple transactions occurring over a specific time period, where certain conditions are satisfied. This measure will take effect upon royal assent of the enacting legislation.

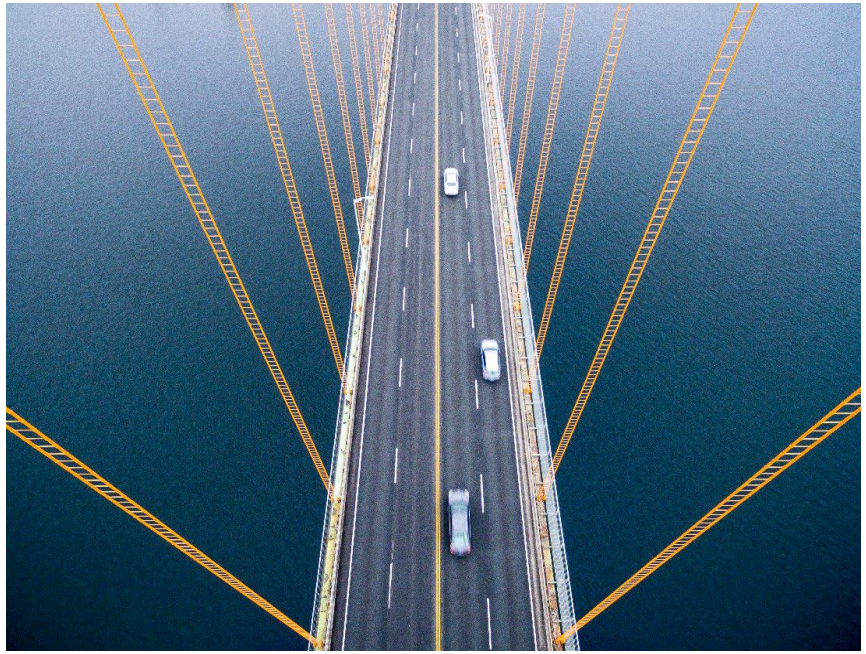
Pillar One / Digital Services Tax: The budget reaffirms Canada's commitment to bringing Pillar One into effect as soon as a critical mass of countries is willing to participate. In the meantime, Canada is moving ahead with its plan to enact the Digital Services Tax (DST). The DST will take effect beginning in calendar year 2024, with the first year covering taxable revenues earned since 1 January 2022.

For more information on the proposals, see our Tax Insights - 2024 Federal Budget analysis. For a discussion of the DST, see our Tax Insights - Digital Services Tax: One step closer to becoming a reality.

PwC observation:

As a result of the proposed increase in the capital gains inclusion rate, Canadian taxpayers that are expected to dispose of capital property in the near future should consider triggering a capital gain before 24 June 2024.

The 2024 Budget confirmed that the government will proceed with several previously announced measures including modernizing the General Anti-Avoidance Rule, the global minimum tax (Pillar Two), and legislative amendments to address hybrid mismatch arrangements. Multinational Groups should continue to monitor upcoming legislative releases in Canada on these measures.



香港
香港發布專利盒稅務優惠

在2023年9月進行為期一個月的公眾徵詢意見後，「2024年稅務(修訂)(知識產權收入稅務寬減)條例草案 」(以下簡稱條例草案)於2024年3月28日刊登在憲報，以實施備受期待的專利盒機制。這是緊隨著2024/25財政預算案宣布的各項相關措施，旨在使得香港成為更具吸引力的研發和智慧財產權(知識產權)交易(買賣和授權)活動地。

條例草案提出了專利盒機制的擬議設計，自2023/24課稅年度起，對源自香港並透過研發活動開發的符合資格的智慧財產權所產生的符合資格的智慧財產權所得實施5%的優惠稅率(特惠稅率)。

香港政府也採納了以下關鍵建議：

- 將優惠稅率設定為5%；和
- 擴大符合資格的智慧財產權所得的範圍，以涵蓋與符合資格智慧財產權相關的保險、損害賠償或補償。

雖然其他建議沒有被採納，但引入專利盒機制代表著香港為推動研發成果商業化，增強稅務競爭力邁出的積極一步。

資誠觀點

總體而言，擬議的專利盒機制旨在鼓勵公司在香港進行研發業務和專利商業化活動。該機制的設計在遵守OECD關聯方法限制條件的同時，也盡可能廣泛。

受益於專利盒機制的納稅義務人應評估其是否能夠滿足所有相關條件，考慮其智慧財產權註冊策略，評估其符合資格的智慧財產權所得和支出水平，並確保備妥足夠的相關記錄。

Hong Kong
Hong Kong introduces patent box tax incentive

The Inland Revenue (Amendment) (Tax Concessions for Intellectual Property Income) Bill 2024, which implements Hong Kong's highly anticipated patent box regime, was gazetted on 28 March 2024, following a one-month consultation conducted in September 2023. This comes on the heels of the various initiatives announced in the 2024/25 Budget intended to make Hong Kong a more attractive location for R&D and intellectual property (IP) trading (buying/selling and licensing) activities.

The Bill sets out the proposed design of the patent box regime and implements a concessionary tax rate of 5% for eligible IP income that is sourced in Hong Kong and derived from eligible IP developed through R&D activities effective beginning in the 2023/24 assessment year.

The government also adopted the following key recommendations:

- Setting the concessionary tax rate at 5%; and
- Expanding the scope of eligible IP income to cover insurance, damages, or compensation derived in relation to eligible IP.

While other suggestions were not implemented, the introduction of the patent box represents a positive step towards bolstering Hong Kong's tax competitiveness in the context of R&D commercialization decisions. For more information see our PwC Tax Alert.

PwC observation:

Overall, the proposed patent box regime aims to incentivize companies to base their R&D operations and patent commercialization activities in Hong Kong. Equally, the regime was designed broadly while adhering to the constraints of the OECD's nexus approach.

Taxpayers wishing to benefit from the patent box regime should evaluate whether they will be able to meet all the relevant conditions, consider their IP registration strategy, assess their level of eligible IP income and eligible IP expenditure, and ensure that relevant records are in place.

立陶宛
支柱二的更新

一項針對「企業責任法」潛在修正的提案已在議會登記，該提案涉及營收超過7.5億歐元的大型跨國企業有義務準備一份額外的、公開的企業所得稅報告。然而，稅務機關和財政部都沒有公布任何有關最低稅負制或任何稅改的資訊。

資誠觀點

雖然稅法尚未發生任何變化，但跨國公司應持續關注並為支柱二的實施做好準備。

Lithuania
Update on Pillar Two status

A project proposal for potential changes to the Law on Corporate Accountability was registered in the Parliament addressing the obligation for large multinational enterprises with revenue above EUR 750 million to prepare an additional, publicly available CIT report. However, neither the Tax Authorities nor the Ministry of Finance have published any information about a minimum Top-up Tax or any tax law changes.

PwC observation:

While no changes have been registered in the tax law yet, Multinationals should continue to monitor and prepare for enactment of Pillar Two.

要聞

Administrative
行政

澳洲
關於混合錯配規則的稅務決議草案

澳洲稅務局(ATO)發布了稅務決議(TD 2024/D1)草案，其中闡述了專員(Commissioner)對以下兩個獨立但相關的混合錯配規則問題的初步觀點：

- 根據「1997年所得稅評估法」(ITAA 1997)第832-325條的規定，一個國家稅基內的假設所得(利潤)可用於識別該國的「責任實體(liable entity)」或「實體」，以及
- 根據「混合型付款人」定義第832-320(3)款，「不包括國家」可以是相關支付款項的收款人所在或居住國以外的租稅管轄區。

稅務決議草案概述了第832-325條中關於所得(利潤)的識別一個或多個「責任實體」可以完全基於該國稅基內的假設所得(利潤)。這是必要的，例如：

- 某一實體在某一特定時期內實際上並未取得任何所得(利潤)，或
- 某一實體在某一特定時期內取得了所得(利潤)，但這些所得(利潤)的任何部分都不在該國的稅基內。

就第832-320(3)款而言，不包含國家是指相關支付款項的收款人所在或居住國以外的租稅管轄區。因此，在確定是否存在第832-320條所指的混合型付款人時，可以考慮收款人所在或居住國以外的租稅管轄區的法律。

稅務決議草案還包含三個釋例。

資誠觀點

一旦最終定稿，該稅務決議將在其發布之前和之後都適用。

Australia
Draft taxation Determination on hybrid mismatch rules

ATO released draft Taxation Determination TD 2024/D1 which sets out the Commissioner's preliminary view on the following two separate but related issues on hybrid mismatch rules as to whether:

- hypothetical income or profits within the tax base of a country can be used to identify a 'liable entity' or entities in the country for the purpose of section 832-325 of the Income Tax Assessment Act 1997 (ITAA 1997), and
- a 'non-including country' for the purpose of subsection 832-320(3) of the 'hybrid payer' definition can be a jurisdiction other than the country where the payee of the relevant payment is located or resides.

The draft Determination outlines that the identification of a 'liable entity' or entities in a country in regard to income or profits for the purpose of section 832-325 can be based wholly on hypothetical income or profits within the tax base of the country. This will be necessary where, for example:

- an entity has not actually derived any income or profits in a particular period, or
- an entity has derived income or profits in a particular period, but no part of those income or profits are within the tax base of the country.

For purposes of subsection 832-320(3), a non-including country is a jurisdiction other than the country where the payee of the relevant payment is located or resides. Therefore, the laws of a jurisdiction other than the country where the payee is located or resides may fall for consideration in determining whether there is a hybrid payer within the meaning given by section 832-320.

The draft Determination also contains three illustrative examples.

PwC observation:

Once finalised, the Ruling is proposed to apply both before and after its date of issue.

美國
關於股票回購消費稅擬議法規的套裝立法草案的延伸

4月9日，美國財政部和國稅局發布了兩套關於某些公司股票回購的消費稅(消費稅)的擬議法規。第一套擬議法規涉及消費稅的適用，而第二套擬議法規涉及有關程序和行政管理的規則。擬議法規影響某些回購其股票或其股票被關係公司收購的上市公司。

作為2022年「降低通膨法案(Inflation Reduction Act)」的一部分，消費稅是針對美國上市公司回購或關係公司收購的任何股票的公允市場價值徵收的不可扣除的1%的稅。消費稅不適用的例外情況很有限。除非是2022年12月31日之後進行且在2022年12月27日或之後融資的某些股票回購和收購，2022年12月31日之後發生的回購通常將受到擬議法規的拘束力。如果擬議法規通過，將澄清消費稅的計算、適用範圍，以及與消費稅相關的申報和繳納要求。

資誠觀點

公司應考慮是否就這些新擬議法規的提交回饋意見。對消費稅適用的(第一套擬議法規)的回饋意見應在擬議法規在「聯邦公報」上公布後60天內提交。有關消費稅的程序和行政管理 (第二套擬議法規) 的回饋意見應在擬議法規在「聯邦公報」上公布後30天內提交。

United States
Extensive package of stock repurchase excise tax proposed regulations

Treasury and the IRS on 9 April issued two sets of proposed regulations on the excise tax on certain repurchases of corporate stock (the Excise Tax). The first set of proposed regulations addresses the application of the Excise Tax, while the second set of proposed regulations provides rules on procedure and administration. The proposed regulations affect certain publicly traded corporations that repurchase their stock or whose stock is acquired by certain specified affiliates.

Enacted as part of the Inflation Reduction Act of 2022, the Excise Tax is a nondeductible 1% tax imposed on the fair market value of any stock of publicly traded US corporations that is repurchased by the corporation or certain affiliates. There are limited exceptions provided where the Excise Tax does not apply. Repurchases occurring after 31 December 2022, generally would be subject to the proposed regulations, except with respect to certain repurchases and acquisitions of stock made after 31 December 2022, that were funded on or after 27 December 2022. If adopted, the proposed regulations would clarify the calculation of the Excise Tax, its application to certain transactions and other events, and the filing and payment requirements associated with the Excise Tax.

For more information see our PwC Insight.

PwC observation:

Companies should consider whether to submit comments on these new proposed regulations. Comments on the application of the Excise Tax (the first set of proposed regulations) are due 60 days after the proposed regulations are published in the Federal Register. Comments on the procedure and administration of the Excise Tax (the second set of proposed regulations) are due 30 days after the proposed regulations are published in the Federal Register.

要聞

Judicial
司法

墨西哥
對優惠稅制支付款項的限制

墨西哥所得稅法(MITL)於2020年修正，納入第28條第XXIII節，限制墨西哥居民向外國關係人支付款項的扣除，這些款項透過所得受優惠稅制(preferential tax regime, PTR)約束的架構性安排，或用於支付給另一個受PTR約束的實體。第XXIII節指出，透過導致混合錯配的架構性安排，關係人之間支付款項給優惠稅制者，不能在稅上扣除。

當支付款項源自收款人的營業活動，且收款人擁有足以進行營業活動的人員和資產時，則排除適用不可扣除規則。另外，收款人必須在與墨西哥簽訂全面資訊交換協議的國家有實質管理處所。

該規定的意圖在總體上是明確的，但解釋起來卻很困難。無論是嚴格解釋還是廣義解釋，該規定都可能導致不同的結果，從而產生不確定性。因此，經常向享受優惠稅制的關係人支付款項的納稅義務人提出了憲法訴訟(間接保護)，聲稱修正後的規定違反了多項憲法原則(即法律確定性、比例性、平等性、合法性、合理性)，給納稅義務人帶來負擔，並違反了商業和貿易自由以及追溯原則。

一審法官認定納稅義務人無權質疑該稅改；然而，納稅義務人對初步裁判提出異議，案件被提交至最高法院(Supreme Court)進一步分析。最高法院認為修正後的規定並未違反任何上述憲法原則。因此，除非納稅義務人符合某些例外要求，否則這類支付款項應被視為不可扣除。

這項司法裁判得到了四位法官多數的通過，形成了對初級法院具有拘束力的判例。稅務機關預計將在稅務和移轉訂價查核中適用此裁判。

資誠觀點

根據該裁判，納稅義務人應分析其從墨西哥向國外支付的款項，特別是那些可能符合PTR標準，透過架構性安排或混合錯配成分的符合墨西哥稅法下的關係人給付。這可能包括向有限責任公司、信託、合夥企業或透過現金池支付的款項，無論其位於何處。另外，向美國、具有參與豁免規則的歐洲國家以及一般向具有特殊稅制或可能降低有效稅率的租稅獎勵的租稅管轄區支付的款項可能屬於MITL中規定的PTR定義。

根據最高法院最近的這項決議，墨西哥稅務機關預計將拒絕支付款項的在稅上扣除並要求納稅。

Mexico
Limitation on payments made to preferential tax regimes

The Mexican Income Tax Law (MITL) was amended in 2020 to include Article 28, Section XXIII, which limits the deduction of payments made by Mexican residents to foreign related parties, through structured arrangements whose income is subject to preferential tax regimes (PTRs), or which are used to pay to another entity that is subject to a PTR. This section notes the non-deductibility of payments made to preferential tax regimes between related parties, through structured arrangements that lead to hybrid mismatches.

An important exception to the non-deductibility rule exists when the payment derives from the recipient's business activity, and the recipient has, among other characteristics, the personnel and assets sufficient to carry out such business activity. Furthermore, the recipient must maintain and have formed its effective seat of management under the laws of a country with which Mexico has a broad exchange of information agreement in place.

This provision is generally clear in its intention but is difficult to interpret. From either a strict or broad interpretation, this provision can lead to different outcomes that create uncertainties. Thus, a taxpayer (that regularly makes payments to preferential tax regimes) filed a constitutional claim (amparo indirecto) claiming the amended provision breached various Constitutional principles (i.e., legal certainty, proportionality, equality, legality, reasonability), implies a burden to taxpayers, and violates the freedom of commerce & trade and the retroactivity principle.

The Judge of the first instance determined that the taxpayer did not have the grounds to challenge such tax reform; however, the taxpayer challenged the preliminary determination, and the case was brought to the Supreme Court of Justice (Supreme Court) for further analysis. The Supreme Court determined that the amended provision did not infringe any of the above-mentioned Constitutional principles. Therefore, such payments should be considered non-deductible unless the taxpayer complies with certain exceptional requirements.

This judicial ruling, since it was approved by the majority of four Justices, creates Jurisprudence, which will be binding for lower courts. The Tax Authorities are expected to apply this ruling during tax and transfer pricing audits.

PwC observation:

Based on the ruling, taxpayers should analyze their payments made from Mexico to abroad, particularly those that could qualify as PTRs and that qualify as related parties under Mexican tax rules through structured arrangements or where there is a hybrid mismatch component. This could include payments made to LLCs, trusts, partnerships, or through cash poolings, regardless of their location. Moreover, payments made to the United States, European countries with participation exemption rules, and generally to jurisdictions with a special tax regimes or tax incentives that could reduce the effective tax rate, could fall into the definition of PTR as established in the MITL.

The Mexican tax authorities are expected to reject deductions and claim taxes based upon this recent Supreme Court resolution.

墨西哥
營業利潤：法院先例

2024年1月，一個墨西哥初級法院對墨美租稅協定中的「營業利潤」概念(第7條)的適用做出了不利裁判。雖然這個案件可能不像PwC在2023年9月的國際租稅要聞中報道的判例那樣具有同等的影響力，但這個法院案件提供了一個清晰的見解，說明稅務機關將繼續以同樣的思路挑戰墨西哥簽訂的租稅協定的「營業利潤」條款的適用。

簡而言之，墨西哥稅務機關認為，「營業利潤」在墨西哥的租稅協定和國內法中缺乏明確的定義。這個廣泛和不明確的定義可能會給納稅義務人帶來不確定性，因為法規沒有具體說明應被視為營業利潤的所得類別，儘管存在合理理由可以質疑墨西哥稅務機關的結論。

在這項新的初級稅務法院案件中，稅務機關辯稱，租稅協定中的營業利潤條款不應適用於行政服務(administrative services)。稅務機關認為，根據墨西哥國內法，該所得應屬於個人獨立服務，因此不應被視為營業利潤。重要的是，墨西哥簽署的租稅協定具有比聯邦法律(例如墨西哥所得稅法)更高的位階。因此，司法層面所做的任何解釋都必須遵守墨西哥尊重其國際公約、避免違反租稅協定(即所謂的租稅協定優先)的義務。

多年來，初級稅務法院案件涉及了墨西哥對與各種類別的外國所得有關的「營業利潤」(第7條)概念的解釋，包括技術援助、個人獨立服務、廣告等。最近與租稅協定的適用相關的初級稅務法院案件擴大了墨西哥稅務機關可能質疑的跨境支付的範圍，可能會產生負面後果，即可能會要求更高的扣繳稅，並可能引發附帶的稅務影響(即，支付款項在墨西哥所得稅上可能不可扣除，墨西哥納稅義務人可能因支付款項的不可扣除而需繳納增值稅)。

資誠觀點

在涉及適用租稅協定「營業利潤」條款時，公司應評估其風險狀況，因為通常預期是不應扣繳；然而，墨西哥稅務機關一直在仔細審查這項解釋，並得出相反的結論。公司必須謹慎考量是繼續扣繳稅款，還是適用租稅協定。企業應立即採取行動，保護其財務利益，並確認已備妥法規遵循所需的論點、文件和手續，以避免潛在稅務義務。

Mexico
Business profits: Court precedent

A lower court in Mexico ruled against the application of the ‘business profits’ concept (Article 7) under the Mexico – US tax treaty in January 2024. This court case may not have the same impact as the jurisprudence reported in our September 2023 International Tax News publication, but provides a clear insight to understand that the authorities will continue in the same line of thinking challenging the ‘business profits’ utilization of the tax treaties entered by Mexico.

In essence and in a simplified manner, Mexican tax argued that the term ‘business profits’ lacks a clear definition in Mexico's tax treaties and in the domestic law. Such broad and unspecified nature of the definition could create uncertainty for taxpayers, as it does not specify the types of income that should be considered as business profits, although there are valid arguments to challenge Mexican tax authorities’ conclusion.

In this new lower tax court case, the tax authorities contended that the business profits article of the treaty should not apply to administrative services. They argued that this income should instead fall under the category of personal independent services according to Mexican domestic law, and therefore should not be interpreted as deemed business profit. It is important to remember that tax treaties signed by Mexico hold a higher hierarchical position than the federal law (e.g., Mexican Income Tax Law). Therefore, any interpretation made at the judiciary level must adhere to Mexico's obligation to respect its international covenants and avoid any violation of the treaties, known as a treaty override.

Over the years, lower tax court cases have addressed Mexico's interpretation of ‘business profits’ (Article 7) concept in relation to various types of foreign income, including technical assistance, personal independent services, advertising, and more. This recent lower tax court case associated with the application of tax treaties expands the range of cross-border payments that could be challenged by the Mexican tax authorities with a possible negative consequence that a higher withholding could be requested and collateral tax implications could be triggered (i.e., the deduction of the payment could be disallowed for income tax purposes in Mexico and VAT could be owed by the Mexican taxpayer from the non-deductibility of the payment).

PwC observation:

Companies should assess their risk profile when it comes to the tax treaty application of the ‘business profits’ article since the typical expectation would be that no withholding should apply; however, the Mexican tax authorities are consistently scrutinizing the interpretation and concluding otherwise. Companies must carefully consider whether to continue withholding or to defend the application of the tax treaty. Businesses should act now to safeguard their financial interests and confirm that all arguments, documentation and formalities to seek protection against potential tax liabilities are in due shape and form.

荷蘭
荷蘭最高法院關於利息扣除和財務費用的問題

3月22日，荷蘭最高法院就股東貸款利息扣除和融資費用(交易費)的稅務處理一案作出裁判。該案涉及收購一家公司時使用的一種的私募股權架構。最高法院認為，如果收購時該架構是為了避免限制利息扣除的規則(「1969年荷蘭公司稅法」第10a條)而設立的，則利息不可扣除。

另外，最高法院在裁判書中認為，貸款的一次性費用可以直接計入損益，除非這些費用包括預付的利息(在這種情況下，費用必須資本化並在貸款期限內攤銷)。因此，根據最高法院的裁判，可以在費用發生當年一次性將其計入損益，但也可以選擇將其資本化並在貸款期限內攤銷。請注意，根據所謂的收益剝離措施(earnings stripping measure)，一次性費用並不一定可以在其發生的當年(完全)扣除。

資誠觀點

最高法院在這項判決中，針對測試利息扣除是否涉及納稅義務人意圖逃避法律的可能性提供了實質性意見。更具體地說，法院澄清了在什麼情況下存在一系列法律行為，其達成的主要目的是推翻「1969年公司稅法」第10a條所指的「關聯性(relatedness)」。

公司稅法第10a條旨在防止通過在納稅義務人集團內人為創造利息費用而侵蝕荷蘭稅基。屬於該集團的個體是根據「關聯性」標準確定的。簡而言之，這涉及到所有擁有1/3或以上法律或經濟利益的個人和公司。然而，在多年的不確定性之後，最高法院現在確認了即使設立架構以試圖(人為地)避免這種關聯，也可能存在利息扣除的限制。

Netherlands
NL Supreme Court on interest deduction and finance costs

The Dutch Supreme Court, on 22 March, ruled in a case about interest deduction on shareholder loans and the tax treatment of financing costs (arrangement fees). The case concerns a private equity structure with which a company was purchased. According to the Supreme Court, the interest is not deductible to the extent that the structure for the purchase was set up to avoid a rule to restrict interest deduction (Article 10a of the Dutch Corporate Tax Act 1969).

In addition, the Supreme Court decided in this judgment that the one-off costs for taking out a loan may be charged directly to the result, unless this includes prepaid interest (in which case the costs must be capitalized and amortized over the term of the loan). According to the Supreme Court, you may therefore charge the costs to the result all at once in the year in which they are incurred, but you may also choose to activate the costs and amortize them over the term of the loan. Note that the one-off costs cannot always be (fully) deducted in the year in which they are incurred based on a different rule, namely the so-called earnings stripping measure.

For more information see our PwC Insight.

PwC observation:

With this judgment, the Supreme Court has given substance to the possibility of testing interest deduction against the Taxpayer's intention to evade the law (fraus legis). More specifically, it has been clarified when there is a set of legal acts that have been concluded with the overriding intention of defeating 'relatedness' within the meaning of Article 10a of the Corporate Tax Act 1969.

Article 10a CIT Act aims to prevent the Dutch tax base from being eroded by artificial creation of interest charges within a group of taxpayers. Who belongs to that group is determined based on the ‘relatedness’ criterion. In short, this involved all persons and companies with a legal or economic interest of 1/3 or more. However, even if the structure tries to (artificially) avoid this connection, there may be an interest deduction limitation. After years of uncertainty about this, the Supreme Court has now made this clear.

荷蘭
扣繳稅款的抵免在歐盟開發中國家的合規性

荷蘭最高法院判決，「2001年避免雙重課稅單邊法令」(簡稱為單邊法令)第36條並不違反資金的自由流通。根據該法令第36條，對於源自開發中國家的股利、利息和權利金所得，主要是在該國的支付方在當地納稅(無論是否在來源地)，可抵免荷蘭企業所得稅。

單邊法令第6條指定的開發中國家是指沒有與荷蘭簽訂雙重課稅租稅協定的國家(即無協定國家)。2023年被指定為開發中國家包括阿富汗、安哥拉、貝里斯、貝南、不丹、玻利維亞、布吉納法索、蒲隆地、喀麥隆、柬埔寨、維德角、中非共和國、查德、哥倫比亞、葛摩、剛果、剛果(民主共和國)、吉布地、薩爾瓦多、厄立特里亞、史瓦帝尼(原史瓦濟蘭)、甘比亞、瓜地馬拉、幾內亞、幾內亞比索、海地、宏都拉斯、伊朗、伊拉克、象牙海岸、肯亞、吉里巴斯、朝鮮(民主主義人民共和國)、科索沃、吉爾吉斯、寮國、黎巴嫩、賴索托、賴比瑞亞、馬達加斯加、馬拉威、馬利、茅利塔尼亞、密克羅尼西亞、蒙古、莫三比克、緬甸、尼泊爾、尼加拉瓜、尼日、巴勒斯坦自治區、巴布亞紐幾內亞、秘魯、盧安達、薩摩亞、聖多美普林西比、塞內加爾、獅子山共和國、所羅門群島、索馬利亞、南蘇丹、蘇丹、敘利亞、塔吉克、坦尚尼亞、東帝汶、多哥、托克勞、吐瓦魯、萬那杜和葉門。2023年名單與2022年名單相同。

對於源自(i)未被指定為開發中國家以及(ii)不存在租稅協定的國家的權利金所得，該法令規定，這類所得的扣繳稅款不可抵扣其他稅款，而是成為可扣除的費用。

資誠觀點

如果組織從位於非租稅協定和指定開發中國家的公司獲得股利、利息或權利金，並且在該國繳納過稅款，則有資格(根據條件)就國外支付的稅款，申請荷蘭企業所得稅下的稅額抵免。因此，開發中國家和非開發中國家是有區別的。最高法院已確定這種差異並不與歐盟法律相衝突。

Netherlands
Offsetting WHT only in developing countries EU-compliant

The Dutch Supreme Court has ruled that Article 36 of the 2001 Unilateral Decree for the Avoidance of Double Taxation is not contrary to the free movement of capital. According to Article 36 of the Decree, a credit against Dutch corporate income tax is provided for dividend, interest, and royalty income paid from a payer resident in a developing country and subject to tax there, whether or not at the source.

The developing countries designated in Article 6 of the Unilateral Decree are countries with which no double taxation treaty has been concluded with the Netherlands (i.e., non-treaty countries). The designated developing countries for 2023 are Afghanistan, Angola, Belize, Benin, Bhutan, Bolivia, Burkina Faso, Burundi, Cameroon, Cambodia, Cape Verde, the Central African Republic, Chad, Colombia, the Comoros, Congo, Congo (Dem. Rep.), Djibouti, El Salvador, Eritrea, Eswatani (formerly Swaziland), Gambia, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Iran, Iraq, Ivory Coast, Kenya, Kiribati, Korea (Dem. People's Rep.), Kosovo, Kyrgyzstan, Laos, Lebanon, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Micronesia, Mongolia, Mozambique, Myanmar, Nepal, Nicaragua, Niger, the Palestinian Autonomous Areas, Papua New Guinea, Peru, Rwanda, Samoa, São Tomé and Principe, Senegal, Sierra Leone, the Solomon Islands, Somalia, South Sudan, Sudan, Syria, Tajikistan, Tanzania, Timor-Leste, Togo, Tokelau, Tuvalu, Vanuatu and Yemen. The 2023 list is identical to the list for 2022.

For royalties received from countries that are (i) not designated as developing, and (ii) with which no tax treaty exists, the Decree provides that taxes withheld on such income are not creditable against other taxes, but instead constitute a deductible expense.

For more information see our PwC Insight.

PwC observation:

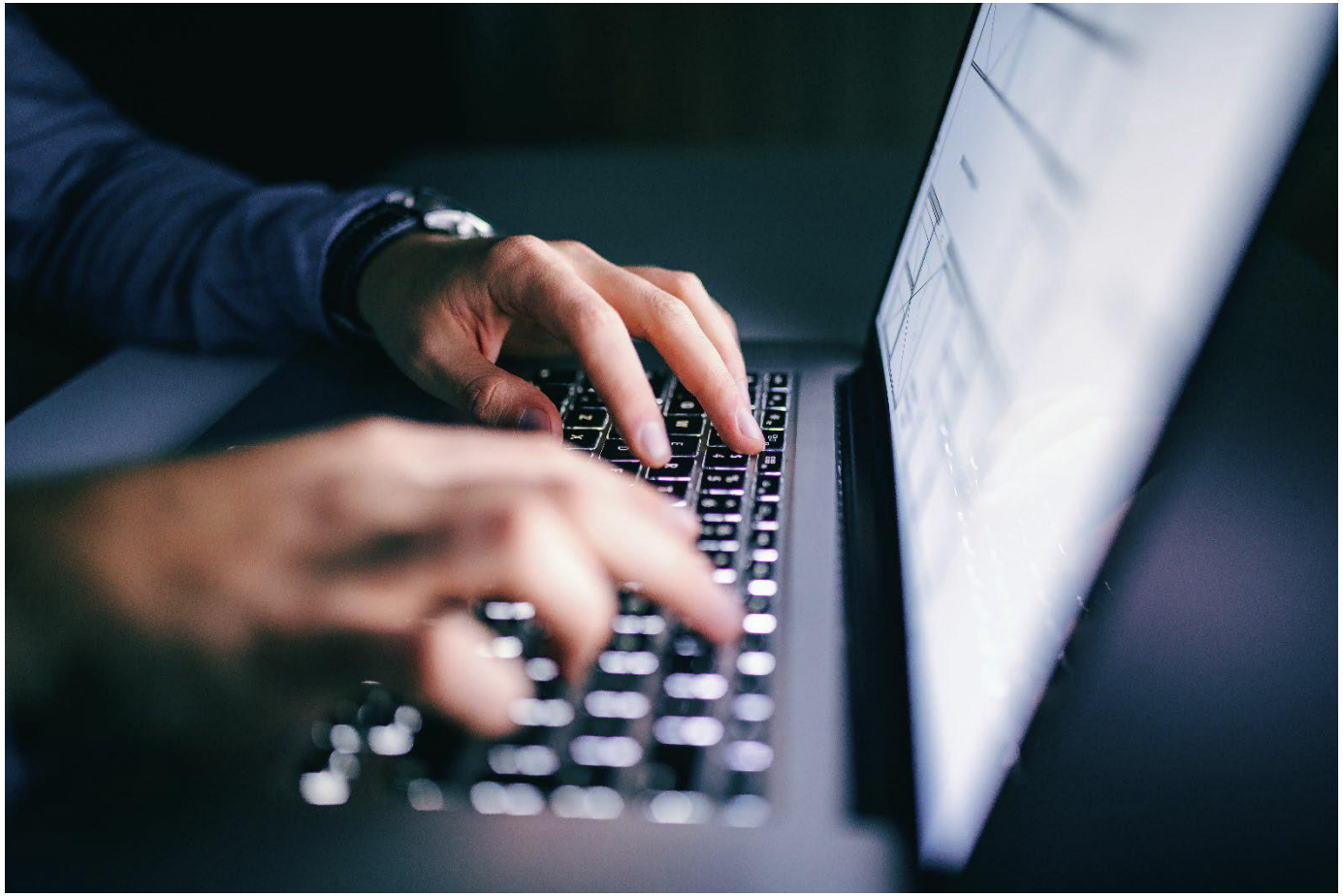
If your organisation receives dividend, interest or royalties from a company residing in a non-tax treaty and designated developing country, and taxes are imposed there, you're eligible to claim (under conditions) a credit against the Dutch corporate income tax for taxes paid abroad. A distinction is therefore made between developing countries and those that are not. The Supreme Court has established that this difference does not conflict with EU law.

要聞

Treaties
租税協定

澳洲
關於擴大租稅協定網絡的徵詢

澳洲政府正在與巴西和烏克蘭進行租稅協定談判，以擴大其協定網絡。政府也在修正與紐西蘭、韓國和瑞典的現有租稅協定。財政部要求利害關係人提交回饋意見，說明澳洲在這些租稅協定談判時應尋求的關鍵成果以及任何其他與澳洲租稅協定網絡相關的問題。



資誠觀點

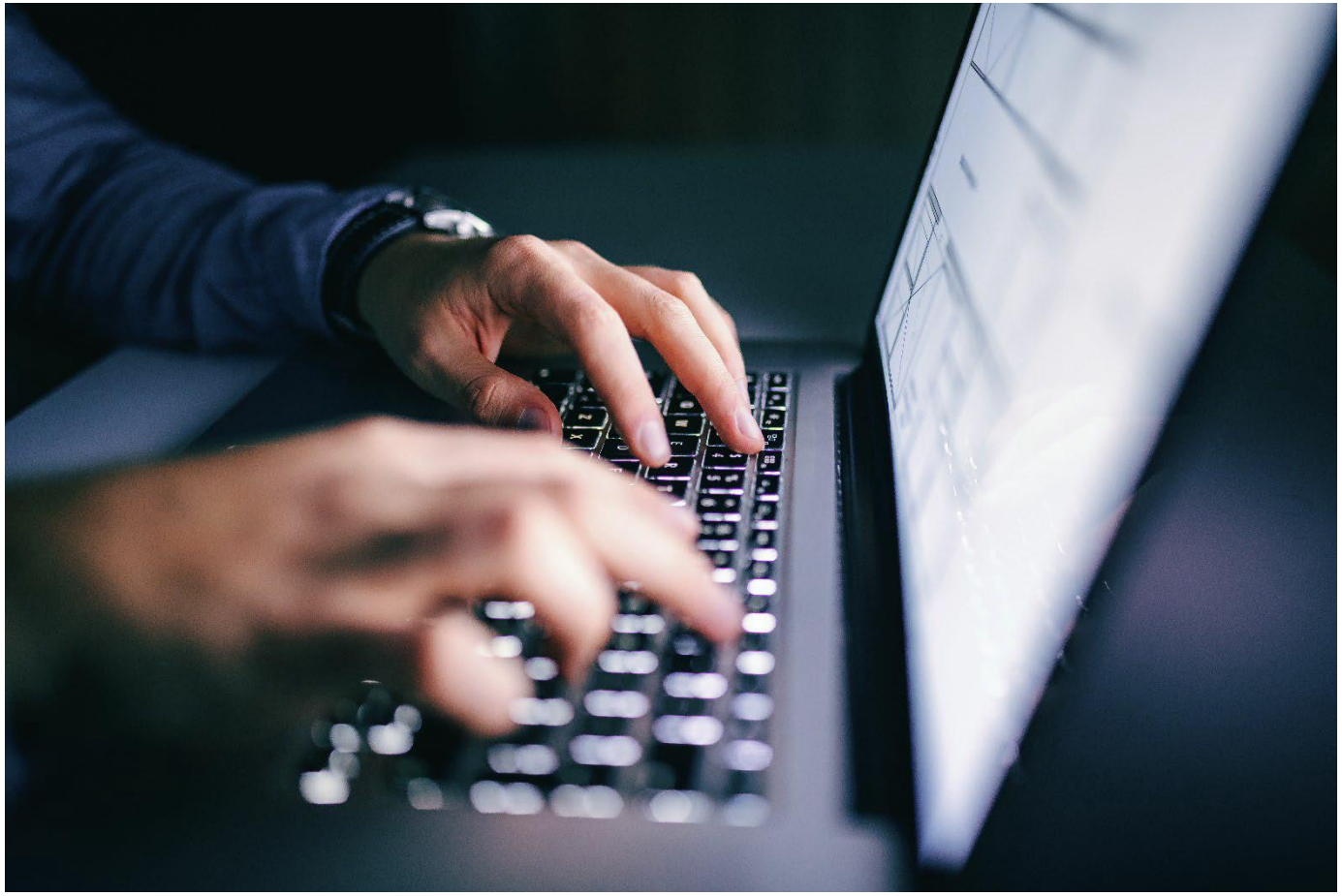
擴大租稅協定網絡有助於為納稅義務人提供更多的確定性。可能受影響的納稅義務人應關注後續進展。

Australia
Consultation on tax treaty network expansion

The Australian Government is entering into tax treaty negotiations with Brazil and Ukraine to expand its treaty network. The government also is revising existing tax treaties with New Zealand, South Korea and Sweden. Treasury requests submissions from stakeholders on the key outcomes Australia should seek in negotiating these tax treaties and any other issues related to Australia's tax treaty network.

PwC observation:

Expanding the tax treaty network helps provide taxpayers with more certainty. Taxpayers potentially affected should follow these developments.



印度
印度啟動了西班牙租稅協定中的最惠國條款，並發布模里西斯租稅協定的議定書

2024年2月23日，模里西斯政府內閣同意簽署一項議定書，修正模里西斯與印度的租稅協定，以遵守OECD BEPS最低標準。

另外，印度財政部最近發布通知，啟動了印度-西班牙租稅協定中的最惠國(MFN)條款。根據通知，印度政府透過引入印度-德國租稅協定中的較低稅率，將印度-西班牙租稅協定中的權利金和技術服務費(FTS)的稅率降低至10%。

資誠觀點

雖然有關印度-模里西斯租稅協定的更多細節資訊尚未公布，但這可能導致主要目的測試或類似測試成為印度-模里西斯租稅協定的一部分。

最惠國條款的自動適用一直存在爭議。中央直接稅委員會在2022年2月澄清，除其他事項外，印度政府發布通知是在租稅協定中適用最惠國條款的先決條件。隨後，印度最高法院認為，發布通知是使租稅協定(任何具有改變現行法律條文的議定書)生效的必要和強制性條件。針對最高法院判決的複審請求尚在等待中。

目前最惠國的通知符合最高法院的調查結果，以及印度-德國租稅協定下較低稅率的優惠，即10%的較低稅率，現在擴大適用到根據印度-西班牙租稅協定應稅的權利金和FTS。

India

India invokes MFN clause under Spain treaty, issues protocol to Mauritius treaty

The Mauritius Government cabinet, on 23 February 2024, agreed to sign a protocol to amend the tax treaty between Mauritius and India in order to comply with the OECD BEPS minimum standards.

In addition, India's Ministry of Finance recently issued a notification invoking the most-favoured nation (MFN) clause under the India-Spain tax treaty. As per the notification, the Indian Government modified the India–Spain tax treaty by importing a lower tax rate of 10% for royalties and fees for technical services (FTS) from the India–Germany tax treaty.

For more information read our PwC Tax Insight.

PwC observation:

While more details are awaited regarding the India-Mauritius treaty, this will likely result in the principle purpose test or similar test becoming part of the India–Mauritius tax treaty.

The automatic applicability of the MFN clause has been a subject matter of dispute. The Central Board of Direct Taxes clarified in February 2022 that, among other things, issuance of a notification by the Indian Government is a prerequisite for applying the MFN clause in a tax treaty. Subsequently, the Supreme Court of India held that a notification is a necessary and mandatory condition to give effect to a tax treaty or any protocol that has the effect of altering the existing provisions of law. A review petition against the Supreme Court judgment is pending.

The present MFN notification is in line with the findings of the Supreme Court and the benefit of a lower tax rate under the India–Germany tax treaty, i.e., a tax rate of 10% is now extended to the taxpayers on royalties and FTS taxable under the India–Spain tax treaty.

要聞

OECD/EU
經合組織/歐盟

歐盟

歐盟執委會就稅務爭議解決指令的適用進行徵詢

「稅務爭議解決機制指令」(指令(EU)2017/1852)於2019年7月1日生效。透過提供i)強制性和具拘束力的爭議解決機制，改善納稅義務人的准入和參與度。ii)明確且更短的時間架構iii)歐盟成員國有義務達成解決方案，該指令顯著改進了現有避免雙重課稅規則。例如，雙重課稅可能發生在國內法規不一致或在租稅協定中對移轉訂價規則有不同的解釋。

資誠觀點

提交回饋意見的截止日期為2024年5月10日。請注意，本次徵詢是強制性的，因為該指令要求歐盟執委會評估其適用性。如果有需要，執委會可以提出對該指令的潛在立法修正案。然而，普遍的情緒表明對該指令進行實質性修正的期望不大。

European Union
European Commission consults on the application of the Tax Disputes Resolution Directive

The Directive on Tax Dispute Resolution Mechanisms (Directive (EU) 2017/1852) came into force on 1 July 2019. By providing i) mandatory and binding dispute resolution mechanisms with improved access and increased involvement for the taxpayer, ii) clear and shorter timeframes and iii) an obligation for the EU Member States to reach a solution, the Directive provides a significant improvement of the existing rules on the avoidance of double taxation. This can happen, for example, due to a mismatch in domestic rules or different interpretations of the transfer pricing rules in a tax treaty. For more information on the Directive, see our PwC EUDTG Alert.

PwC observation:

The deadline for submission to this consultation is 10 May 2024. Note that this consultation is mandatory, as the Directive mandates that the European Commission evaluate its application. Should the need arise, potential legislative amendments to the Directive could be tabled by the Commission. However, the prevailing sentiment suggests little anticipation for substantial amendments to the Directive.

Glossary

Acronym	Definition
ATAD	Anti-Tax Avoidance Directive
ATO	Australian Tax Office
BEPS	Base Erosion and Profit Shifting
CFC	controlled foreign corporation
CIT	corporate income tax
CTA	Cyprus Tax Authority
DAC6	EU Council Directive 2018/822/EU on cross-border tax arrangements
DST	digital services tax
DTT	double tax treaty
ETR	effective tax rate

Acronym	Definition
EU	European Union
MNE	Multinational enterprise
NID	notional interest deduction
OECD	Organisation for Economic Co-operation and Development
PE	permanent establishment
R&D	Research & Development
SBT	same business test
SiBT	similar business test
VAT	value added tax
WHT	withholding tax

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- 兩岸與國際租稅Update (講透中國大陸境外投資的細節與難點)：https://youtu.be/GUwn0rr_KPA
- 台灣稅務與投資法規Update-7月號 (所得稅法部分修正草案)：https://youtu.be/LCspWj5cReM
- 2024 資誠前瞻研訓院線上講堂 (2月)：

  企業社會責任近期發展https://youtu.be/0PMr3yW18T8
  歐盟碳邊境關稅與碳權交易會計處理https://youtu.be/OABw-lmK138
  台灣稅務法令更新及因應https://youtu.be/YcWCOU4CoBc
  兩岸稅務法令更新及因應https://youtu.be/Ztm9m-AGEt8
  國際稅務法令更新及因應https://youtu.be/SHfWLUGA-M4
  美國稅務法令更新及因應https://youtu.be/odP6NIYb6oo
  東南亞稅務法令更新及因應https://youtu.be/ChquQX8NJ2A
  會計審計法令更新https://youtu.be/5ph04p9BV-4
  智財法令更新及因應https://youtu.be/vQSxppNVUDE
  勞動法令更新及因應https://youtu.be/9Zz_NA8FQBU
  公司暨證管法令更新https://youtu.be/3o8Mjp-NTZk

中華產業國際租稅學會 敬邀加入會員

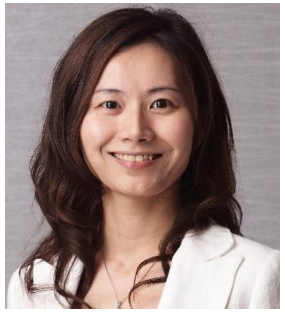
本會為依法設立、非以營利為目的的社會團體，以建構產業稅務專業人士的交流平台，研究產業稅務問題，促進公平合理課稅為宗旨。在台灣稅務界，本會成已為稅務專業的意見領袖，產、官、學界的主要諮詢機構。

本會除例行會員集會，相互交換國際稅務新知與經驗交流外，每月提供會員最新國際、國內及大陸之稅務新規，每年舉辦國際與兩岸租稅專題研討會，邀請兩岸稅務機關首長及稅務官員蒞會演講、座談及研討，與業界會員雙向溝通，共同分享最新租稅相關議題。

歡迎兩岸財稅法學者、專家及在工商界服務的稅務專業精英加入本會會員，入會相關事宜可到學會網站(連結如下)。

http://www.industries-tax.org.tw

與我們專業國際租稅團隊聯絡：



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