國際租稅要聞

International Tax Newsletter

第268期



資誠



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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Dedicated Columns

加拿大數位服務稅法生效

摘要

發生什麼事?

加拿大在2024年6月20日批准實施數位服務稅法(Digital Services Tax Act,簡稱DSTA,包含在C-50號法案中)。接著,在2024年7月3日,加拿大總督與行政局把在2024年6月28日發布的命令公告在議會網站上。這個命令確定了DSTA法案的生效日期為2024年6月28日,數位服務稅在2024年生效,並且追溯適用自2022年1月1日以來獲得的相關收入。

為什麼相關?

數位服務稅(DST)適用於自 2022年1月1日起獲得的相關收入,受影響的納稅人需要計算累計應納稅額,納稅人還需要根據相關的會計準則考慮在什麼時間點認列負債 是適當的。

需思考的行動

可能受到DST影響的納稅人應該開始採取以下行動,以確保他們準備好遵循新的法規:

- 考慮2022和2023年的所賺的收入是不是屬於DST適用的四類收入中的任何一個;
- 計算2021和2022年的全球合併收入,確認是否分別滿足2022和 2023年的DST總收入門檻;
- 確認2022、2023及2024年與加拿大使用者相關的四類收入的合併收入;
- 為了預算編列目的,計算 2022、2023和2024年預計可能在2025年支付的DST;
- 確認需不需要或什麼時間點需要在會計上認列。

專論 加拿大數位服務稅法生效

詳細資訊

背景

加拿大聯邦政府一直支持經合組織(OECD)提出的支柱一(Pillar One)關於數位經濟徵稅問題的解決方案,即將大型跨國企業(MNE)的部分利潤重新分配到MNE客戶所在地國家,並且確認他們對多邊方法的偏好。可是如果在2023年底前還沒生效多邊公約(MLC)以實施支柱一,DSTA將在2024年1月1日先在加拿大實施,因為加拿大不同意OECD與G20在2023年7月11日發佈關於實施支柱一的MLC的成果聲明。實際上,加拿大副總理兼財政部長克里斯蒂亞·弗里蘭(Chrystia Freeland)發表聲明指出,就算加拿大完全支持MLC,他們還是不支持將暫停實施新數位服務稅的期間延長一年。

加拿大總督與行政局在設定DSTA的牛效日期時考慮了下面因素:

- OECD關於兩支柱解決方案的聲明,目的是為了解決由數位經濟帶來的稅收挑戰。
- 加拿大對於通過多邊方式解決數位經濟帶來的稅收挑戰的偏好,以及這種多邊方式的國際談判和實施狀況。

包括美國在內的幾個國家對目前支柱一的提案草案表示反對,這進一步減少了它立即獲得批准的可能性。潛在受影響的納稅人應該開始為加拿大的DSTA做準備。至少在 短期內,實施支柱一能不能獲得批准還是不確定。

加拿大數位服務稅

DST對大型國內外納稅人來源於加拿大的數位服務收入按曆年計算(不是基於納稅人的財政年度)徵收3%稅款。DST將於2024曆年生效,並且追溯適用於自2022年1月 1日起賺取的相關收入。最早的繳納日期為 2025年6月30日。

受影響的納稅人

納稅人如果同時滿足以下兩個收入門檻(按合併集團基礎計算),將受DST影響:

- 集團在上一曆年財政年度內,全球收入達到或超過7.5億歐元;
- 在特定曆年內,加拿大數位服務收入超過2,000萬加幣。

加拿大數位服務稅法生效

3%的稅款將針對特定曆年內加拿大數位服務收入超過2,000萬加元的部分徵收(在合併集團成員間按比例分配)。儘管超過全球收入門檻(按集團合併基礎計算),加拿大數位服務收入為2.000萬加元或以下的納稅人,將不需繳納3%的 DST。但是,如果他們在特定曆年內的加拿大數位服務收入超過1.000萬加元,他們仍然需要:

- 註冊DST;及
- 提交DST年度申報表。

加拿大數位服務稅適用的收入

適用的收入一般包括以下加拿大數位服務收入:網絡市場服務、線上廣告服務、社交媒體服務,以及從網絡市場、社交媒體平台及銷售或授權使用線上搜索引擎獲得的用 戶資料。

加拿大網絡市場服務收入

就 DST來說,網絡被定義為一種數位介面(例如網站或應用程式),是讓用戶能夠與其他用戶互動,也能促進這些用戶之間財產或服務(包括數位內容)的供應。具有單一供應商的數位介面,或主要目的是提供支付服務、預付款、授信或借貸(或促進金融工具供應)的數位介面,都被明確排除在網絡市場之外,也不在DST的涵蓋範圍內。

網絡市場服務收入包括下面幾個方面的收入:

- 提供對網絡市場的存取或使用權(例如,訂閱費和按次付費)
- 促成網絡市場用戶之間的交易(例如交易佣金和服務費)
- 提供進階服務、優先展示服務或其他可選的網絡市場進階服務。

提供存儲和傳輸服務所獲得的收入,只要反映了合理的服務報酬率,就會被明確排除在DST的網絡市場服務收入涵蓋範圍之外。

加拿大數位服務稅法生效

加拿大網絡市場服務收入是根據一套公式計算,這套公式考慮了網絡市場收入與加拿大用戶,具體如下:

- 對於提供以下服務所獲得的收入:(1)在加拿大實際執行的服務,以及(2)與加拿大的房地產或位於加拿大商品有關的服務,所有的收入都將歸屬於加拿大。
- 對於特定費用類型的交易收入,例如佣金費用,是根據用戶是不是位於加拿大來決定是不是來源於加拿大。

當供應商和購買者都在加拿大時,所有的收入都將屬於加拿大來源所得。如果只有供應商或購買者其中一方在加拿大,則一半的收入屬於加拿大來源所得。如果供應商和購買者都不在加拿大,則有關收入不屬於加拿大來源所得。

在數位服務稅法案中還有一套特定公式,是將非交易性的網絡市場收入(即不涉及用戶之間特定供應的收入)視為加拿大來源所得。

加拿大線上廣告服務收入

就DST來說,線上廣告服務收入包括以下方面的收入:

- 通過線上數位介面促成標的廣告的投放;
- 提供數位空間給線上標的廣告。

線上標的廣告通常指任何以促銷為目的而展示的內容,包括贊助內容和優先展示;這包括展示廣告、富媒體、影片和政治活動廣告、公共公告,以及在廣告業術語或上下 文中常見意義上的「標的」推廣。

為了最小化DST的連鎖效應,合併集團成員之間的線上廣告服務收入被明確排除在線上廣告服務收入的計算之外。

加拿大線上廣告服務收入是根據一套公式計算的,公式考量了目標用戶的位置,而收入直接來自於與線上標的廣告的展示或互動。

當線上廣告服務收入不能直接歸屬於與特定用戶的展示或互動,或者用戶位置無法確定時,將按比例確定來源於加拿大收入的部分。

加拿大數位服務稅法生效

加拿大社交媒體服務收入

對DST來說,社交媒體服務收入包括提供社交媒體平台促進用戶之間或用戶與用戶生成內容之間的互動所獲得的收入,包括從以下方面所獲得的收入:

- 提供對社交媒體平台與進階服務的存取或使用權;
- 促進用戶之間或用戶與其他用戶在社交媒體平台上創作的數位內容之間的互動。

排除項目包括來自網絡市場、線上廣告或合併集團成員間交易的社交媒體服務收入,以及通過社交媒體平台提供自身內容所獲得的收入。

加拿大社交媒體服務收入是納稅人(或它的合併集團)的社交媒體服務收入總額中與加拿大用戶相關的部分。

加拿大用戶資料有關收入

對DST來說,用戶數據收入包括從網絡市場、社交媒體平台或線上搜索引擎收集的用戶資料(例如用戶姓名、郵寄地址或電子郵件地址、偏好或帳單資料),通過銷售或授權這些資料所獲得的收入。對於納稅人或它所屬的合併集團來說,排除項目包括從未由納稅人或其合併集團收集的資料所獲得的收入,以及來自合併集團成員間交易所獲得的收入。

當用戶資料可以追溯到位在加拿大的單一用戶時,從銷售或授權該用戶資料所獲得的收入在DST中屬於加拿大用戶資料收入。當用戶資料來自多個用戶,且收入無法追溯到特定用戶資料,或無法確定用戶的位置時,加拿大用戶資料收入將根據位於加拿大的用戶比例來確定。

DST的行政、報告和遵循

DST要求達到門檻並有義務支付3% DST的納稅人,必須在達到曆年的隔年6月30日之前提交年度納稅申報表並支付應繳稅款。加拿大稅務局代表表示,他們將在不久的 將來開始發佈申報表格並提供更多申報和遵循的行政指導。

專論 加拿大數位服務稅法生效

美國的回應

在加拿大最初提案要實施DST後,美國貿易代表署(USTR)在2022年2月22日提交了一份意見,表達了對加拿大計劃的反對。USTR指出,美國反對這項措施是因為它是針對美國公司徵稅,並且實際上排除了從事類似業務的本國公司。USTR還指出,根據他們對加拿大DST提案的理解,這個提案本質上與法國、義大利、西班牙、土耳其和英國採用的DST很像,美國認為這些DST具有歧視性,並且對美國商業造成負擔,所以可以根據1974年《美國貿易法》第301條採取行動。第301條賦予USTR對造成美國商業負擔或限制的無理或歧視性行為採取行動的權力。另外,USTR警告,加拿大採用的任何稅收制度都將按相同標準進行檢視。

2023年10月,參議院財政委員會主席和資深成員聯合寫信給USTR,要求拜登政府對加拿大DST提案採取行動,並承諾全力支持這個行動。最近,對於加拿大決定要推動 DST,眾議院稅務委員會裡的共和黨成員在7月11日寫信給USTR,要求政府根據第301條發起調查,這封信還要求USTR根據《美國-墨西哥-加拿大協定》(USMCA)行使適當的追索權。USMCA 是一項美國、墨西哥和加拿大之間的三邊貿易協定,在2020年7月生效。USMCA第31條要求簽署國應盡一切努力對可能影響協定運作或應用的事項達成大家都滿意的解決方案。雖然協定沒有指定解決爭議的特定法庭,但第31條進一步規定,協定簽署國可以書面要求進行協商,如果協商不成功,協商方可以要求成立小組來審查這個事項。USMCA規定協定要在16年內保持完全有效,並計畫在協定生效六周年時進行一次聯合審查。

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印度2024年度財政預算案:對印度海外投資者及跨國企業之影響

印度財政部2024年7月23日發表了FY2024-25首份聯邦預算案。依據該預算案FY2024-25印度經濟增長率預期將維持在6.5%至7%之間,同時,本次預算案重點關注基礎建設、技能發展、製造業、能源安全、都市開發、創新以及研究與開發,並計劃推行針對勞工、土地和外國直接投資等領域的新一輪改革措施。

稅務方面,本次預算案重點仍在增進稅務穩定與確定性,具體措施包括簡化合規性程序並減少稅務爭議,並為法律帶來更多的確定性,並提議了若干修法方向。針對台商 普遍關切的議題,本文摘要說明如下:

1. 外國公司稅率變更

自FY2024-25起,外國公司除特定收入(如權利金和技術服務費)外,因在印度運營適用的公司所得稅率,將從40%降至35%。此外,附加稅和教育及健康捐的稅率保持不變。

2. 擬停徵均衡稅(Equalization Levy)

印度目前針對非印度實體提供的電子商務供應或服務、徵收2%的均衡稅(Equalization Levy),本次預算案擬自2024年8月1日起取消這項稅收。

3. 廢除向股東發行股份反濫用規定

目前,印度稅法認為股東對私人股份有限公司以超過股權公允價值認股者,稅局有權援引反避稅條款對該溢價部分課稅,2024年預算案擬廢止此規定,自2024年4月1日 起生效。

4. 重新引入稅收特赦計劃

2020年印度曾推動過一輪稅務特赦,成效卓越,為進一步減少稅務爭議、優化營商環境,2024年預算案擬引入新一輪稅務特赦計劃。提議對截至2024年7月22日尚未解 決的稅務爭議,免除利息、罰款及刑事追訴。

印度政府也正針對GST爭議案件研擬議特赦計畫,解決印度推行GST實施初期,因法規及實務尚未成熟,導致徵納雙方因理解不同產生的諸多爭訟。

印度2024年度財政預算案:對印度海外投資者及跨國企業之影響

5. 股份回購—稅制機制變更

目前,印度公司向原股東回購股份時,需對支付對價中隱含約當於未分配盈餘的金額,按20%的稅率納稅。

本次預算案擬自2024年10月1日起,修改前述機制,未來印度公司進行此類交易時,支付對價中隱含約當於未分配盈餘的金額,視同對股東分配股利,而改向股東課稅 (即,納稅義務人從公司改為股東)。

6. 資本利得稅制的合理化與簡化

印度的資本利得稅制度複雜,涵蓋多種資產分類和稅率。隨著時代的演變,新型資產類別和金融工具進一步增加了複雜性和混亂。

為解決此一問題,2024年預算提案建議立即簡化資本利得稅制度,擬案内容如下:

序號	項目	持有期間		印度居民		非印度居民	
		舊制	新制	舊制	新制	舊制	新制
A.	Long-term capital gains長期資本利得						
1.	股票(未支付證券交易稅之 股票[securities transaction tax·STT])	24個月	24個月	20%	12.5%	10%	12.5%
2.	股票(已支付證券交易稅之 股票[securities transaction tax·STT])	12個月	12個月	10%	12.5%	10%	12.5%
3.	上市債券和公司債	12個月	12個月	10%	12.5%	10%	12.5%
4.	不動產投資信託基金 (REITs)和基礎設施投資 信託基金(InvITs)	36個月	12個月	10%	12.5%	10%	12.5%

印度2024年度財政預算案:對印度海外投資者及跨國企業之影響

擬議之資本利得稅							
序號	項目	持有期間		印度居民		非印度居民	
		舊制	新制	舊制	新制	舊制	新制
B.	短期資本利得						
1.	股票(已支付證券交易稅之 股票[securities transaction tax·STT])	12個月	12個月	15%	20%	15%	20%
2.	未上市公司債	36個月	視為短期	20%	依適用稅率	10%	依適用稅率

7. 未依規定提交報表的聯絡辦事處罰款

2024年預算提案對在印度設立聯絡辦事處的公司·若未按稅法規定提交報表的情況處以罰款。如果違規未超過三個月·每天罰款1,000印度盧比。超過三個月·則罰款為100,000印度盧比。

從本次預算案的租稅變革看來,印度仍延續 "簡化稅務行政、調整不合時宜稅務規定" 的稅政趨勢,力求使印度營商環境更穩定可預測,對在印度(或有意赴印度)營商的台灣企業而言,值得樂觀期待。也提醒台灣企業持續關注預算案發展及後續立法進程,掌握在印度稅務環境脈動。

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要聞

Legislation 立法

阿根廷

阿根廷導入了促進大型投資的新制度

阿根廷國會通過了全面的制度改革(2024 年 7 月 8 日生效),導入了包括大型投資促進制度(RIGI)在內的多項立法修正案。 RIGI 旨在透過提供稅務、海關和外匯的優惠措施,為阿根廷的特定長期投資提供確定性和法律穩定性。

8月25日,阿根廷頒布法規,提供了 RIGI 的更多細節,並指定經濟部管理新制度。

符合資格的參與者

只有由外國和/或阿根廷居民設立的國內特殊目的實體(Special Purpose Vehicles, VPU)才能享受優惠。 VPU的定義包括 (1) 公司,包括一人公司(即 Sociedad Anonima Unipersonal)和有限責任公司(即 Sociedad de Responsabilidad Limitada 或 SRL); (2)外國公司設立的分公司; (3)境內實體依法設立的專屬的分公司; (4)臨時合資企業及其他合資合約。

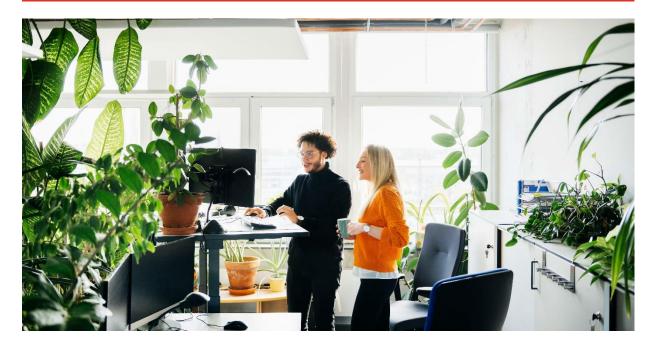
VPU 必須僅僅持有並從事符合合格的資產和活動。現有實體可以分配其部分資產透過專門分公司建立VPU。在這種情況下,RIGI 的優惠措施將僅適用於專屬的分公司,而不適用於其總部。

8 月 25 日的法規說明了RIGI的適用行業,並提供了有關申請的詳細資訊。

資誠觀點

RIGI制度適用於林業、旅遊業、基礎設施、採礦、科技、鋼鐵、能源以及石油和天然氣等多個行業。申請適用RIGI制度的截止日期是法規頒布後兩年,可以選擇延長一年。

投資者應評估適用這個新優惠制度的可能性。阿根廷納稅義務人應繼續關注外匯、 海關和申請程序等的進一步規定。



Argentina

Argentina's new promotional regime for large investments

The Argentine Congress passed comprehensive reform, effective 8 July 2024, that introduces, among several legislative amendments, a Promotional Regime for Large Investment (RIGI for its Spanish acronym). RIGI aims to provide certainty and legal stability to specific long-term investments in Argentina, by offering tax, customs, and currency exchange incentives.

On 25 August, Argentina issued regulations that provided additional details on the RIGI and designated the Ministry of Economy to administer the new regime.

Eligible participants

Benefits are only available for domestic Special Purpose Vehicles (VPUs for its Spanish acronym) incorporated by foreign and/or Argentine residents. The term VPU includes (1) corporations, including single-member corporations (i.e., Sociedad Anonima Unipersonal) and limited liability companies (i.e., Sociedad de Responsabilidad Limitada or SRL); (2) branches established by foreign-incorporated companies; (3) dedicated branches of domestic entities established according to the terms of the law; and (4) temporary joint ventures and other associative contracts.

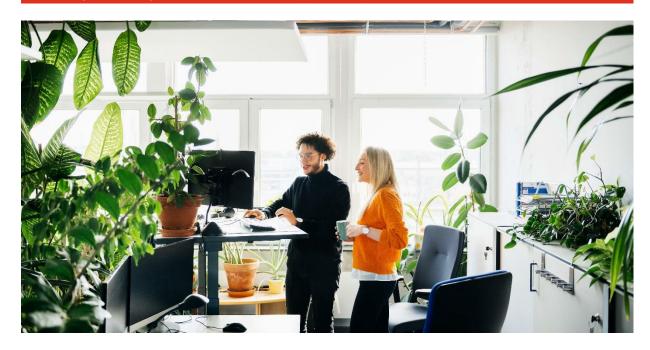
VPUs must exclusively hold and engage in qualifying assets and activities. An existing entity may allocate part of its assets to create a VPU through a dedicated branch. In this case, the incentives under the RIGI will apply only to the dedicated branch and not its head office.

The 25 August regulations define the sectors that will be eligible for the RIGI, and provide details on various aspects for completing the application.

PwC observation:

The regime applies to several industries, including forestry, tourism, infrastructure, mining, technology, steel, energy, and oil and gas. The deadline to apply for the benefits of the regime is two years from the law's enactment, with an option for a one-year extension.

Investors should evaluate the possibility of benefiting from this new incentive regime. Argentine taxpayers should continue to monitor for further regulations on other topics such as foreign exchange, customs, and the application process.



For more information see our PwC Insight.

加拿大

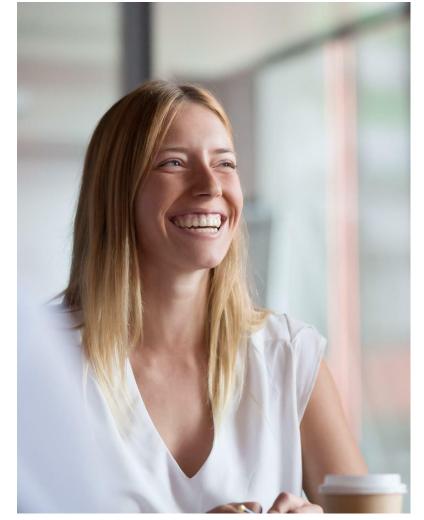
加拿大發布實施支柱二徵稅不足之支出原則(UTPR) 的立法草案

2024 年8 月12 日·加拿大財政部發布了立法草案·將徵稅不足之支出原則(UTPR)納入全球最低企業稅負制(GMTA)。UTPR是課徵補充稅的一種備位規則·適用於所得涵蓋原則(IIR)和合格國內最低稅負制(QDMTT)不能徵收的補充稅。UTPR稅款的分配依據是跨國集團中加拿大實體所擁有的員工和有形資產的份額。

對適用範圍內的跨國集團來說,UTPR 適用於 2024 年 12 月 31 日或之後開始的財年。立法草案包括一個過渡性的UTPR避風港規則,當滿足以下條件時,最終母公司所在的租稅管轄區的補充稅稅款為零:(i) 跨國集團的申報成員實體選擇適用過渡性UTPR 避風港規則。(ii) 最終母公司所在的租稅管轄區的公司稅率至少為20%。(iii) 財年在2026年1月1日之前開始,並在 2026年12月31日之前結束,且(iv) 財年不超過12個月。

資誠觀點

當母公司實體的租稅管轄區沒有實施支柱二規則時,UTPR 的導入可能會影響在加拿大設有子公司的跨國集團。適用範圍內的集團應考慮是否有UTPR的補充稅款,以及是否可以適用UTPR 避風港規則。 UTPR 的導入不會影響總部在加拿大的跨國集團,因為這些集團已經受到 2024 年 6 月頒布的支柱二規則的約束。



Canada

Canada releases draft legislation to implement the Pillar Two UTPR

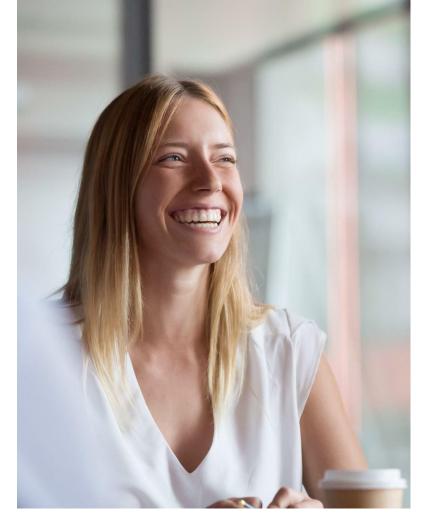
The Department of Finance released draft legislation to implement the Undertaxed Profits Rule (UTPR) into the Global minimum Tax Act (GMTA) on 12 August 2024. The UTPR is a backstop rule that applies to collect top-up tax that has not been collected under an Income Inclusion Rule (IIR) or Qualified Domestic Minimum Top-up Tax (QDMTT). The UTPR allocates any uncollected top-up tax to the respective Canadian entities in the group based on their share of the employees and tangible assets of the multinational group.

The UTPR applies to qualifying multinational groups for fiscal years that begin on or after 31 December 2024. The draft legislation includes a transitional UTPR safe harbour that applies to deem any top-up tax in respect of the jurisdiction of the Ultimate Parent Entity (UPE) to be nil in situations when (i) the filing constituent entity of the multinational group elects to apply the transitional UTPR safe harbour, (ii) the corporate tax rate applicable to the UPE jurisdiction is at least 20%, (iii) the fiscal year begins before 1 January 2026 and ends before 31 December 2026, and (iv) the fiscal year is not longer than 12 months.

Read PwC's Tax Insight.

PwC observation:

The introduction of the UTPR may impact multinational groups with Canadian subsidiaries when the parent entity jurisdiction has not enacted Pillar Two rules. These in- scope groups should consider if any top-up tax will be subject to the UTPR and whether they qualify for the UTPR safe harbour. The introduction of the UTPR should impact Canadiannot headquartered multinational groups as those groups were already subject to the Pillar Two rules that were enacted in June 2024.



以色列

財政部長宣布導入合格國內最低稅負制(QDMTT)

財政部長宣布以色列將從2026年起實施QDMTT。 另外,以色列不打算在初期就開始實施IIR和 UTPR,將在QDMTT實施後,再重新評估是否 實施IIR和 UTPR。

財政部的官方聲明指出:

「QDMTT的實施是為了防止以色列居民公司在以色列境內的所得在國外納稅。另外,現階段以色列不建議實施IIR和UTPR的機制,而是將在以色列實施QDMTT一段時間後重新評估是否實施IIR和UTPR。對於創新和高科技領域的許多投資來說,以色列是一個有吸引力的地區。財政部將繼續與業界、投資者、各代表組織和其他利害關係人合作與對話,努力保持以色列對投資的吸引力。

資誠觀點

預計以色列政府可能會在適當的時候, 透過發布公眾諮詢和/或立法草案來徵求 主要利害關係人的意見。同時,適用範 圍內的集團應評估QDMTT從 2026 年起 開始實施的影響。



Israel

The Minister of Finance has announced his decision to adopt a QDMTT

The Minister of Finance announced his decision to adopt a QDMTT in Israel beginning in 2026. Israel also announced that it does not intend to adopt the Income Inclusion Rule (IIR) and UTPR mechanisms initially; the adoption of the IIR and UTPR will be re-examined following implementation of the QDMTT.

The official publication of the Ministry of Finance included the following statement:

"The decision was adopted, among other things, to prevent the payment of tax of Israeli resident companies in foreign countries for income generated in Israel. However, it was recommended that at this stage Israel should not adopt a mechanism for the collection of additional tax on the income of group companies that are not residents of Israel (IIR and UTPR). This issue will be re-examined after a period of implementing the QDMTT mechanism in Israel. The State of Israel is an attractive destination for many investments in the fields of innovation and high-tech. The Ministry of Finance will continue to work to maintain the attractiveness of the State of Israel for investments. in cooperation and dialogue with the industry, investors, various representative organizations, and other stakeholders."

PwC observation:

We expect that the government may seek feedback in due course from key stakeholders through the release of public consultation and/or draft legislation. In the meantime, in- scope groups should assess the impact of the QDMTT applying beginning in 2026.



義大利 義大利導入國內最低稅負制

2024 年 7 月 9 日 · 經濟與財政部副部長(於 2024 年 7 月 1 日發布)的法令在官方公報上發布。該法令包含了第209/2023 號立法令第 18 條規定的「國內最低稅負制」的實施條款,以實施歐盟支柱二指令。義大利立法者行使了相關國際立法所提供的選擇,課徵與位於義大利境內的低稅實體相關的補充稅款,這些稅款優先於所得涵蓋原則(IIR)和徵稅不足之支出原則(UTPR)所應課徵的補充稅款。關於該法令的具體內容,國內最低稅負制遵循相關國際立法的架構。

義大利立法者設計的國內最低稅負制被定義為「合格的」。這意味著相關的稅款可以從義大利應繳納的補充稅總額中扣除。這使得希望適用OECD簡化規定的集團,可以假設所繳納的國內最低稅負制的稅款,相當於義大利應繳納的補充稅款總額。

該法令規定,適用範圍內的集團必須指定一個位於義大利的組成實體,以便在某個財年內為該集團的義大利實體繳納國內最低稅負制的稅款。另一方面,合資企業需獨立繳納每個財年應繳納的國內最低稅負制的稅款。但是,如果位於義大利的合資企業屬於合資集團,則需為其本身及其合資子公司繳納該財年應繳納的國內最低稅負制的稅款。

資誠觀點

該法令重申·國內最低稅負制適用於從2023 年12 月31 日開始的財年(對於歷年制的納稅義務人‧即從2024 年1 月1 日起適用)‧適用範圍包含跨國集團和國內集團‧並且不排除根據第209/2023 號立法令的第56 條規定的五個財年的條款。該條款是針對那些處於國際活動早期階段或首次適用OECD規則的集團。

該法令發布後,義大利公司和義大利的外國實體的常設機構均應評估國內最低稅負制 所產生的稅務影響,並管理相關的合規義務,預計有新法令即將被公布,以提供更多 的指引。



Italy

Italy adopts a national minimum tax under Pillar Two

The decree of the Deputy Minister of Economy and Finance dated 1 July 2024 was published in the Official Gazette on 9 July 2024. This decree contains the implementing provisions regarding the so- called 'national minimum tax' (or Domestic Minimum Top-up Tax) provided for by Article 18 of legislative decree 209/2023, implementing the EU Pillar Two Directive. The Italian legislator exercised the option provided by the relevant international legislation to collect any Top-up Tax related to low-taxed entities located in the Italian territory with priority over the Top-up Tax due based on the application of the so-called income inclusion rule (IIR) and the undertaxed payment rule (UTPR). Regarding the Decree's specifics, the national minimum tax follows the framework of the relevant international legislation.

The national minimum tax is designed by the Italian legislator to be 'qualified.' This means it can be deducted from the overall additional tax due in Italy and serve as a 'Safe Harbor.' This allows groups that wish to use the OECD's simplification, to assume the amount paid as the national minimum tax equivalent to the overall additional tax due in Italy.

The Decree specifies that in-scope groups must identify, on a priority basis, a constituent entity located in Italy for the payment of national minimum tax if due in a fiscal year by the Italian entity of the group. Joint ventures, on the other hand, pay the national minimum tax due for each fiscal year autonomously. However, if the joint venture located in Italy belongs to a JV group, it is required to pay the national minimum tax due for a fiscal year for itself and its JV subsidiaries.

For more information see our PwC Alert

PwC observation:

The Decree reiterates that the national minimum tax applies from fiscal years starting from 31 December 2023 (thus from 1 January 2024, for calendar-year taxpayers) for both multinational and domestic groups, without excluding the five fiscal years provided for in Article 56 of Legislative Decree 209/2023 for groups in the early stages of their international activity or in the initial phase of applying the OECD rules.

Following the issuance of the Decree, both Italian companies and permanent establishments of foreign entities located in Italy should evaluate the tax impacts arising from the national minimum tax and manage the related compliance obligations, for which the publication of a forthcoming decree is expected.



盧森堡

盧森堡將企業所得稅的稅率降低1%

2024 年 7 月 17 日 · 盧森堡財政部長向議會提交了一項關於各項稅務修正案的法案 · 其中包括將企業所得稅 (CIT) 的稅率降低 1%。

由於稅率的降低,預計從 2025 年 1 月 1 日起對於在盧森堡設立的公司,總企業稅的稅率(包括團結附加稅捐和市政營業稅)將從 24.94% 降至 23.87%。另外,該法案還導入了 EBITDA(稅息折舊及攤銷前利潤) 規則的集團比率,追溯至 2024 年 1 月 1 日生效。

資誠觀點

大多數稅務措施已包含在 2023-2028 年聯合協議中·旨在為在盧森堡營運的公司提供稅務減免。新的稅率似乎接近歐洲最低水平;然而·如果把市政稅和團結附加稅捐等考慮在內·總稅率仍然相對較高。



Luxembourg Luxembourg to reduce CIT rate by 1%

The Luxembourg Minister of Finance, on 17 July 2024, submitted a bill on various tax amendments to the Parliament, including a reduction of the corporate income tax (CIT') rate by 1%.

As a result of the rate reduction, effective 1 January 2025, the aggregate corporate tax rate (including the solidarity surcharge and the municipal business tax) for a company established in Luxembourg City is expected to decrease from 24.94% to 23.87%. In addition, the bill introduces a group ratio for the EBITDA rule, retroactive to 1 January 2024.

For more information see our PwC Alert.

PwC observation:

Most of the tax measures were already part of the 2023-2028 coalition agreement and aim to provide relief for companies operating in Luxembourg. The new tax rate seems to be leaning towards the lowest in Europe; nonetheless, when for instance municipal taxes and solidarity surcharges are taken into account, the aggregate rate remains relatively high.



秘魯

秘魯導入針對非居民提供的數位服務和進口無形商品的增值稅的新規定

2024 年8 月初·秘魯發布了第 1623 號立法令(以下簡稱「法令」)·導入了針對在秘魯境內由外國實體提供的數位服務以及進口無形商品的增值稅的新規定。這些規定涵蓋範圍廣泛的無形商品和數位服務。

秘魯行政部門於8 月 4 日發布了該法令·對當地 的增值稅法進行了修正。預計細節規定將在未來 幾個月內發布。

增值稅法的主要修正

在秘魯境內使用數位服務的本地終端用戶或進口無形商品的終端用戶、需繳納增值稅,前提是終端用戶居住在秘魯境內。以下情形被認定為在秘魯境內(1) 用於消費數位服務的裝置有秘魯IP 或SIM 卡·(2) 支付這類服務的費用時,使用了秘魯金融卡或信用卡(或秘魯金融機構提供的任何其他產品),或(3) 終端用戶在帳單地址中添加了秘魯地址。

數位服務

數位服務通常被定義為主要是自動的、沒有適用 技術就無法實現的、透過互聯網、互聯網平台或 技術向用戶提供的服務。 該法令提供的數位服務範例包括:

- 透過串流媒體或其他技術存取和/或傳輸影像、連續劇、電影、 紀錄片、影片、音樂和任何其他數位內容:
- 雲端儲存服務;
- 存取社交網路和附加內容或功能;
- 線上報紙和雜誌;
- 遠距會議服務;和
- 商品或服務的線上市集。

無形商品的數位化進口

該法令將無形商品的數位化進口定義為這些無形商品由購買者透 過互聯網、平台或其他可以下載無形商品的管道,以特定方式下 載。

資誠觀點

這些規定對非居民服務提供商施加了重要的當地合規要求‧例如擔任增值稅的徵收代理、在秘魯稅務機構 (SUNAT) 註冊、獲取當地的稅號 (RUC) 以及遵守其他當地稅務法規。這項修正的目的是為了增加對提供數位服務和無形商品進口的稅收徵管。

外國數位服務提供商應了解這些新規定,以便遵守新要求(如果適用)。



Peru

Peru introduces new VAT rules on digital services rendered by non-residents, import of intangible goods

In early August, Legislative Decree 1623 (the Decree) was published introducing new VAT provisions on digital services rendered by foreign entities and the import of intangible goods within Peruvian territory. These provisions cover a wide range of intangible goods and digital services.

The Peruvian Executive Branch published the Decree, on 4 August 2024, introducing changes to the local VAT law. Regulations are expected to be published within the next few months.

Main changes introduced to the VAT law

Local end-user individuals who use digital services or end-user individuals who import intangible goods within the Peruvian territory are subject to VAT to the extent the end user resides in Peru. This is deemed to happen when (1) the device used for consuming digital services has a Peruvian IP or SIM card, (2) the payment for such services is made using a Peruvian debit or credit card (or any other product provided by the Peruvian financial sector), or (3) the end user adds a Peruvian address as billing address.

Digital services

Digital services generally are defined as services that are mainly automatic, would not be viable without the applicable technology, and that are provided to users through the internet, platforms or technology used by the internet.

The Decree provides the following examples of digital services:

- Access and/or transmission of images, series, movies, documentaries, videos, music, and any other digital content through streaming or other technology;
- Cloud storage services;
- Access to social networks and additional content or features:
- Online newspapers and magazines;
- · Remote conferencing services; and
- · Online marketplaces of goods or services.

Digital import of intangible goods

The Decree generally defines the digital import of intangibles goods as the acquisition of intangible goods that are downloaded in a definite way by the acquirer through the internet, platforms, or any other red through which intangible goods may be similarly downloaded.

For more information see our PwC Insight.

PwC observation:

These provisions impose significant local compliance requirements on non-resident service providers, such as acting as VAT perception agents, registering before the Peruvian tax authority (SUNAT), and obtaining a local tax ID (RUC), as well as adhering to other local tax regulations. The change is intended to increase tax collection on the provision of digital services and import of intangible goods.

Foreign digital service providers should understand these new regulations in order to comply with the new requirements, if applicable.



要聞

Administrative 行政

澳洲

ATO 加強對跨境股利、利息和權利金支付的監管

澳洲稅務局 (ATO) 重點關注屬於 ATO 中型公開和跨國企業參與計劃範圍內並向非居民支付股利、利息和權利金的納稅義務人。 ATO希望確保納稅義務人履行其現收現付扣繳稅(PAYG)的扣繳和申報義務。

除了沒有扣繳和繳納扣繳稅之外,還有一系列問題將引起ATO的關注。ATO特別提到,會關注推遲支付利息以避免或推遲扣繳稅,同時繼續按權責發生制的申報所得稅扣除的實體;以及用於避免對與澳洲來源所得並支付給非居民相關的利息費用進行扣繳的離岸相關實體。

資誠觀點

受影響的納稅義務人應檢視新要求,以確保能夠整理所需信息, 從而滿足合規的最後期限。



Australia

ATO focus on cross-border dividend, interest and royalty payments

The Australian Tax Office (ATO) has set forth a focus on taxpayers who fall within the parameters of the ATO's medium public and multinational business engagement program and that make dividend, interest and royalty payments to non-residents. The ATO wants to ensure whether taxpayers are meeting their PAYG withholding and reporting obligations.

A range of issues beyond failing to withhold and pay withholding taxes will attract the ATO's attention. The ATO specifically mentioned focusing on entities that defer their interest to avoid or defer withholding tax, while continuing to claim income tax deductions on an accrual basis, and offshore related entities that are used to facilitate the avoidance of withholding tax in relation to interest expenses deducted against Australian-sourced income and paid to non-residents.

PwC observation:

Impacted taxpayers should review the new requirements to ensure they are able to collate the required information in order to meet compliance deadlines.



澳洲

關於混合錯配規則的最終稅務決定

摘要:澳洲稅務局 (ATO) 已完成稅務決定 TD 2024/4,該決定闡明了局長對與混合錯配規則相關的兩個獨立但相關問題的最終觀點:

- 根據1997 年所得稅評估法 (ITAA 1997) 第 832-325 條 · 某個國家稅基內的假設的所得或利潤可用於識別該國的一個或多個"責任實體" · 以及
- 根據ITAA 1997 第 832-320(3) 款的「混合付款人」定義的而言,「不包括國家」可以是相關支付款項的收款人所在國家或地區以外的租稅管轄區。

具體而言·該決定規定·根據第832-325 款識別「責任實體」可以完全基於該國稅基內的假設的所得或利潤(例如·當實體在特定期間實際上並沒有獲得任何所得或利潤時)。另外·第832-325 條並不限制何時可以使用某國稅基內的假設的所得或利潤來識別該國的責任實體。例如·沒有要求在該國作為責任實體接受測試的實體必須:

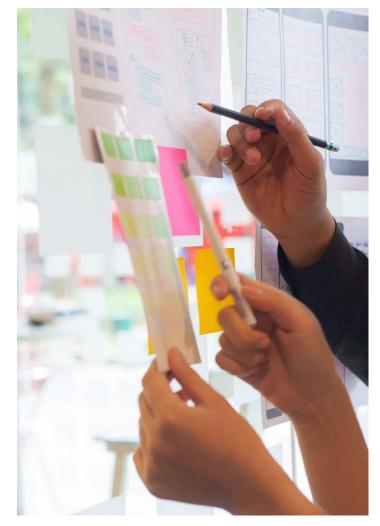
- 是該國的稅務居民
- 曾經、目前或計劃從事可能產生該國稅基內所得或利潤的活動,或者
- 通常在該國的稅基內獲得所得或利潤。

關於第 832-320(3) 款·該決定指出,不包括在內的國家可以是相關支付款項的收款人所在國或居住國以外的租稅管轄區。

因此,收款人所在國或居住國以外的租稅管轄區的法律可能會被考慮在內,以確定是否存在第 **832-320** 款定義的混合付款人。

資誠觀點

該決定是稅務決定 TD 2024/D1草案的定稿,適用於其發布日(2024 年 7 月 3 日)之前和之後的情況。



Australia

Final tax determination on concepts relevant to hybrid mismatch rules

Summary: The ATO has finalised Taxation Determination <u>TD 2024/4</u>, which sets out the Commissioner's final view ruling on the following two separate but related issues in relation to the hybrid mismatch rules:

- 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 ITAA 1997 of the 'hybrid payer' definition can be a jurisdiction other than the country where the payee of the relevant payment is located or resides.

Specifically, the Determination rules that the identification of a 'liable entity' for the purpose of section 832-325 can be based wholly on hypothetical income or profits within the tax base of the country (e.g. when an entity has not actually derived any income or profits in a particular period). Furthermore, section 832- 325 does not restrict when hypothetical income or profits within the tax base of a country can be used to identify a liable entity in the country. For example, there is no requirement that the entity being tested as a liable entity in the country must:

- · be a tax resident of the country
- have previously carried on, currently carry on, or propose to carry on, activities that produce or may produce income
 or profits within the tax base of the country, or
- · normally derive income or profits within the tax base of the country.

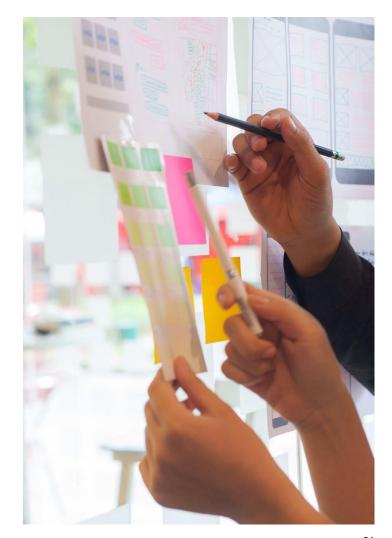
In relation to subsection 832-320(3), the Determination indicates that a non-including country can be a jurisdiction other than the country where the payee of the relevant payment is located or resides.

Accordingly, 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.

A range of alternative views are set out in the Determination which the Commissioner does not accept.

PwC observation:

The Determination, which finalises the draft Taxation Determination TD 2024/D1, applies both before and after its date of issue (3 July 2024).



百慕達

百慕達提出管理規定,以遵循新企業所得稅的規定

百慕達財政部最近發布了一份關於企業所得稅(CIT)管理規定的公眾諮詢文件。在此之前,百慕達頒布了「2023年企業所得稅法」和「2024年企業所得稅機構法」(依據該法,百慕達設立了負責管理CIT的百慕達企業所得稅機構)。諮詢期為2024年8月8日至2024年9月5日,在隨後的發布的諮詢文件預計將包含基於回饋所撰擬的立法草案。

發布這份關於企業所得稅管理規定的公眾諮詢文件旨在幫助受影響的 百慕達實體了解登記要求、申報流程、繳納稅款的時間要求以及罰款 和利息制度的適用性。

資誠觀點

企業所得稅課稅範圍內的百慕達實體應檢視該諮詢文件·評估擬議管理規定對其營運的影響·並準備在規定的期限內向CIT機構登記·確保系統到位以準確及時的申報企業所得稅和繳納稅款·並在諮詢期間向財政部提供回饋·以提出任何疑問或需要澄清的問題。



Bermuda

Bermuda proposes administrative provisions to facilitate compliance with its new corporate income tax

Bermuda's Ministry of Finance recently released a public consultation paper on the administrative provisions of the Corporate Income Tax (CIT). This follows the enactment of the Corporate Income Tax Act 2023 and the Corporate Income Tax Agency Act 2024, which establishes the Bermuda Corporate Income Tax Agency (the Agency) responsible for administering CIT laws. The consultation period is open from 8 August 2024, to 5 September 2024, with a subsequent consultation paper expected to contain the draft legislation, based on feedback.

The release of the public consultation paper on the administrative provisions of the CIT is designed to help affected Bermuda entities understand the registration requirements, the return filing process, the timing of payment obligations, and the applicability of the penalty and interest regimes.

For more information see our PwC Insight.

PwC observation:

Bermuda entities that are subject to the CIT should review the consultation paper and assess the impact of the proposed administrative provisions on their operations, prepare to register with the Agency by the stipulated deadlines, ensure systems are in place for accurate and timely CIT return filing and payment, and provide feedback to the Ministry of Finance during the consultation period to address any concerns or clarifications needed.



墨西哥

合格的Maquiladoras方法的續約 (2020-2024財年)

2024 年 7 月 23 日 · 墨西哥稅務管理局 (SAT) 宣布 · 美國國稅局 (IRS)和墨西哥雙方達成協議 · 同意在 2018-2024 年期間第二次續約美國和墨西哥主管當局在2016年達成的加工出口合格方法 (QMA) ·

根據SAT的公告,續約協議保留了適用於 2019及之前財年的 QMA 移轉訂價架構的核心要素,因為主管部門確定該協議將繼續滿足常規交易原則的要求。

根據美國和墨西哥主管當局達成的協議·Maquiladoras可以獲得適用於 2020-2024 財年的預先 訂價協議 (APA)·前提是在 2019 財年之前根據QMA申請、獲得並正確執行APA·或在適用的情況下·正確應用了墨西哥所得稅法(MITL) 第182 條規定中包含的避風港規則。

請注意,QMA 估算了Maquiladoras向外國關係人提供服務的所得。另外,QMA 還納入了適用於期末餘額的通貨膨脹調整。

如果在上述期間有溢繳稅款,QMA 不包括通貨膨脹的調整。由於QMA的續約協議適用於2020年至2024年,其適用可能會導致應付或應退的所得稅(ISR),具體係取決於該期間獲得的稅務結果。

最後,考慮到目前,對於2024 年之後的時期內,SAT並沒有批准延長 APA 的適用期限,因此 Maquila稅制的納稅義務人必須從 2025 年開始根據 MITL中的既定程序或避風港規則進行適用,或者評估是否適用不同的稅制。

資誠觀點

考慮到2020年至2024財年的QMA續約·Maquila制度下的納稅義務人必須透過在APA涵蓋期間內應用QMA來評估其合規情況,進行必要的修改,並制定策略與SAT簽署2020年至2024年的最終APA。



Mexico

Renewal of qualified Maquiladora approach for FY 2020-2024

The Mexican Tax Administration Service (SAT), on 23 July 2024, announced that the US Internal Revenue Service (IRS) and Mexico agreed to renew for the second time in the 2018-2024 administration, the Qualified Approach for Maquiladoras (QMA), initially reached between the competent authorities of the United States and Mexico in 2016.

According to the SAT publication, the renewal agreement maintains the core elements of the QMA transfer pricing framework applicable to fiscal years 2019 and prior, as the competent authorities determined that it continues to produce results in accordance with the arm's length principle.

Based on the agreement reached between the US and Mexican competent authorities, maquiladoras will be allowed to obtain an Advance Pricing Arrangement (APA) applicable for fiscal years 2020-2024, only if they have requested, obtained and correctly implemented an APA ruling through FY 2019 in accordance with the QMA, or where applicable, having correctly applied the Safe Harbor rules included in the provisions of article 182 of the Mexican Income Tax Law (MITL).

Note that QMA estimates the income attributable to the maquiladora for services provided to a foreign related party. Further, the QMA incorporates the inflation update that is applied to balances due.

In the case of excess tax balances paid during the aforementioned period, the QMA does not include the inflation update. In this regard, since the renewal of the QMA covers the period from 2020 to 2024, its application may result in income tax (ISR) due or in favor depending on the tax results obtained during the period.

Finally, considering that currently, there is no extension granted by the SAT for the application of the APA in periods after 2024, taxpayers of the maquila tax regime must apply the pre-established procedure in the MITL or safe harbor starting in 2025, or evaluate whether it is appropriate to operate under a different tax regime.

PwC observation:

In view of the renewal of the QMA for FY 2020 to 2024, taxpayers under the maquila regime must evaluate their compliance situation by applying the QMA to their tax results during the period covered by the APA, make the necessary modifications, and establish a strategy to obtain a definitive APA resolution from the SAT for 2020 to 2024.



美國

財政部發布關於雙重合併虧損(Dual Consolidated Loss ,DCL)和特定的被忽視的支付款項的擬議法規

2024 年 8 月 6 日,美國財政部和國稅局發布了擬議法規,針對雙重合併虧損 (DCL)規則下的若干問題,包括計算 DCL 時,公司間交易和股權產生的項目的影響。該擬議法規還涉及 DCL 規則對包含支柱二在內的特定最低稅負的適用。針對在國外稅務因中被忽視的支付款項而產生的虧損,擬議法規提出了全新的規則。

第1503(d) 條及其規定旨在防止同一經濟損失的「雙重扣抵」,即該經濟損失可用於扣抵應繳納的美國稅(但不繳納外國稅)的所得和應繳納外國稅(但不繳納美國稅)的所得。

擬議法規為 DCL 規則提供了指南,特別是針對與公司間交易法規(計算所得或 DCL)的互相影響,並提供了一個新的反避稅規則,該規則通常旨在解決可能試圖規避DCL規則的目的的額外交易或解釋。並更新了混合實體和獨立單位的定義,以包括適用於合格國內最低稅負制(QDMTT)或所得涵蓋原則(IIR)的實體。

擬議法規還提出了關於被忽視支付款項的損失的新規則,這些規則通常要求擁有外國穿透性實體(特定合格實體)的國內企業,將因觸發事件(包括境外使用)而產生的被忽視支付款項的虧損計入所得,。擬議法規還涉及被忽視支付款項損失的計算、觸發事件(triggering event)、被忽視支付款項虧損的納入金額、被忽視支付款項實體的合併規則、對雙重居民公司的適用以及與 DCL 規則的相互影響。

資誠觀點

公司應考慮是否就這些新擬議法規提交回饋意見。回饋的截止日期 為 2024 年 10 月 7 日 · 即擬議法規在《聯邦公報》上發布後的60 天內。



United States

Treasury releases proposed regulations on dual consolidated losses and certain disregarded payments

Treasury and the IRS on 6 August 2024 issued <u>proposed regulations</u> that address certain issues arising under the dual consolidated loss (DCL) rules, including the effect of intercompany transactions and items arising from stock ownership in calculating a DCL. The proposed regulations also address the application of the DCL rules to certain minimum taxes, such as those under Pillar Two. The proposed regulations also propose entirely new rules regarding certain disregarded payments that give rise to losses for foreign tax purposes.

Section 1503(d) and the regulations thereunder are intended to prevent 'double dipping' of the same economic loss that could be used to offset or reduce both income subject to US tax (but not a foreign jurisdiction's tax) and income subject to the foreign jurisdiction's tax (but not US tax).

The proposed regulations provide guidance on the DCL rules for the interaction with the intercompany transaction regulations, computing income or dual consolidated loss, provide a new anti-avoidance rule that generally is intended to address additional transactions, or interpretations, that may attempt to avoid the purposes of the DCL rules, and update the definitions of hybrid entities and separate units to include entities subject to a qualified domestic minimum top-up tax (QDMTT) or income inclusion rule (IIR).

The proposed regulations also propose new rules regarding disregarded payment losses, which generally require domestic corporations that own foreign disregarded entities (specified eligible entities) to include in income disregarded payment losses for which there is a triggering event, including foreign use. The proposed regulations also address the disregarded payment loss calculation, triggering events, the disregarded payment loss inclusion amount, the disregarded payment entity combination rule, the application to dual resident corporations, and the interaction with DCL rules.

For more information see our PwC Insight

PwC observation:

Companies should consider whether to submit comments on these new proposed regulations. Comments are due by October 7, 2024, 60 days after the proposed regulations were published in the Federal Register.



美國

財政部發布有關與外匯損益的選擇的指南

2024年8月19日 · 財政部和國稅局發布了擬議法規 · 關於做出和撤銷與外匯損益有關的特定選擇的時間 。 擬議法規改變了根據Treas. Reg. 1.954-2(g)(3), Treas. Reg. 1.954-2(g)(4) 和Prop. Reg. 1.988-7 進行選擇和撤銷選擇的能力 · 根據這些法規 · 選擇是與按時提交的稅務申報表一起(或之前已經)做出或撤銷 。 擬議法規也部分撤回了2017年發布的某些擬議的規定(2017年擬議法規) 。

擬議法規通常適用於法規定稿在聯邦公報(Federal Register)上發布之日或之後結束的納稅年度。擬議法規於2024年8月20日在聯邦公報上發布。

這些擬議法規的變更擬自2024年8月19日(擬議法規提交聯邦公報之日) 起對依賴2017年擬議法規的納稅義務人生效。因此,納稅義務人自2024 年8月19日起不得依賴2017年擬議法規中包含的Prop. Reg. 1.954-2(g)(3)(iii), Prop. Reg. 1.954-2(g)(4)(iii), 和Prop. Reg. 1.988-7(c) & (d)。

擬議法規要求納稅義務人在上一納稅年度的延長申報截止日期之前,做出Prop. Reg. 1.988-7的選擇,以按市價計算外幣交易。換句話說,在擬議法規的適用日期之後,納稅義務人不得再進行追溯性的選擇。擬議法規也對撤銷每次選擇提出了更多限制 (即 Treas. Reg. 1.954- 2(g)(3), Treas. Reg. 1.954-2(g)(4), 和 Prop. Reg. 1.988-7)。

資誠觀點

公司應考慮是否就擬議法規提交回饋意見。回饋的截止日期為 2024 年 10 月 18 日公司還應評估擬議法規的適用日期會如何影響即將到來的合規要求。



United States

Treasury releases guidance regarding elections relating to foreign currency gains and losses

Treasury and the IRS on 19 August 2024 issued proposed regulations regarding the time for making and revoking certain elections relating to foreign currency gain or loss. The proposed regulations change the ability to elect and revoke elections under Treas. Reg. 1.954- 2(g)(3), Treas. Reg. 1.954-2(g)(4), and Prop. Reg. 1.988-7 that are (or previously had been) made or revoked with a timely filed tax return. The proposed regulations also partially withdrew certain proposed regulations issued in 2017 (2017 proposed regulations) regarding the same.

The proposed regulations generally apply to tax years ending on or after the date the final regulations are published in the Federal Register. The proposed regulations were published in the Federal Register on 20 August 2024.

The changes in these proposed regulations are proposed to be effective for taxpayer's relying on the 2017 proposed regulations as of 19 August 2024, the date the proposed regulations were filed in the Federal Register. Accordingly, taxpayers may not rely on Prop. Reg. 1.954- 2(g)(3)(iii), Prop. Reg. 1.954-2(g)(4)(iii), and Prop. Reg. 1.988-7(c) and (d) included in the 2017 proposed regulations starting 19 August 2024.

The proposed regulations require taxpayers to make the Prop. Reg. 1.988-7 election to mark-to-market foreign currency transactions by the due date for the extension for the immediately preceding taxable year. In other words, taxpayers may no longer make such election on a retroactive basis after the applicability date of these proposed regulations. The proposed regulations also propose more restrictions with respect to revoking each of the elections (i.e., Treas. Reg. 1.954- 2(g)(3), Treas. Reg. 1.954-2(g)(4), and Prop. Reg. 1.988-7).

For more information see our PwC Insight.

PwC observation:

Companies should consider whether to submit comments on the proposed regulations. Comments are due 18 October 2024. Companies should also determine how the applicability dates of the proposed regulations may impact upcoming compliance.



要聞

Judicial 司法

印度

一般反避稅規則(General Anti-Avoidance Rules, "GAAR") 與特定反避稅規則(Specific Anti-Avoidance Rules, "SAAR")

塔倫加納(Telangana)高等法院駁回了納稅義務人提出要求宣告稅務機構啟動一般反避稅規則 (GAAR)程序缺乏管轄權的聲請。法院支持稅務局的行為,即在針對股票紅利剝離交易(bonus-stripping transactions on shares)適用特定反避稅規則(SAAR)條款中的具體修正案之前,針對這類交易適用GAAR。

高等法院認為,SAAR關於紅利剝離的規定並不涵蓋適用期間內證券紅利剝離的情況。因此,納稅義務人關於SAAR應優先於GAAR的主張不適用於本案。

另外,高等法院認為,GAAR規定納稅義務人有責任反駁避稅計畫的推定。法院表示,有明確且令人信服的證據表明整個交易安排的唯一目的是避稅。

資誠觀點

這是自 2017 年GAAR導入以來,高等法院首次就GAAR作出判決。該判決提出了幾項觀點,可能會影響相關的訴訟。高等法院在審理「特定規則優先於一般規則」這一爭議焦點時,提出了一個有趣的觀察:該原則僅在特定規則先於一般規則頒布時適用,反之則不適用。

一個既定的法律原則是,中央直接稅委員會(Central Board of Direct Taxes, CBDT)發布的通知對法院或納稅義務人不具有拘束力,而僅對稅務機構具有拘束力。另外,雖然CBDT的通知可以作為法律條款的同期解釋,但在這種罕見的情況下,法院在決定一般規則與特定規則方面時嚴重依賴 CBDT的通知。法院指出,GAAR規定納稅義務人有責任反駁避稅計畫的推定。請注意,這僅針對獲得稅務優惠建立了一個法定推定。然而,僅存在稅務優惠並不能自動適用GAAR。不過,法院並沒有具體說明本案中其他條件是如何滿足的。



India

General Anti-Avoidance Rules versus Specific Anti-Avoidance Rules

The Telangana High Court dismissed a writ petition filed by the taxpayer seeking a mandamus to declare the initiation of general anti-avoidance rule (GAAR) proceedings by the tax authorities as lacking jurisdiction. The court upheld Revenue's action in applying GAAR provisions on bonus-stripping transactions on shares before applying the specific amendment in specific anti-avoidance rules (SAAR) provisions for such transaction.

The court observed that the SAAR provisions for bonus stripping do not cover cases of bonus stripping on securities for the applicable period. Therefore, the taxpayer's argument that SAAR should override GAAR provisions is not applicable in the instant case.

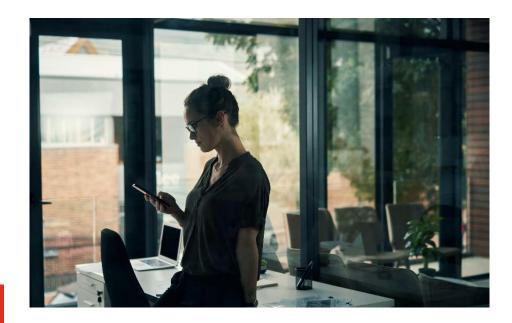
Moreover, the court held that the GAAR provisions place responsibility on the taxpayer to disprove the presumption of a tax-avoidance scheme. According to the court there is clear and convincing evidence to suggest that the entire arrangement was designed with the sole intent of avoiding taxes.

For more information, please listen to our <u>Podcast</u> and read our <u>Tax Insight</u>.

PwC observation:

This is the first decision of a High Court on GAAR provisions after its introduction in 2017. The decision lays down several findings and observations that may shape the litigation on this issue. While adjudicating on the settled argument that 'specific provisions override the general provisions', the High Court made an interesting observation: this principle is applicable only when the specific provisions are enacted after the general provisions, and not vice versa.

It is a settled principle of law that circulars issued by the Central Board of Direct Taxes (CBDT) do not bind the courts or taxpayers but only the Revenue authorities. Moreover, while it may serve as a contemporaneous exposition of a provision of law, the court in this rare situation, heavily relied on a CBDT circular while deciding on the aspect of general versus special provisions. The court noted that the GAAR provision places responsibility on the taxpayer to disprove the presumption of a tax avoidance scheme. Note that this subsection only creates a statutory presumption related to obtaining a tax benefit. However, the existence of a tax benefit alone cannot sustain the invocation of GAAR provisions. However, the court did not specifically note how the other conditions are met in this case.



荷蘭

歐盟執委會針對荷蘭外國投資基金的課稅啟動侵權程序

歐盟執委會已對荷蘭啟動了侵權程序,因為荷蘭未將荷蘭股利扣繳稅的減免計畫擴大到與荷蘭投資基金相當的外國投資基金。歐盟執委會認為,相關的稅款減少計畫(即所謂的「afdrachtsvermindering」)限制了資本的自由流動,因為與國內基金相比,該計畫對外國基金存在歧視。

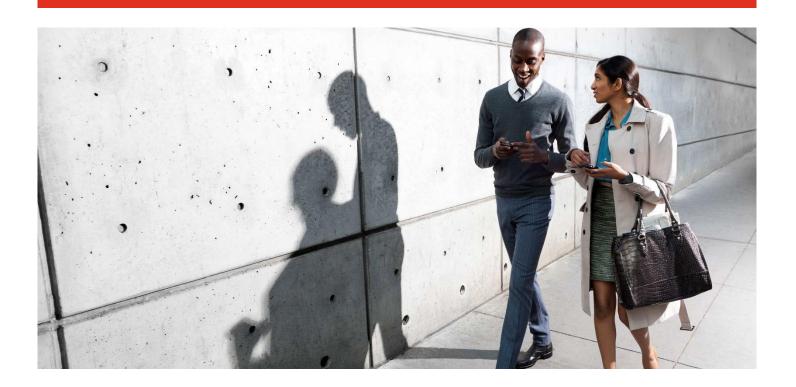
根據荷蘭法律,合格的投資基金可以降低從荷蘭和國外的股權投資所獲得的股利的稅負。這一降低的實現是透過在向參與者重新分配股利時,從應繳納的荷蘭股利稅中扣抵已繳納的來源稅。然而,這種優惠的稅款減少計畫目前僅適用於荷蘭投資基金。

荷蘭最高法院認為,稅款減少計畫與退稅不同,因此不會導致退稅。如果根據歐盟法院在「Deka判決(C-156/17)」(與股利扣繳稅款退稅的舊制度有關的案件)中的規定,外國基金與荷蘭基金具有可比較性,則適用於此規定。

資誠觀點

這項侵權程序對於希望申請荷蘭股利稅退稅的外國投資基金至關重要。荷蘭有兩個月的時間來回應歐盟執委會的關切。如果未解決,歐盟執委會可能會根據歐盟法律發布合理的意見,即正式的合規請求。持續不遵守規定可能會導致升級到歐盟法院(CJEU),儘管大多數案件在此之前已經解決。

外國基金應考慮對2021-2023年的扣繳稅提交保護性的申請,因為這些年的時效尚未到期。



Netherlands

EC initiates infringement procedure against the Netherlands on taxation of foreign investment funds

The European Commission has initiated an infringement procedure against the Netherlands for failing to extend the Dutch dividend withholding tax reduction scheme to foreign investment funds which are comparable to Dutch investment funds. The European Commission considers that the relevant remittance reduction scheme (the so-called 'afdrachtsvermindering') restricts the free movement of capital as it discriminates against foreign funds compared to domestic ones.

Under Dutch law, qualifying investment funds can reduce their tax burden on dividends received from equity investments in the Netherlands and abroad. This reduction is implemented by offsetting the paid source taxes with the Dutch dividend tax due on redistribution of dividends to participants. However, this beneficial remittance reduction scheme is currently exclusively available to Dutch investment funds.

The Dutch Supreme Court ruled that the remittance reduction scheme is not the same as a refund, and therefore cannot lead to a refund. This applies if the foreign fund is comparable to a Dutch fund based on what the CJEU ruled in the Deka judgment (C- 156/17) (a case relating to the old system of the refund of tax withheld on dividend).

PwC observation:

This infringement procedure is crucial for foreign investment funds seeking refunds of Dutch dividend tax. The Netherlands has two months to respond to the European Commission's concerns. If unresolved, the European Commission may issue a reasoned opinion, a formal compliance request under EU law. Continued non-compliance could lead to escalation to the CJEU, though most cases are resolved before this.

Foreign funds should consider filing protective claims for withholding tax for 2021-2023, as the statute of limitations has not expired for these years.



要聞

OECD/EU 經合組織/歐盟

歐盟

歐洲近期選舉的稅務影響

歐洲近期的選舉已經結束,對稅務政策的影響也逐漸明朗。英國大選於2024年7月4日舉行,工黨以絕對多數獲勝。 2024年7月17日的國王演講標誌著新議會年的正式開始,並概述了即將召開的議會會議的39項法案,重點在於促進經濟穩定和增長。

法國於2024年6月30日至7月7日舉行了選舉,選出第17屆國民議會(議會)的577名席位。三大政黨目前代表議會 85% 的席位,但沒有一方擁有多數席位。對於法國來說,聯合政府將是前所未有的情況。左派聯盟(Nouveau Front Populaire,NFP,即新人民陣線)擁有 577 個席位中的 182 席,是議會中最大的政黨。

歐盟議會的選舉於 2024 年 6 月 6 日至 9 日舉行。歐洲議會在稅收方面的立法角色非常有限,因為大多數決策都需由部長理事會一致投票通過。然而,歐洲議會議員(European Parliament, MEP)在塑造公眾對稅務政策的看法方面發揮著作用,MEP也對歐盟預算進行投票,這對於歐洲政策的實施至關重要。2024年7月16日,歐洲議會選舉了蘿伯塔·梅措拉 (EPP)為議長。2024年7月18日,歐洲議會支持了由歐盟成員國領導人提名的各位領導人,包括烏蘇拉·馮德萊恩(EPP)為歐洲執委會主席,安東尼奧·科斯塔(S&D)為歐洲理事會主席,以及卡婭·卡拉斯(續任)為外交和安全政策高級代表。馮德萊恩在「2024-2029 年政治指導方針」中闡述了未來五年的計畫。

資誠觀點

在英國·預計未來幾個月和幾年的稅務和就業政策變化將與工黨的宣言保持一致。其中包括承諾不增加「三大」稅:公司稅、所得稅和增值稅,目前還沒有關於資本利得稅的資訊然而,如果其他國家的稅務變化對英國競爭力構成風險,工黨將審查公司稅率。工黨宣言也希望保留目前的資本投資全額費用制度和小型企業的年度投資補貼,以及研發支出減免

在法國·NFP作為法國新議會中最大的政黨的出現·可能會改變法國的政治動態。不過· 只要沒有任命總理·法國政府的稅務政策計畫仍不明確。

對於歐盟·下一屆歐盟執委會和議會的優先事項將最終影響稅務政策的制定。繁榮、競爭力和永續成長被認為是即將上任的執委會主席的關鍵優先事項,稅務政策可能會圍繞這些優先事項進行設計。



European Union Tax implications of recent elections in Europe

Recent elections in Europe have concluded and the implications for tax policy are becoming more clear. The UK general election took place on 4 July 2024, with the Labour Party winning with a sizeable majority. The King's Speech on 17 July 2024 marked the formal start of the parliamentary year and outlined 39 bills for the coming parliamentary session, with an underlying theme of boosting economic stability and growth.

In France, elections were held on 30 June and 7 July 2024 to elect all 577 members of the 17th National Assembly (Assembly). Three large blocs now represent 85% of the Assembly, but no one has a majority. A coalition government would be an unprecedented situation for France. The left-wing bloc (Nouveau Front Populaire, NFP) with 182 of the 577 seats is the largest grouping in the Assembly.

Elections for the EU Parliament took place 6-9 June 2024. The EU Parliament has a very limited legislative role in taxation as most decisions are adopted by unanimous vote in the Council of Ministers. However, Members of the European Parliament (MEPs) have a role to play in shaping the public perception of tax policy and they also vote on the EU budget, which is crucial to the implementation of European policies. The European Parliament elected Roberta Metsola (European People's Party, EPP) as their president on 16 July 2024. On 18 July 2024, the European Parliament supported the nominations by the leaders of the EU Member States of Ursula von der Leyen (EPP) as president of the European Commission, Antonio Costa (Socialists and Democrats, S&D) as president of the European Council and Kaja Kallas (Renew) as High Representative for Foreign and Security Policy. Von der Leyen unfolded her plans for the coming five years in the Political Guidelines 2024-2029.

PwC observation:

In the United Kingdom, tax and employment policy changes over the coming months and years are expected to align with the Labour Party's manifesto. This includes a pledge not to increase the 'big 3' taxes: corporate tax, income tax, and VAT, and there has been no word yet on capital gains tax. However, the Labour Party will review the corporate tax rate if tax changes in other countries pose a risk to UK competitiveness. The Labour Party manifesto also looks to retain the current full expensing system for capital investment and the annual investment allowance for small business, together with relief for research and development expenditure.

The emergence of the left-wing bloc NFP as the largest grouping in the new French parliament is likely to change dynamics in France. However, as long as there is no Prime Minister appointed, there is no clarity on the tax policy plans of the French Government.

The priorities of the next EU Commission and Parliament will ultimately impact tax policy creation. Prosperity, competitiveness and sustainable growth are understood to be key priorities for the incoming Commission President and tax policies will likely be framed to deliver against these



Glossary

Acronym	Definition	Acronym	Definition
ATAD	Anti-Tax Avoidance Directive	EU	European Union
ATO	Australian Tax Office	MNE	Multinational enterprise
BEPS	Base Erosion and Profit Shifting	NID	notionial interest deduction
CFC	controlled foreign corporation	OECD	Organisation for Economic Co-operation and Development
CIT	corporate income tax	PE	permanent establishment
CTA	Cyprus Tax Authority	R&D	Research & Development
DAC6	EU Council Directive 2018/822/EU on cross-border tax arrangements	SBT	same business test
DST	digital services tax	SiBT	similar business test
DTT	double tax treaty	VAT	value added tax
ETR	effective tax rate	WHT	withholding tax



歡迎掃描QRcode 成為資誠會員

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- 兩岸與國際租稅Update (全球最低稅負制:最新發展與合規策略): https://youtu.be/HrGmjNy719A
- 台灣稅務與投資法規Update-11月號(台灣投資控股公司之操作應用與稅務實務): https://youtu.be/oKYD7I_1WH8
- 2024 資誠前瞻研訓院線上講堂 (8月):

ESG近期發展https://youtu.be/FNCI CCK5cw

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東南亞稅務法令更新及因應:泰國X越南X馬來西亞X印度https://youtu.be/u-jtXXE3q7c

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中華產業國際租稅學會 敬邀加入會員

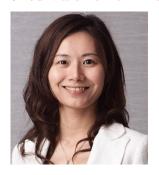
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