In Austria, companies can form tax groups to offset losses against profits of other group members. Main prerequisite is that there is a participation of more than 50% of the share capital and the majority of voting rights during the whole fiscal year. A tax group must exist for at least 3 entire fiscal years before it can be cancelled. Otherwise, CIT will be reassessed as if the tax group never existed.

According to the Austrian Corporate Income Tax Act, the amortization of goodwill for tax group members is only allowed if the following criteria are met:

- Shares in the group member were acquired between 1 January 2005 and 28 February 2014 from a third party, that is neither a member of the tax group, nor a member of the same corporate group, nor a shareholder with dominant influence on the buyer;
- The acquired company joins the tax group;
- The acquired company is an Austrian corporation with an operating business.

If the above mentioned criteria are met, goodwill amortization is limited with 50% of the acquisition costs and must be spread over a period of 15 years. The rule does not apply for the goodwill amortization for foreign group members.

On 17 June 2016 the Austrian Ministry of Finance published an information on goodwill amortization of foreign group members. In this information, the Austrian Ministry of Finance revised its legal opinion in accordance with the decision of the Austrian Supreme Administrative Court (2015/15/001) and
the Court of Justice of the EU (C-66/14 of 6 October 2015; see also our International Tax Review No. 04/2014). According to the information, the amortization of goodwill may also be allowed if the goodwill relates to acquired non-resident group companies.

According to the Austrian Ministry of Finance, the decision of the Court of Justice of the EU is per se no basis to reassess prior years. Retroactive application of the goodwill amortization may in practice, however - under certain conditions - be claimed in a tax audit.

The detailed information (in German) is available under the following link: https://findok.bmf.gv.at/findok?execution=e100000s1&segmentId=0c9c1fb8-a276-4659-ac67-6003c77aac81

Global Developments

- Global: Technical Committee on Customs Valuation approves case study on transfer pricing
- Global: Technical Committee on Customs Valuation fails to reach resolution on application software case
- Brazil: New RECOF modality expected to attract more companies
- Canada: Dairy supply management in Canada and the challenge of diafiltered milk imports
- Colombia: Colombia adopts new customs code
- Colombia: Changes to the Authorized Economic Operator request procedure
- Mexico: New benefits under the Strategic Bonded Warehouse customs regime
- China: Customs makes major amendments to the Declaration Requirements for Import/Export Entry
- China: amends import tax policy for cross-border B2C business
- Japan: 2016 Reform of Customs Law and other relevant laws
- East Africa Community: South Sudan confirmed as member of the East Africa Community
- East Africa Community: Uganda’s NTB reporting system to help eliminate non-tariff barriers to trade
- Russia: Russian Supreme Court rules on customs valuation
- Turkey: Resource Utilization Support Fund issue in “cash pooling” applications

OECD Developments

- The Latest on BEPS - 20 June 2016
- OECD releases discussion draft on development of a multilateral instrument to implement tax treaty-related BEPS measures
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- The Netherlands and Switzerland sign agreements providing tax certainty for funds and investors  
- Dutch government releases proposed amendments to interest limitation provisions for consultation  

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- Nigerian TAT confirms assessment is not final and conclusive unless compliant with provisions of relevant laws  
- Nigerian TAT rules all expenses wholly incurred for petroleum operations should be deductible  

Pakistan

- Pakistan releases 2016-17 Budget  

Philippines

- Philippines grants automatic treaty rates on dividend, interest and royalty payments to nonresidents  

Poland

- Poland continues legislative work on draft bill specifying Polish source of income rules  
- Poland’s President signs GAAR provisions  
- Poland’s GAAR will be in force as of 15 July 2016  

Russia

- Additional tax reliefs introduced for regional investment projects  
- Russia publishes draft order approving controlled foreign company notification form  
- Bill on taxation of electronic services passed the third reading  
- Another source of information on beneficial owners  
- Changes to tax monitoring  
- New protocol to the double taxation treaty with Singapore signed by the president  
- Russian Tax Brief: May 2016  

Saudi Arabia

- Saudi Arabia opens retail and wholesale sectors to 100% foreign direct investment  

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- US IRS releases much-anticipated final regulations on country-by-country reporting
- House tax reform blueprint released
- Final US country-by-country (CbC) reporting regulations released
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- OECD Council approves changes to OECD Transfer Pricing Guidelines to incorporate BEPS reports
- OECD releases additional guidance on implementation of CbC reporting
- OECD holds first meeting of BEPS inclusive framework

Uruguay

- Uruguay requires registration of financial statements
- Uruguay approves tax treaties with Chile and United Arab Emirates