Tax reform in Austria: Political agreement by mid of March 2015

The Austrian government plans to publish its plans for a tax reform on 17 March 2015. The tax relief shall amount to about EUR 5 bn and shall amongst others lead to a decrease of the initial income tax rate. To finance the tax relief, the coalition partners discuss among others an increase of VAT on certain goods and services and the reintroduction of an inheritance and gift tax which was abolished in 2008. Despite the uncertainties relating to the possible reintroduction of an inheritance and gift tax, it seems recommendable analyzing whether certain gratuitous transfers should be effected before the tax reform becomes effective.

Austrian Ministry of Finance: Comprehensive administrative assistance

On 27 January 2015, the Austrian Ministry of Finance published an updated list of all states and territories with which Austria agreed on comprehensive administrative assistance (BMF-010221/0844-VI/8/2014). Compared to the former list, Taiwan was added since a Treaty to prevent double taxation was signed at the end of 2014 (please see also our International Tax Review No. 01/2015 dated 20 January 2015).

The Austrian Ministry of Finance defines comprehensive administrative assistance based on the EU Directive 2011/16/EU, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (from 1 January 2015), exchange of information clauses in tax treaties and tax information exchange agreements.
(TIEA). Comprehensive administrative assistance is amongst others prerequisite for the tax exemption of third country portfolio dividends, for a foreign company to become an Austrian group member, for foreign loss carry forwards to be subject to retroactive taxation as well as for the tax deductibility of certain donations.

As of 1 January 2015, there is a comprehensive administrative assistance between Austria and the following states and territories:

Albania, Algeria, Andorra, Anguilla, Argentina, Armenia, Aruba, Australia, Azerbaijan, Bahrain, Barbados, Belgium, Belize, Bermuda, Bosnia-Herzegovina, Brazil, British Virgin Islands, Bulgaria, Canada, Cayman Islands, Columbia, Costa Rica, Croatia, Curaçao, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Faeroe Islands, Finland, France, Georgia, Germany, Ghana, Gibraltar, Greece, Greenland, Guernsey, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Macedonia, Mexico, Moldavia, Monaco, Montserrat, Morocco, New Zealand, Netherlands, Norway, Philippines, Poland, Portugal, Qatar, Republic of Korea, Rumania, San Marino, Saudi-Arabia, Serbia, Singapore, Sint Maarten, Slovakia, Slovenia, South Africa, Spain, St. Vincent and the Grenadines, Sweden, Switzerland, Tadzhikistan, Taiwan, Thailand, Tunisia, Turkey, Turks and Caicos Islands, Ukraine, United Kingdom, USA, Venezuela, Vietnam.

In summary, there is a comprehensive administrative assistance with Austria’s main trading partners except China and Russia.

The information (in German) is available under the following link:

https://findok.bmf.gv.at/findok?execution=e1s5&dokumentId=17227233-939c-41ef-ac46-249b5de254c0

Agreement between Austria and the US concerning FATCA

On 2 February 2015, an agreement between Austria and the US for cooperation to facilitate the implementation of the Foreign Account Tax Compliance Act (FATCA) was published in the Federal Gazette (Federal Gazette III No. 16/2015) with the aim to ensure that tax obligations of US persons with foreign accounts are fulfilled.

In substance, this agreement provides that a reporting regime for financial institutions with respect to certain accounts is introduced. Austrian financial institutions have to report the information about domestic accounts of US persons to the U.S. Internal Revenue Service (IRS) on an annual basis, given the account holders consent to report. If a consent to report is not given, aggregate information about the account has to be reported to the IRS, where identification of the respective account holder is not possible. Such aggregate information may give rise to a group request by the IRS.

The agreement entered into force on 9 December 2014.
OECD Developments

The Latest on BEPS – 2 February 2015
The Latest on BEPS – 19 January 2015
OECD issues mandate for negotiation of multilateral instrument under BEPS Action 15
OECD explains agreed approach on intangible property regimes under BEPS Action 5
OECD issues implementation guidelines for country-by-country reporting under BEPS Action 13
OECD holds public consultation on follow-up work on BEPS Action 6 on preventing treaty abuse
OECD holds public consultation on BEPS Action 7 on permanent establishment
OECD holds public consultation on BEPS Action 14 on improving dispute resolution
Implications of OECD discussion draft on interest deductions under BEPS Action 4 for banking and insurance industries

EU Developments

CJ EU issues judgment on UK group relief rules
European Commission opens state aid investigation into the Belgian excess profit ruling system
EU Finance Ministers issue statement on renewed commitment to implement EU financial transaction tax
Finnish Supreme Administrative Court holds dividends paid to a US RIC exempt from Finnish withholding tax based on EU free movement of capital in a second case
European Council formally adopts binding general anti-abuse rule in Parent-Subsidiary Directive

Belgium

European Commission opens state aid investigation into the Belgian excess profit ruling system

Canada

British Columbia Canada announces new funding to support mining
Canada’s Federal Court of Appeal upholds Tax Court decision on invoices of accommodation in Salaison Lévesque Inc.
Taking the stress out of tax season; tips for private company owners to stay organized
Private Company Webcast Series
Check out our helpful online tax calculators and rates
New GST/HST filing obligations for closely related corporations and Canadian partnerships
Application for letters of probate – New Ontario requirements for 2015
Country Updates

- Payroll audits: how you can prepare and respond
- Eight steps to handle tax risks
- December 2014 issue of Canadian Quarterly Tax Developments

Cayman Islands
- Cayman Islands updates guidance on implementing US FATCA rules

China
- China releases discussion draft on Foreign Investment Law for public comments
- China issues indirect transfer rule replacing Circular 698
- China releases discussion draft on revised Tax Collection and Administration Law for public comments
- China issues circular to encourage corporate restructuring

Congo
- Republic of Congo issues 2015 Financial Law

Costa Rica
- Costa Rican Tax Authorities’ web-based platform called AMPO goes live
- Costa Rica’s Executive Branch eliminates LIFO as a valid inventory valuation method for tax purposes
- Costa Rica’s Administrative Court lifts suspension of new withholding requirement on credit and debit card payments
- Costa Rican Tax Authorities publish draft decree to create a shareholders’ registry
- Costa Rica’s annual tax on legal entities is unconstitutional

Denmark
- Denmark introduces international GAAR

Ecuador
- Ecuadorian IRS issues resolution with new list of tax haven jurisdictions
- Ecuadorian Government issues regulation to implement new tax reforms
- Ecuador issues corrective measure that imposes customs duties on Colombian and Peruvian imports

Equatorial Guinea
- Equatorial Guinea’s 2015 Financial Law cancels tax exemptions and increases minimum income tax rate
Country Updates

Finland
► Finland proposes changes to transfer pricing legislation  

France
► France and Singapore sign revised income tax treaty  

Honduras
► Honduras approves tax amnesty program and modifies filing deadline of monthly withholding tax information returns  

Hong Kong
► Hong Kong’s Court of Final Appeal rules in favor of taxpayer in Aviation Fuel Supply Company regarding the right to the statute of limitation period  

Hungary
► Detailed rules on the mandatory use of the interquartile range  

Iceland
► Iceland issues final regulation on transfer pricing documentation  

India
► US and India Tax Authorities agree on framework for resolving certain double tax cases  

Italy
► Italian Constitutional Court declares Energy Tax Surcharge unconstitutional  
► Italian Government makes improvements to Patent Box regime  

Korea
► Korean Supreme Court rules on sourcing of patent royalties paid to a US licensor  

Luxembourg
► Luxembourg establishes framework for new tax ruling practice  

Mexico
► Mexican Supreme Court denies deduction for expenses paid by a Mexican company to foreign related party with Mexican PE  
► Mexican Supreme Court rules 10% depreciation rate applies to rigs  

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► Dutch State Secretary of Finance informs Parliament on ruling practice  
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Nigeria
► Nigeria’s Financial Reporting Council issues new regulations for the inspection and monitoring of reporting entities  
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► Nigeria requires nonresident companies with a PE or fixed base in country to file income tax return on actual profits basis  
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► Nigeria’s Lagos State reduces land transaction rates as Federal Government seeks property registration cost reduction  
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► Nigerian Government presents 2015 Budget  
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Panama
► Panamanian Tax Authorities issue resolution on deadline for taxpayers to request non application of alternative minimum income tax  
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► Portugal issues new tax regime for UCIs  
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Russia
► Russia modifies accreditation process for representative offices and branches of foreign legal entities  
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► Russian draft law on extension of the thin capitalization rules submitted to State Duma  
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► Russian Tax Brief: January 2015  
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► Tax & Legal News: January 2015  
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Singapore
► France and Singapore sign revised income tax treaty  
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► Singapore and Uruguay sign income tax treaty  
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South Africa
► South Africa’s new withholding tax on interest is effective 1 March 2015  
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► South African Revenue Service makes changes to 2014 Corporate Income Tax Return  
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Spain
► Spain announces new country-by-country reporting obligations  
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► South Sudan issues supplemental tax regulations regarding income, excise and sales taxes  
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Switzerland
► Switzerland and Liechtenstein initial income tax treaty  
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Taiwan
► Taiwan-Austria income tax agreement is effective as of 1 January 2015  
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Thailand
► Thailand announces new investment promotion policy and criteria  
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► Thailand approves tax incentives for international headquarters and international trading centers  
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Ukraine
► Ukraine enacts new law on tax compromise  
  [Read more]

United Kingdom
► The U.K.’s Diverted Profits Tax: A Roundtable Discussion  
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United States
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► Report on recent US international tax developments – 6 February 2015  
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► IRS grants consent to taxpayer to change its asset method for apportioning interest expense pursuant to Section 861 regulations  
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► US House Ways and Means Committee Chairman says FY 2016 Budget’s international tax proposal “constructive”  
  [Read more]
► Treasury and IRS finalize regulations under Section 909 foreign tax credit splitting events  
  [Read more]
► US and India Tax Authorities agree on framework for resolving certain double tax cases  
  [Read more]
► Obama Administration, Republican Congressional leaders stake out positions on future direction of upcoming tax reform debate  
► US, India reach framework agreement to resolve certain double tax cases; opens door to bilateral APAs  
► Foreign fund’s activities conducted through US fund manager constitute US trade or business  
  [Read more]
Country Updates

► IRS applies Section 904(f) recapture exception to intercompany asset transfer preceding deconsolidation of transferee member
► FATCA update
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Uruguay

► Uruguay approves Tax Information Exchange Agreement with Brazil
  ▶ Read more
► Uruguay reduces fines imposed by Article 17 of Decree No. 247/012
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► Singapore and Uruguay sign income tax treaty
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